

**Instruction No. 920/1 issued on
April 16, 2020**

**Regarding the fines imposed on a
number of offences linked to the
control commission's report**

Overview:

The amendments made to the Trade Law, which is pursuant to Law No. 126 issued on the 29th of March, 2019 stipulate that it is not mandatory to appoint an additional control commissioner, since the commissioner shall be appointed by the president of the first chamber in the court depending on the company's location, based on a review submitted by a shareholder(s) who should be the holder of at least ten percent of the company's capital.

However, the Tax Administration came to the knowledge that the companies obliged to submit the control commission report have committed several violations related to that report.

Breakdown:

Some of the violations that have been found in the control commission's report have been linked to the following:

- The submitted control commission report has been only signed by the primary commissioner;
- The submission of two independent reports separate from the primary and additional report, the first being within the statutory deadline and the second outside the statutory deadline.
- Submitting a modified version of the basic report which does not fall under the statutory deadline, while the basic report has been submitted within the deadline.

Although the provisions contained in the Income Tax Law are not clear particularly in terms of the obligatory submission of the control commissioner's report to the tax administration which shall be signed by both the primary and the additional commissioner, nor in terms the measures to be taken in the event where the primary and additional commissioners have different opinions. That being said, Article 8 of the Tax Procedures Code stipulates that when legal texts are not clear, the Ministry of Finance shall be the authority that initiates the issuance of decisions, circulars, and instructions necessary to interpret these texts and the method of their application. Whereas, Article 112 states that when the report of the Commissioner of control is not presented or has passed its deadline for submission, article 109 thereof shall be imposed.

According to Article 109, the fine shall be equivalent to 5% of the tax due in accordance with the declaration or profit specified by the tax administration for each month of delay, provided that it is not less than five hundred and fifty thousand pounds for joint-stock companies and five hundred thousand pounds for limited liability companies and for corporate individuals.

The competent tax unit is required to:

- Submit the control commissioner report signed by the key commission only.
- The submitted report shall be duly modified within the deadline.
- In the event where the control commission report is not submitted within the legal time frame, the provision of Article 109 shall be applied as stated above.
- In accordance with Article 40 of the Tax Procedures Law, no penalty shall be imposed if the amendment is submitted within three months after the original deadline for submitting the report, only if the amendment did not have any effect on the permit, resulting in an additional tax exceeding 10% of the value of the tax due, otherwise penalties stated in Article 110 shall be imposed.