



Islamic Republic of Afghanistan
Ministry of Finance
Afghanistan Revenue Department – ARD
Legal and Policy Department

Ruling for application of amnesty on additional taxes (penalties) by the Islamic Republic of Afghanistan's cabinet decision # 27 dated 18 Qaws 1399

Number: ()

Date: 1399/0/0

Introduction:

With the initiation of tax reforms and amendments in the tax law during the previous years, at the beginning, tax penalties norm was anticipated to be very high in the Income Tax Law of 1384; as for the late reporting of the AITR, there was 1000 AFA late filing penalty per day, in addition to the application of high levels of penalties on certain cases. As per the low compliance levels due to different reasons such as lack of proper knowledge of the tax rules and regulations, low tax paying culture, certain number of natural and legal persons were subject to a huge amount of additional taxes during past years. In certain cases, additional taxes were much higher than the actual taxes to be paid which had caused many complaints. Therefore, the rulings regarding tax penalties has been changed during the past couple of years on multiple occasions. However, complaints still exist which has resulted in dodging the law and non-compliance which made the attainment of basic taxes on time a very difficult task.

In order to encourage taxpayers to comply voluntarily, and settle all their previous tax liabilities and to collect the actual taxes which hasn't been paid in many years, which resulted in a big problem that needed to be solved; the Ministry of Finance, via different proposals and rulings, has issued amnesties on additional taxes (penalties) with different percentages in specific periods during fiscal years 1397 and 1398. With the application of these amnesties, many taxpayers have cleared their accounts and paid all their tax liabilities accordingly. Even though, many of the taxpayers didn't utilize these previous opportunities to clear their dues and they are owing penalties in addition to the basic taxes, which they are unable to pay now.

The Ministry of Finance, after comprehensive negotiations and by agreeing with the federation of the Afghanistan Chambers and the Ministry of Commerce had proposed an amnesty on additional taxes (penalties) to the Presidential Office. The aforementioned proposal was approved by the Cabinet of the Islamic Republic of Afghanistan in meeting number (27) dated 18/09/1399. The Ministry of Finance was assigned to act accordingly.

So, in order to correctly implement the cabinet's mandate/decision, in the Afghanistan Revenue Department's (ARD) technical committee's meeting dated 24/09/1399, it was decided that the cabinet decision should be equally implemented on all kinds of penalties including non-activity individuals and a specific ruling shall be prepared and issued accordingly.

Basis:

This ruling has been issued in accordance to the article 62 of the tax administration law announced in the official gazette # 1198 dated 27 Aqrab 1394 for better application of the resolution passed by the Islamic Republic of Afghanistan's cabinet decision # 27 dated 18 Qaws 1399 regarding the amnesty on additional taxes (penalty payments).

Ministry of Finance Proposal:

A portion of the Ministry of Finance's proposal regarding the request for an amnesty states: "as per the ministry's experience with regards to facilitating the process of attainment of outstanding tax liabilities from both legal and natural individuals and for encouraging taxpayers to voluntarily clear all their due taxes and custom duties, better application of the law and increasing the government's revenue, do hereby respectively suggest the following, in accordance to the mandate given by article 30 - recovery of taxes.

With respect to the due taxes:

- If a taxpayer with liabilities, clears-off and pays their original taxes pertaining to the fiscal years before 1399 and the first and second quarter BRT of 1399 by the end of the first quarter of FY 1400 (30 Hoot 1399), they will be exempt from paying additional taxes (tax penalties).

This suggestions/proposal has been acknowledged/approved by the cabinet's mandate # 27 dated 18 Qaws 1399 in point # 2-3 where it states: MoF's suggestion/proposal regarding an amnesty for penalties on taxes and customs duties for taxpayers due to the spread of corona virus has been approved in 1399. The MoF is hereby instructed to proceed accordingly and expedite the process of collection of revenue from taxpayers.

Ruling:

In order to effectively implement the Islamic Republic of Afghanistan's cabinet decision # 27 dated 18 Qaws 1399, mentioned above, on all tax offices equally; it was required to issue an official ruling and distribute it accordingly. It is worth mentioning that in the above mandate, the word taxpayer is mentioned, consequently, this ruling applies and covers all taxpayers which are as follows:

- Natural individuals {small investors (shops), car owners, tellers, pump stations and other individuals with a license or without, that have taxable revenue}
- Legal individuals {companies, NGOs and other entities that shall pay taxes and report annual income tax returns}
- Individuals having business activity or with no activity

This amnesty covers the period of 1381-1398 and equally applies on all of the aforementioned individuals which for any reasons were liable to pay additional taxes (penalties) which includes delayed tax payment penalties, penalties on not providing or delayed provision of documents, penalties on not withholding or payment of withholding taxes, penalty on not storing records, penalties on not observing announcements, penalties on not providing information, non-activity and other items anticipated in the tax law, in accordance to the cabinet's mandate.

The situations under which the applicability of the amnesty on additional taxes (penalties) and the relevant methods to apply the amnesty in accordance to the Islamic Republic of Afghanistan's cabinet decision # 27 dated 18 Qaws 1399 for fiscal years before 1399 and the first and second quarter BRT of 1399 has been prepared and is as follows:

1. Taxpayer who filed their tax return:

In accordance with the provisions of the tax law and self-assessment, those taxpayers who filed their tax returns and paid the relevant taxes, but due to the reassessment of the relevant tax offices, in the process of initial assessment, audit or law enforcement, their tax assessments has been amended and they are liable to pay the basic tax along with additional penalties. The process is hereby explained taken into account different phases:

1.1. In the initial assessment phase:

Whenever the files of a taxpayers are under initial assessment of the tax office, and necessary amendments are brought in the AITR assessment by the tax office which includes both outstanding/unpaid taxes and penalties; and if the taxpayer remits the tax amount of the outstanding years prior to 1399 until the first quarter of 1400 (end of Hoot 1399), the taxpayer will be exempted from paying the penalties.

1.2. Audit Phase:

Whenever the files are under audit, and the tax audit team has assessed taxes, due to any evasion or concealments, and has amended previous assessments, and have issued a re-assessment to the taxpayer that includes original tax amount and outstanding penalties to be paid. If the taxpayer pays the original tax amount before the first quarter of 1400 (end of Hoot 1399) will be exempted any additional taxes (penalties).

1.3. Law enforcement phase:

Those taxpayers whose AITR files have been introduced to the Law Enforcement dept. due to non-compliance with the rules, decide to take the advantage of the amnesty according to the decision number (27) dated 18-Qaws-1399 (8th-Dec-2020) of the Islamic Republic of Afghanistan's cabinet and agree to pay their back-dated tax obligations, and are liable to pay both the original tax with penalties; by only paying the original tax for the years prior to 1399 (2020), 1st quarter 2020 and 2nd quarter of 2020 by the end of Hoot 1399 (20th-March-2021), they will be exempted from paying the additional taxes (penalties).

2. Additional Penalties due to concealment of revenue:

If the taxpayer agrees to a settlement and shows the evaded revenue, in this case, the tax office will assess the taxes and penalties payable. If the taxpayer pays his actual assessed tax for the years prior to 1399 (2020), 1st quarter 2020 and 2nd quarter of 2020 by the end of Hoot 1399 (20th-March-2021), he will be exempt from all additional taxes (penalties).

Note: If the taxpayer is obliged to only pay additional taxes (penalties) which has been assessed either at the Initial Review, Audit or at the Law Enforcement stages; if the taxpayer agrees to clarify all its dues by 30 Hoot 1399 (20 March 2021), they can be exempted from all extra taxes (Penalties).

3. In case of a disagreement on the assessed tax and the file is at the dispute resolutions board:

Those taxpayers whose files are at the dispute resolutions board and the board has already levied tax plus penalties on them, if the taxpayer decides to halt its case to be processed at the dispute resolution board and accepts to pay the actual tax amount levied by the board, then, by payment of the actual tax until the end of Hoot (20th March) of the mentioned year, they will be exempt from paying additional taxes (penalties).

If the result of the dispute resolutions board or other audit department is issued during the time of decision number 27 dated 18-Qaws-1399 (8th Dec-2020) of the Islamic Republic of Afghanistan cabinet till

the end of Hoot 1399 (20th March 2021) and the taxpayer should pay the tax along with the penalties, then the taxpayer can only pay the original tax assessed by the board by the end of Hoot 1399, without paying additional taxes (penalties).

3.1. If a taxpayer has remitted taxes in installment basis:

Those taxpayers who have submitted their tax returns and received the initial tax and audit assessments and have agreed with the assessed amount and pay the assessed taxes in approved installments, can refer to the instruction given in this regards in accordance to the decisions of the cabinet of the Islamic Republic of Afghanistan on amnesty from additional taxes (tax penalties):

- 3.1.1.** In case the outstanding dues to be paid in installments include the original taxes along with the penalties, and the taxpayer wishes to pay all the original taxes due without taken into consideration the installments dates until the end of Hoot of that fiscal year (20th March), are exempt from all additional tax payments (tax penalties).
- 3.1.2.** In case the installment amount only includes additional tax payments (tax penalties), the paid installments will be nonrefundable. Taxpayers are exempt from paying the remaining installment of the additional tax payments (tax penalties), only if they settle their accounts till the end of Hoot 1399 (20th March 2021).
- 3.1.3.** Those taxpayers who wish to continue their tax payments on predetermined installment basis, cannot take the advantage of ruling # (27) dated 8th December 2020, issued by the Cabinet of the Islamic Republic of Afghanistan.

4. Those who have not reported their Annual Income Tax Return for fiscal years 1381 – 1398 and Business Receipt Taxes of 1st and 2nd quarters of 1399:

Those taxpayers who have not reported their Annual Income Tax Returns for fiscal years prior to 1399 and Business Receipt Taxes of 1st and 2nd quarter of 1399 and have not clarified their due taxes; in order to take advantage of this tax penalties amnesty scheme can visit the relevant tax offices to file their Annual Income Tax Returns. The cabinet of the Islamic Republic of Afghanistan decision # (27) dated 18 Qaws 1399 does provide clarification about the use of the amnesty scheme for both active and non-active taxpayers which are as follows:

4.1. Active taxpayer:

If the taxpayer has economic and commercial activity and the tax obligations (basic and additional taxes) of such taxpayer is assessed/determined by either their own self-assessment or by the tax authorities, in this case if the taxpayer pays their basic tax by the end of Hoot 1399 (20th March 2021); the taxpayer is exempt from paying the remaining additional taxes (tax penalties).

4.2. Inactive taxpayer:

If the taxpayer submits a no activity Annual Income Tax Return which is subject to no original tax payment, and the taxpayer's late tax form submission penalties has either been self-assessed or it has been assessed by the tax authorities. Whenever such taxpayers submit their no activity

Annual Income Tax Return by 20th March 2021 and clear their tax account, they are exempt from paying the rest of the additional taxes (tax penalties).

5. Individuals subject to penalties for not applying or not paying withholding taxes:

Individuals who are subject to the withholding and payment of taxes but failed to meet their obligations such as applying and withholding of taxes, submitting Annual Income Tax returns and withholding tax forms other related obligations in accordance to provisions of the Income tax laws; if they pay their basic tax obligations by the end of Hoot 1399 (20th March 2021), they are exempt from paying the remaining additional taxes (tax penalties).

6. Other situations which are not foreseen in this procedure:

Payment of additional taxes for other violations and non-compliances in accordance to the provisions of the tax law, which are not included in the cases described above, will also be dealt with in accordance to the guidelines of Resolution No. (27) Dated 8th December 2020, of the Cabinet of the Islamic Republic of Afghanistan.

7. Additional taxes (Tax penalties) paid before implementation of Resolution No. (27) dated 8th December 2020 of the Cabinet of Islamic Republic of Afghanistan.

Individuals whom have already paid additional taxes (penalties) because of non-compliance with the provisions of the tax laws and failure to pay their tax obligations before the implementation of Resolution No. (27) dated 8th December 2020 of the cabinet of Islamic Republic of Afghanistan, cannot be refunded.

Ruling Enforcement Limitation:

- This ruling is applicable to additional taxes (tax penalties) in accordance to the tax laws (Income Tax Law and Tax Administration Law) only.
- If a taxpayer, during the time span [from the implementation date till the end of Hoot 1399 (21st March, 2021)] approved in the guidelines given under the enactment no. 27, dated 8th December 2020 (8 Qaws 1399); submits their AITR or amends the previously submitted tax returns and makes the payments including their basic tax and the quarterly Business Receipt Taxes (BRTs) for the 1st and 2nd quarter of 1399 (2020) until the end of Hoot 1399 based on self-assessment or according to an assessment by the tax offices, are exempt from paying any additional taxes (penalties).

If these documents were submitted under the time span given according to the cabinet's mandate and this ruling, were audited after the conclusion of this time span and the assessment issued previously is amended, will be dealt with in accordance to the guidance given by the cabinet's mandate and this ruling.

Public Awareness:

With the implementation of this ruling, taxation offices are obliged to communicate and publicize this amnesty for additional taxes (penalties) scheme, by any means possible, mentioned in the enactment no. 27, dated 8 Qaws 1399 (8th December, 2020) and this ruling, with all taxpayers in order to enable all eligible taxpayers to submit their tax returns, process them accordingly and pay all their tax obligations in

the prescribed time interval mentioned in the mandate of the cabinet of Islamic Republic of Afghanistan and this ruling.

Implementation of the Law:

As enactment no. 27, date 18 Qaws 1399 (8th December, 2020) for an amnesty of additional taxes (tax penalties) covers fiscal years of 1381 (2002) till 1399 (2020), and because the tax and penalties rule have changed several times during the mentioned period; therefore, the assessment of basic taxes and additional taxes (tax penalties) of every fiscal year is to be assessed according to the applicable law in that specific year.

Implementation of similar laws:

Rulings for the tax penalty amnesty, according to the law of attainment of previous tax dues, issued for various taxpayers, that had been implemented before the application of the guidance of enactment no. 27, date 18 Qaws 1399 (8th December, 2020) issued by the cabinet of Islamic Republic of Afghanistan, is also applicable as in the past.

Revenue Department's obligation:

The department is obliged to bring necessary changes in the SIGTAS system in order to better apply the ruling without any difficulties, in accordance to the guidelines of Resolution No. (27) Dated 8th December 2020, of the Cabinet of the Islamic Republic of Afghanistan.

Application date:

This ruling is valid from the implementation date till the end of Hoot 1399 (21st March, 2021), and all the tax departments are obliged to implement the ruling accordingly.

Signed,
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Signed,
Abdul Wali Noori
Director of Legal and Policy

Reviewed and approved,
Mohammad Eisa
Deputy Minister of Revenue and Customs