



Islamic Republic of Afghanistan
Ministry of Finance
Afghanistan Revenue Department
Legal and Policy Section

**Implementation Ruling of the Tax Penalty Amnesty
Approved in the FY1397 National Budget Principals**

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Introduction:

Under previous government administrations, tax penalties were very high. For example, under the 1384 Income Tax Law of Afghanistan, a taxpayer was obligated to pay 1,000 Afghani per day for late filing of an Annual Income Tax Return. Due to the lack of awareness of tax laws and also a lack of a culture of tax payments in Afghanistan, many individuals and businesses were non-compliant. This led to an unfortunate situation where tax penalties often exceeded the principal tax amount owed for previous years, despite repeated attempts by the Government at reducing tax penalties. Taxpayer complaints regarding tax penalties continue and have resulted in further tax evasion and non-compliance of the law. This is considered a serious hindrance against the timely payment of principal taxes owed for previous periods.

Collection of unpaid principal tax amounts for the past years has become a serious problem. To encourage voluntary compliance by taxpayers and settlement of arrears, the Ministry of Finance has proposed a reserve in FY1397 National Budget for amnesty of 95% of tax penalties. This reserve will be utilized in case taxpayers pay the principal tax amount and only 5% of the tax penalties. The reserve has been approved by the National Assembly and signed by the Presidency through the Decree No. 41, dated 05/11/1396 (25/01/2018).

Basis:

This ruling is based upon the Article No. 62 of the Tax Administration Law in Official Gazette No. 1198, dated 27 Aqrab 1394 for the purpose of fair implementation of the guidance of the FY1397 National Budget Principals clarifying the 95% tax penalty amnesty.

History:

The FY1397 National Budget was approved by the President through Decree No. 41, dated 05/11/1396. Component 7 of the aforementioned is quoted below from the Administrative Notes for the implementation of the FY1397 National Budget Principals regarding the exemption of tax penalties for previous years:

"7. For the support and persuasion of taxpayers to comply with the tax law, and the timely collection of the taxes, taxpayers who have not paid their tax penalties during the tax year 1381 (2002) until 1396 (2017); will be exempted from paying additional tax penalties provided that they pay the principle tax along with 5% of associated tax penalties. This tax exemption ruling is executable for 9 months after the approval."

Ruling:

For the above-mentioned guidance enclosed in the FY1397 National Budget Principals to be implemented fairly, it requires a ruling to be prepared and made available to all tax offices. It is worth noting that in the FY1397 National Budget Principals the word "taxpayers" is mentioned. Therefore, the ruling is applicable to all taxpayers including, but not limited to, natural persons (small businesses, shops, vehicle owners, money exchangers, fuel pump stations and individuals who have business licenses or do not have business licenses, but have taxable earnings), legal persons (companies, and non-for-profit organizations and entities who have tax obligations), including active and inactive entities. The resolution is applicable to all taxpayers for the period 1381 (2002) through 1396 (2017) – including the year 1396 (2017), who are subject to tax withholding and tax penalties, such late tax payments, late filing of tax forms, not withholding or not paying withholding taxes, failing to maintain adequate records, failing to observe tax notifications, failing to provide requested tax information and several other circumstances which are listed in the tax laws.

Tax penalty amnesty implementing scenarios and implementation methodology for the ruling included in the FY1397 National Budget Principals, for tax penalties associated with the period of 1381-1396 (2002-2017), are hereby prepared as follows:

1. Taxpayers who have already submitted their Annual Income Tax Return (AITR):

A taxpayer who has self-assessed and submitted an AITR in accordance with the law but due to assessment and evaluation in the initial stage by the tax enforcement and investigation department, further taxes are assessed and the taxpayer becomes liable to pay the principal tax along with the associated tax penalties. In this case, the below stepwise explanations are provided.

1.1 During the Initial Tax Review Phase:

If the file is under initial AITR review by the Ministry of Finance and additional taxes and penalties assessed, in this case if the taxpayer pays the principal tax as per the assessment, along with 5% of the associated tax penalties, before 05/08/1397 (27/10/2018), the taxpayer is exempt from paying 95% of the associated tax penalties.

1.2 During the Tax Audit Phase:

If the file is under tax audit by the Ministry of Finance and after evaluation of the documents, issues pertaining, but not limited to, tax evasion are suspected and a tax audit assessment is issued. In this case if the taxpayer pays the principal tax as per the assessment, along with 5% of the associated tax penalties, before 05/08/1397 (27/10/2018), the taxpayer is exempt from paying 95% of the associated tax penalties.

1.3 During the Tax Enforcement Phase:

If the file is under tax enforcement by the Ministry of Finance and assessed tax and penalties are due. In this case if the taxpayer pays the principal tax as per the assessment, along with 5% of the associated tax penalties, before 05/08/1397 (27/10/2018), the taxpayer is exempt from paying 95% of the associated tax penalties.

1.4 During Assessments of Tax Evasion:

If a taxpayer is suspected of tax evasion in a particular transaction and the tax administration evaluates and assesses tax and penalties. In this case if the taxpayer pays the principal tax as per the assessment, along with 5% of the associated tax penalties, before 05/08/1397 (27/10/2018), the taxpayer is exempt from paying 95% of the associated tax penalties.

Summary:

Whenever a taxpayer is liable to pay tax penalties after any initial tax review, tax audit or tax enforcement phase, if the taxpayer pays the principal tax as per the assessment, along with 5% of the associated tax penalties, before 05/08/1397 (27/10/2018), the taxpayer is exempt from paying 95% of the associated tax penalties.

2. In cases of disagreement with the tax assessment and the file is under process of dispute resolution

2.1 If the file of taxpayers who are in the process of tax dispute resolution, where the tax assessment under the process of the dispute resolution is comprised of both principal tax and tax penalties. In this case, if the taxpayer waives the documents to be processed by the dispute resolution appointee and is ready to pay principle tax in dispute, along with 5% of the associated tax penalties, before 05/08/1397 (27/10/2018), the taxpayer is exempt from paying 95% of the associated tax penalties.

2.2 If the decision of the tax dispute resolution appointees (objection and review department – courts) is reached by until 05/08/1397 (27/10/2018), for a matter within the time period stated in the national budget execution principals for the tax year 1397. In this case if the taxpayer pays the principal tax as per the tax dispute resolution, along with 5% of the associated tax penalties, before 05/08/1397 (27/10/2018), the taxpayer is exempt from paying 95% of the associated tax penalties.

3. If the taxpayer has decided to remit tax payable in installments:

Taxpayers who have submitted their Annual Income Tax Return and have obtained the result of (initial assessment or audit assessment), and have agreed to the assessed tax amount and pay the tax in an agreed installment plan; the tax penalty amnesty guidance based on the letter for the national budget principals is to be implemented as follows:

- 3.1** If the installment plan is for arrears comprised of principal tax and tax penalties, in this case if the taxpayer pays the full outstanding balance of the principal tax of the installment plan, along with 5% of the associated tax penalties, before 05/08/1397 (27/10/2018), the taxpayer is exempt from paying 95% of the associated tax penalties.
- 3.2** If the installment plan is only for tax penalties, the already paid installments are not reimbursable. However, if the taxpayer pays 5% of the outstanding balance of the tax penalties of the installment plan before 05/08/1397 (27/10/2018), the taxpayer is exempt from paying 95% of the tax penalties.
- 3.3** If the taxpayer decides to continue paying the taxes according to the installment plan agreement schedule, then he/she cannot benefit from the tax penalty amnesty enclosed in the national budget principals. In addition, the arrears of such taxpayers are to be collected according the installment agreements.

4. Persons who have not submitted their AITRs from 1381 (2002) through 1396 (2017):

Taxpayers who have not submitted their Annual Income Tax Returns from 1381 (2002) through 1396 (2017), and have not fulfilled their tax obligations, and now for the purpose of taking advantage of tax amnesty privileges, prepare and submit their Annual Income Tax Returns. Taking into consideration the taxpayers who are active and inactive; the tax penalty amnesty enclosed in the national budget principals is to be executed as follows:

4.1 Taxpayers with Business Activity:

If the taxpayer has business and economic activities, and the tax obligations (principal tax and tax penalties) are either self-assessed or assessed by the tax administration. In this case if the taxpayer pays the principal tax, along with 5% of the associated tax penalties, before 05/08/1397 (27/10/2018), the taxpayer is exempt from paying 95% of the associated tax penalties.

4.2 Taxpayers with No Business Activity:

If the taxpayer has submitted No Business Activity Annual Income Tax Returns and does not have any taxes due, and the penalties for late submission of the AITRs is either self-assessed or assessed by the relevant tax administration. In this case if the taxpayer pays 5% of the associated tax penalties, before 05/08/1397 (27/10/2018), the taxpayer is exempt from paying 95% of the associated tax penalties.

5. Entities who haven't withheld or haven't remit withheld taxes

If an entity, who according to the Income Tax Law is required to withhold and remit withheld taxes, but has not fulfilled his/her tax obligations by not withholding or by not remitting withheld taxes; not submitted his/her Annual Income Tax Returns, or tax withholding forms, or any other relevant tax obligations in accordance with the Income Tax Law. In this case if the taxpayer pays the principal tax obligations, along with 5% of the associated tax penalties, before 05/08/1397 (27/10/2018), the taxpayer is exempt from paying 95% of the associated tax penalties.

6. Any other situations that are not stated in this ruling:

Additional taxes due to any violation and or non-compliance with tax laws in the situations not stated above will be dealt with in accordance with the guidance in the FY1397 National Budget Principals.

7. Tax penalties paid before the execution and implementation of FY1397 National Budget Principals:

Tax penalties paid due to violation or non-compliance of the law *before* the execution and implementation of the tax penalty amnesty enclosed in the FY1397 National Budget Principals, are not reimbursable.

Ruling Enforcement Limitations:

This ruling is only applicable on tax penalties listed in the tax laws (Income Tax Law and Tax Administration Law).

If a taxpayer submits AITRs or amends the previously submitted AITRs within prescribed time period (9 months after the tax penalty amnesty was approved in FY1397 National Budget Principals), in this case if the taxpayer pays the principal tax obligations, along with 5% of the associated tax penalties, before 05/08/1397 (27/10/2018), the taxpayer is exempt from paying 95% of the associated tax penalties.

Files assessed by the tax administration after the prescribed time period, will be dealt accordingly by the FY1397 National Budget Principals and this ruling.

Public Awareness:

Upon the execution of this ruling, the tax authorities are responsible to raise awareness about the tax penalty amnesty enclosed in the FY1397 National Budget Principals and inform all taxpayers by any means possible. This will enable taxpayers, who meet the conditions and are eligible, to benefit from this ruling within the prescribed time period, by submitting their tax returns and required tax documents.

Implementation of Applicable Law:

The ruling of tax penalty amnesty enclosed in the FY1397 National Budget Principals extends from 1381 (2002) until 1396 (2017). As the tax and penalty rules have been amended during that period, therefore, any evaluations and assessments of the principal tax and tax penalties should be based upon the corresponding tax law in effect at that time.

Implementation of Similar Rulings:

Rulings issued based upon previous tax penalty amnesties prior to the tax penalty amnesty in the FY1397 National Budget Principals, are still applicable as in the past in accordance with the law of obtaining arrears from taxpayers.

SIGTAS Responsibility:

In order to better implement the tax penalty amnesty in FY1397 National Budget Principals, necessary facilities are being developed in the SIGTAS system, so that this ruling does not face implementation obstacles and challenges going forward.

Validity of the Ruling:

This ruling is valid from the date of approval until 05/08/1397 (27/10/2018), and all tax offices have the responsibility to implement it.

signed

Abdul Wali Noori

Director of Legal and Policy

signed

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Director General of Afghanistan Revenue Department

signed

Doctor Najeebullah Wardak

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