

VIRGIN ISLANDS
INTERNATIONAL TAX AUTHORITY (ADMINISTRATIVE
PENALTIES) REGULATIONS, 2022
ARRANGEMENT OF REGULATIONS

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VIRGIN ISLANDS
STATUTORY INSTRUMENT 2022 NO. 70
INTERNATIONAL TAX AUTHORITY ACT, 2018
(NO. 7 OF 2018)

International Tax Authority (Administrative Penalties) Regulations, 2022

[Gazetted 4th August, 2022]

The Minister with the approval of Cabinet in exercise of the powers conferred by section 26(2)(d) of the International Tax Authority Act, 2018, Revised Edition 2020, makes the following regulations:

Citation and Commencement

1. (1) These regulations may be cited as the International Tax Authority (Administrative Penalties) Regulations, 2022.
- (2) These Regulations shall be deemed to come into force on the 14th June, 2022.

Interpretation

2. In these Regulations, “the Act” means the International Tax Authority Act, Revised Edition 2020.

Power of Authority to impose administrative penalties

3. (1) If the Authority considers that a person or legal entity has contravened a provision of the Act, the Regulatory Code, Revised Edition 2020, or any directive issued by the Authority, it may impose an administrative penalty on the legal entity, with respect to the contravention, as provided for in these regulations.
- (2) Where the Authority decides to impose an administrative penalty on a person or legal entity under subregulation (1), it shall, after taking into account the matters specified in regulation 5, fix the amount of the administrative penalty for the contravention as provided in the Schedule.
- (3) Where a person or legal entity has, by reason of committing more than one contravention, becomes liable to more than one penalty, the Authority may compound the penalties.
- (4) An administrative penalty imposed by virtue of this regulation shall be paid into the Authority’s account for the use of the Authority in accordance with section 15 of the Act.

Procedure to be followed by Authority

4. (1) Where the Authority proposes to impose an administrative penalty on a person or legal entity, it shall send a notice of proposed penalty to the person or legal entity stating

- (a) the contravention in respect of which it proposes to impose the penalty;
- (b) the amount of the proposed penalty;
- (c) the period within which the penalty is to be paid; and
- (d) the entitlement of the person or legal entity to make representation to the Authority in accordance with subregulation (2).

(2) Where a person or legal entity receives a proposed penalty notice, it may, within twenty-one days of the date of the notice, make representation to the Authority as to why it should not be required to pay the administrative penalty or as to why the proposed penalty should be reduced.

(3) The Authority may at any time prior to the issuing of a penalty notice under subregulation (4), withdraw a notice of proposed penalty and substitute a new notice of proposed penalty for a different amount.

(4) Subject to subregulation (5), following the expiration of twenty-one days from the date of the proposed penalty notice, the Authority may, by written penalty notice, impose an administrative penalty on the person or legal entity in an amount not exceeding the amount stated in the proposed penalty notice.

(5) Before imposing an administrative penalty on a person or legal entity, the Authority shall consider any representations received under subregulation (2).

(6) Subject to subsection (7), a person or legal entity that receives a penalty notice shall pay the penalty stated in the notice to the Authority within fourteen days of receipt of the notice.

(7) The Authority may agree to the payment of an administrative penalty in instalments over such period of time as it considers appropriate.

(8) Where the penalty is paid, no proceedings shall be brought against the person served with the notice.

Determination of appropriate penalty

5. In determining the administrative penalty to be imposed on a person or legal entity, the Authority

- (a) shall take into account the following matters:
 - (i) the nature and seriousness of the contravention;
 - (ii) whether the person or legal entity has previously contravened the Act or any regulatory legislation;
 - (iii) whether the contravention was deliberate or reckless or caused by the negligence of the person or legal entity;
 - (iv) whether any loss or damage has been sustained by third parties as a result of the contravention; and

- (v) the ability of the person or legal entity to pay the penalty, including any gain resulting to the person or legal entity as a result of the contravention; and
- (b) may take into account such other matters as it considers appropriate.

Appeal against an administrative penalty

6. (1) Where a person or legal entity is aggrieved by a decision of the Authority to impose an administrative penalty on it, or by the amount of such administrative penalty, or in respect of any other decision under these regulations or any mutual legal assistance legislation, the person or legal entity may file an appeal before the Court within 30 days of the date of receiving the penalty notice or decision, stating the grounds of appeal.

(2) The notice of the appeal under subsection (1) shall be served on the Authority which shall be entitled to appear and be heard at the hearing of the appeal.

- (3) On an appeal, the Court may
 - (a) confirm, vary or revoke the administrative penalty; or
 - (b) confirm, vary or cancel the decision.

(4) An appeal of a decision of the Authority to impose an administrative penalty does not operate as a stay on the obligation of the person or legal entity to pay the penalty.

Limitation period

7. (1) The Authority may not issue a proposed penalty notice to a person or legal entity with respect to a contravention after the end of the period of two years commencing on the date that the Authority first knew of the contravention.

(2) For the purposes of subregulation (1), the Authority is deemed to know of a contravention if it has information from which the contravention can reasonably be inferred.

Miscellaneous provisions concerning administrative penalties

8. (1) The imposition by the Authority of an administrative penalty on a person or legal entity with respect to a contravention does not limit the power of the Authority to take any other enforcement action against the person or legal entity with respect to that contravention, except that where the Authority imposes an administrative penalty, it shall not revoke the person or legal entity's licence in reliance of the same contravention.

(2) Where the Act provides for the payment of a penalty by a person or legal entity with respect to a contravention, the Authority

- (a) may, in its discretion, determine whether to impose a penalty under these regulations or under the Act, but;
- (b) shall not impose more than one administrative penalty on a person or legal entity in respect of the same contravention.

(3) Where a contravention committed by a person or legal entity falls into more than one of the categories specified in Schedule, the Authority

(a) may, in its discretion, determine into which category the contravention will fall; and

(b) shall not impose an administrative penalty under more than one category.

SCHEDULE

[Regulations 3(2) and 8(3)]

ADMINISTRATIVE PENALTIES

1. Late Filing / Late Response 1 to 30 business days late 31 to 60 business days late 61 to 90 business days late 91 to 120 business days late 121 to 150 business days late 151 or more business days late	\$100 - \$500 \$500 - \$2,000 \$750 - \$3,000 \$1,000 - \$4,000 \$2,500 - \$6,000 \$3,000 - \$10,000
2. Providing/submitting false information to the Authority	\$2,000 - \$50,000
3. Failure to comply with a notice to produce information	\$1,000 - \$50,000
4. Compliance contravention - Failure to establish and maintain policies and procedures under section 27 of the Mutual Legal Assistance Act - Failure to produce information by request of the Authority	\$1,000 - \$15,000
5. Late payment of any fee required under any mutual legal assistance legislation or any penalty required to be paid under these Regulations	5% of the total fee or penalty payable for each month or part thereof that the fee or penalty (or any part of the fee or penalty) is outstanding, up to a maximum of 60% of the total fee or penalty
6. Committing any other contravention not falling within any category specified under this schedule	\$100 - \$50,000

Made this 29th day of July, 2022.

(Sgd.) Kye M. Rymer,
Acting Minister for Finance.