



Tax Alert

Tax decree: regularization of tax breaches and amicable settlement of tax disputes

Law Decree no. 119/2018, containing “urgent tax and financial provisions” was turned into Law 136/2018.

On 24 October 2018, the Law Decree introduced different possibilities to regularize tax (but also social security) breaches, thus reducing penalties, interest and, in some cases, even taxes themselves, depending on the specific procedure applied by the taxpayer. The converting Decree-Law, effective starting from 19 December 2018, confirmed, though with some amendments, almost all Law Decree provisions.

Tax audit reports (art. 1)

All remarks contained in Tax Audit Reports filed by 24 October 2018 can be regularized (a partial regularization is not admitted) by submitting supplementary tax returns and by paying the tax amount indicated in the Tax Audit Report (with subsequent write-off of penalties and interest) by 31 May 2019.

The new provisions do not replace the current voluntary tax settlement procedure (“ravvedimento”), which can still be applied to regularize only some of the remarks included in the Tax Audit Report, though providing the payment of penalties (reduced to 1/5) and of interest, besides tax due.

Tax claims raised by the tax collection office (art. 3 and 5)

A new edition of the so-called tax bills “scrapping” (rottamazione) is established in order to settle amounts due to the tax collection office between 1 January 2000 and 31 December 2017 relevant to any tax (e.g. IRES, VAT, surtaxes, TV license fees), social security contributions (INPS) premiums for insurance against work accidents (INAIL), EU's own resources, and import VAT.

In this case, save for some specific situations highlighted by the Decree, infringements can be regularized by paying taxes, with subsequent write-off of default penalties and late payment interest, by 31 July 2019 (30 September for debt related to EU's own resources and import VAT).

Payment can also be settled in a maximum of 18 instalments. The filing of the application for tax bills scrapping implies the regularization of the taxpayer's tax and contribution situation.

Tax litigation proceedings (art. 6)

Pending tax litigation proceedings up to the Court of Cassation level can also be settled.

The concession applies to appeals notified to the counterparties by the Decree effective date and allows to settle the tax litigation by only paying, to

the utmost, the tax amount due (without penalties and interest), though with some graduations.

In fact, should the taxpayer result as the losing party from the latest Court judgment, the whole tax amount will be due.

If no Court judgment has yet occurred and the appeal is already registered with the Court register at the Decree effective date, the dispute could be settled with a 10% discount on the assessed tax amount.

Should the taxpayer win at the Court of first instance, a further concession equal to 60% of tax due is provided.

Should the taxpayer win at the Court of second instance, the proceedings could be settled with an 85% discount on the tax due, or up to 95% if the lawsuit was pending at the Court of Cassation at 19 December 2018.

The applications for the settlement of tax litigation proceedings and for the payment of the first single instalment must be filed by 31 May 2019. Payment can be settled in a maximum of 20 instalments.

Formal irregularities (art. 9)

This article, which previously contained provisions on the special supplemental returns (not confirmed in the converting Decree-Law), introduces a regularization of formal mistakes (i.e. those that do not impact on the definition of the taxable base for income tax, VAT and IRAP purposes, nor on social security contributions) committed up to 24 October 2018.

The regularization is finalized when an amount of 200 Euros (in two equal instalments to be paid by 31 May 2019 and 2 March 2020) for breaches committed in each taxable period, and when the relevant irregularity or omission is removed.

Breaches contained in deeds for the challenge or infliction of penalties, which have become final at the converting Decree-Law effective date, are excluded from the regularization.

We invite all concerned Clients to contact our reference professionals for further details and examinations.

Contacts

We will be glad to assist you with any further clarification you may need.



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