

Cheques become invalid 6 months after issuance date



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LEGAL VIEW

Q: I had a borrowed Dh200,000 from a friend 10 years ago to start a business. I had given four post-dated cheques as a guarantee. In the last five years, I have repaid the amount in full, but my friend hasn't given me back the cheques. Each time I asked for them, he would make some excuse or the other. I did not insist because I know him very well and trusted him. Unfortunately, things went sour between us and now he is asking me to repay the amount that I have already paid and threatening to deposit the cheques. The cheques are 10 years old. Are they still valid?

A: Pursuant to your queries, it may be noted that the issuance and circulation of cheques in the UAE is regulated by the provisions of Federal Law No. (18) of 1993 on the commercial transactions law (the 'commercial transactions law').

As per the provisions of the commercial transactions law, it may be noted that a cheque is due for payment only on the date stated on it. This is in accordance with Article 617 (1) of the law, which states: "A cheque is due for payment on the date stated thereon as being its date of issue."

Article 617 (2) of the law states: "A cheque may not be presented for payment before such date."

In continuance of the aforementioned provisions, it may be noted that a cheque shall be presented for payment within a time-limit of six months from the stated date. This is in accordance with Article 618 (1) and (2) of the law, which state: "A cheque drawn and made payable in the State or abroad shall be presented for payment within six months. The time limit mentioned in the previous paragraph shall run from the date on the cheque purporting to be the date of issue."

If six months have already elapsed from the date mentioned on the cheques, then they may no longer be presented for collection to the bank.

It may be noted that if six months have not elapsed from the date stated on the cheques and thereafter your friend presents them for payment, criminal proceedings may be initiated against you if they are subsequently dishonoured. Further, if we assume that the amount of

each post-dated cheque issued by you to your friend is less than Dh200,000, then you may be only liable to pay a fine. This is in accordance with Dubai Law No. 1 of 2017 called 'criminal order law', wherein it is stated that the punishment may be fine which may vary between Dh2,000 and Dh10,000 depending on the cheque amount. The aforesaid provision of law is only applied in Dubai.

Based on the aforementioned provisions, it may be prudent on your part to file a case before the Dubai courts, present the evidence of payment made by you against these cheques to your friend and obtain an order from the court to stop payment against the cheques.



Know the law

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Help! My company is refusing to repay loan taken in my name

Q: I came to the UAE 16 years ago and have been working as a manager in a construction company. The firm's owner used my passport to take two bank loans worth Dh350,000. He had agreed verbally that he would pay the monthly mortgage. Now the company has run into debts because of pending payments and he has gone back to his home country after handing over the company to a friend of his. The new owner is refusing to pay the loan amount as it is in my name. I don't have anything in writing, but the till date, the amount was being repaid from my previous boss's account. Can I fight this case?

A: It may be pertinent to note that if you have signed all the documents to avail of the loan, then you will be held responsible for its non-repayment. However, if you are in a position to prove that the loan amount was disbursed into the company's bank account or after availing this loan, you transferred the amount to the company's bank account, then you may be in the position to make valid claims against the company in the courts of the UAE. This is as laid down in the provisions of Federal Law No. (10) of 1992 on

Know the law



You may request the court to direct the company to furnish any documents which may substantiate that the loan amount which was availed in your name was transferred into the company's bank account.

the evidence in civil and commercial transactions (the 'law of evidence in civil and commercial transactions').

As per the provisions of this law, a party may make a request to the court to compel an opponent party in a litigation to present any written document which may be pertaining to the litigation and that may be in the opponent party's possession. This is in accordance with Article 18 (1) of the law, which states: "A party to the litigation may request the court to compel his opponent to submit any useful written document or paper that may be in his possession, in the following instances:

- If the law allows him to ask for their submission or delivery.
- If the document is joint between him and his opponent. A document is particularly considered joint when it is for the benefit of both parties to the litigation or evidencing their mutual obligations and rights.
- If the opponent based his claim on it in any stage of the lawsuit."

It may therefore be noted that you may request the court to direct the company to furnish any documents which may substantiate that the loan amount which was availed in your name was transferred into the company's bank account.

However, you must bear in mind that the lender of the loan will initiate legal recovery proceedings against you and then you may have to initiate separate legal proceedings against your company to re-pay back to you the amount you paid to the company. Further, it is recommended that you consult a legal practitioner in the UAE to avail further counsel on this matter.

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