

# **New norms on tax inspections, assessments, collection and litigations**



# Focus on...

## **Provisions on suspension of deadlines relevant to the activities of the Tax Authorities - Art. 67 of Law Decree n. 18/2020 so-called *Cura Italia***

Considering the current healthcare emergency and as an exception to the Taxpayers' Statute, the new norm provides for a postponement of the limitation and prescription periods relevant to the activities of the tax authorities against taxpayers who can benefit from the suspension of tax fulfilments and tax payments.

Specifically, the norm provides for that fulfilments and payments due in 2020 are postponed to 31 December 2022.

All suspects of unconstitutionality of the norm aside (the norm, against a few weeks' suspension of fulfilments and payments in favour of taxpayers, provides for a two-year deferment of the terms in favour of the public administration), some explanations are needed.

First of all, the norm should not be applied, not even abstractly, to those taxpayers who have not actually benefitted from the suspensions provided under the Law Decree.

This is the case, for example, of dissolved companies, which, as a result of the provisions of art. 28, para. 4 of Legislative Decree n. 175 of 2014, could actually have received payment orders due within 2020.

Of course, with reference to the above, the tax authorities cannot (at least not on reasonable grounds) request any postponement of the limitation period of the assessment.

This is also the case of a taxpayer with revenues over Euro 2 million, not falling within the scope of activities which benefitted of aids and not located in one of the municipalities of the so-called former "red zone."

The latter would not benefit from any suspension of taxes and certainly no extension of the 2020 deadlines can be applied to him (as above, not on reasonable grounds).

Similar considerations hold true also for past legal relationships terminated before the enforcement of the *Cura Italia* Law Decree.

This is the case, for example, of the limitation period for assessments relevant to the registration tax: the relevant terms could have expired, for instance, in January or February 2020.

Anyway, also in case of such terms, it is clear that no extension can be applied – even if the wording of the norm could leave some doubts – given that otherwise there would be not only a violation of the non-retroactivity prohibition of the tax law (a circumstance occurring more and more often, unfortunately), but, more importantly, a breach not sustained by the principle of reasonableness repeatedly recalled by the Constitutional Court.



The above being said, the chart below provides some examples of the types of assessment activities which could benefit from the extension of terms:

Type of control	Impacted FY	Original deadline	Extended deadline
Tax assessment notice (filed tax return)	2015	31.12.2020	31.12.2022
Tax assessment notice (omitted tax return)	2014		
Tax assessment notice (filed tax return) on alleged amounts held in tax havens	2011		
Tax payment order following a tax inspection	2015		
Formal notification of penalty (filed tax return)	2015		
Formal notification of penalties for amounts held in tax havens (filed tax return)	2010		
Notification of collection of a non-existent offset receivable	2012		

A further consideration is also needed for those assessment terms, which although expiring on 31.12.2020, have now been postponed to the beginning of 2022 further to specific provisions of law. This is the case, for example, of VAT assessments terms in case of late response to the request for supporting

documents for refunds. Or, again, of the deferment of assessment terms due to anti-abuse questionnaires notified in December 2019. In all the cases above, a case by case analysis is needed.

Our professionals would be pleased to provide you with any further information you may need.

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