

# Budget Law 2023

## New tax amnesty

# Focus on

Under art. 1, para. 153-252, Budget Law 2023 (L. n. 197 of 2023), entered into force on 1 January 2023, officially introduced the one-off measures already announced in the Draft Law proposed by the Government in December 2022. These measures are aimed at preventing disputes and settling disputes between the tax authorities and taxpayers.

## Regularization of tax breaches and settlement of tax payment slips

**Special amendment of tax breaches (para. 174 - 178)** - This provision, alternative to the ordinary voluntary settlement regulation, allows for the regularization of substantial violations by paying reduced penalties equal to 1/18 of the statutory minimum amount.

The violations that can be regularized must concern validly submitted returns referring to the tax period being current at 31 December 2021 and previous periods.

These violations must not have already been challenged at the date of payment of the amount due or of the first instalment, with a liquidation deed, tax assessment notice or tax credit recovery notice, penalties infliction notice, including the communications referred to in article 36-ter of Presidential Decree dated 29 September 1973, n. 600.

Violations relating to omitted tax returns, VAT returns, IRAP returns and withholding agents' returns and to returns submitted after more than 90 days, as well as violations deriving from the disclosure of assets and financial assets held outside the territory of the Italian State cannot be settled.

The special amendment is completed with the payment of the first or single instalment by 31 March 2023, subject to the removal of the irregularities/omissions committed.

The regularization can also take place by deferring the amounts due in up to 8 equal quarterly instalments. Instalments must be paid on 30 June, 30 September, 20 December and 31 March of each year, with interest equal to 2% per year. Failure to pay one of the instalments subsequent to the first within the deadline for payment of the following instalment will imply the lapse of the benefits of the special amendment for amounts still due.

**Regularization of formal irregularities (para. 166 - 173)** - This measure allows regularizing those irregularities, infringements and non-compliance with obligations or fulfilments that are not relevant for determining the taxable base for direct taxes, VAT, IRAP, as well as for the payment of these taxes, if committed up to 31 October 2022. Said violations, provided that they have not already been challenged in deeds that have become final, can be regularized by paying 200 Euros for each tax period, in 2 equal instalments: the first one to be paid by 31 March 2023 and the second one by 31 March 2024. In order for the regularization to be valid, irregularities or omissions committed must also be removed.

Penalties infliction notices that became final on 1 January 2023 and those issued as part of the so-called voluntary disclosure procedure are excluded from the regularization. Irregularities deriving from the emergence of assets and financial assets held outside the territory of the Italian State are excluded, too.

The measure does not include irregularities or defaults subject to remission in bonis (e.g.: option for tax consolidation, group VAT liquidation, so-called "cedolare secca"). Formal violations committed up to 31 October 2022, subject to a tax assessment report, the deadlines for notification of penalties infliction notices are extended by two years.

### **Concessional settlement of amounts due following an automated control on tax returns (para. 153 - 157)**

Deeds issued following an automated control (tax payment slips issued pursuant to article 36-bis of Presidential Decree dated 29 September 1973, n. 600 and art. 54-bis of Presidential Decree dated 26 October 1972, n. 633) on tax returns relating to tax periods 2019, 2020 and 2021, for which the payment term has not yet expired at 1st January 2023 (or delivered after that date). Payment must be made within 30 days after receiving the communication and the total amounts due can be paid in a maximum number of 20 equal quarterly instalments. Tax payment slips that were already divided into instalments at 1 January 2023 can also be settled by applying a penalty equal to 3% of the residual amount due as tax and social security contributions, interest and additional charges. In the event of totally or partially omitted payment, the settlement does not produce effects and the residual amounts are registered, providing for the application of ordinary sanctions and the lapse of the concessional settlement. The definition can also concern social security contributions, even if they are collected only by means of a debit notice. The sums due must be paid with the F24 form.

### **Tax assessment**

#### **Concessional settlement of tax assessment proceedings acts (para. 179 - 185)**

The measure allows settling tax disputes by paying reduced penalties equal to 1/18 of the minimum required by law (plus tax and interest) in case of tax assessment settlements related to tax audit reports and summons already delivered or notified by 31 March 2023.

A similar concession is provided for tax assessment notices, amendment and liquidation deeds and tax credit recovery notices (i) which are unchallenged and can still be challenged at 1 January 2023 or (ii) notified by 31 March 2023: in this case, however, reduced penalties are equal to 1/18 of the sanctions imposed by the tax authorities (rather than of the minimum required by law).

The settlement at issue can concern any type of income and any type of assessment (e.g., it can concern analytical, anti-avoidance, presumptive and inductive assessments). Deeds issued as part of the voluntary collaboration procedure are excluded. The first of single instalment must be paid within 20 days following the signing of the agreement in case of composition or within the term for appeal in the remaining cases. Payment can also be divided into 20 equal quarterly instalments (including tax, interest, and penalties reduced as explained above), by applying legal interest to the instalments following the first one. The possibility to pay through offsetting in F24 forms is excluded.

#### **Regularization of omitted payment of instalments of measures to avoid tax litigation (para. 219 - 221)**

Amounts due to the Revenue Office for omitted or deficient payment of instalments following the first one - following tax settlement proposals (compositions) or acceptance of tax assessment notices, adjustment and payment notices and tax credit recovery notices, as well as claim and mediation applications - which are overdue at 01.01.2023 and for which the payment notice has not been notified, can be paid in a single instalment, by 31.3.2023 in a single instalment, by 31.3.2023).



In the event of failure to complete the regularization, the registration of the residual amounts due by way of tax, interest and penalties is provided, as well as the penalty foreseen for delayed or omitted payments, equal to 30% of the amounts due.

### **Tax litigation**

#### **Settlement of tax disputes (para. 186 – 205) –**

The provision seems to have a general scope and include all disputes pending before tax courts (only disputes concerning traditional own resources and amounts due as State aid recovery are expressly excluded) in which the Revenue Office is a party at any court level and any stage – including those before the Court of Cassation – at 1 January 2023.

In case of deeds including tax, penalties and interest, the dispute is settled as follows: in case of disputes pending before the court of first instance, by paying 90% of tax; in case of favourable judgment (provided that this is the last one received) by the court of first instance (filed by 1 January 2023), by paying 40% of tax; in case of favourable judgment (provided that this is the last one received) by the court of first instance (filed by 1 January 2023), by paying 15% of tax; in all other cases, by paying 100% of tax (e.g., if the taxpayer is the losing party in the last judgment received).

In the event of tax disputes pending before the Court of Cassation, for which the Revenue Office is the losing party in all previous levels of judgement, settlement is provided by paying an amount equal to 5% of the value of the dispute.

Disputes concerning deeds including only penalties (not related to the tax) can be settled by paying 15% of penalties if the taxpayer wins (with judgment filed by 1 January 2023) and by paying 40 % of penalties in all other cases.

The settlement at issue does not imply the refund of amounts already paid, even if these are higher than the amounts due according to the measure.

Settlement is finalized with the submission of the application and the payment of the 1st or single instalment by 30 June 2023 (Payment by instalments in 20 equal quarterly instalments is admitted, but offsetting in F24 is not permitted). The possible refusal to apply the settlement measure should be notified to the tax authorities by 31 July 2024.

**Concessional judicial conciliations (para. 206- 212) -** Conciliations relevant to tax disputes concerning deeds in which the Revenue Office is a party, pending before the courts of first and second instance at 1 January 2023 can be settled, in case of conciliation agreements, by 30 June 2023, by paying penalties reduced to 1/18 of the minimum established by law. Disputes concerning traditional own resources and amounts due as State aid recovery are excluded.

Conciliation amounts (tax, interest, and penalties reduced as explained above) must be paid within twenty days from the date of signing of the conciliation agreement (offsetting in F24 form is excluded but payment by 20 quarterly instalments is admitted).



**Concessional waiver before the Court of Cassation (para. 213 – 218)** – As an alternative to the settlement of tax disputes (see para. 186-205), in case of disputes pending before the Court of Cassation at 1 January 2023, in which the Revenue Office is a party and concerning tax deeds, The appellant may waive, by 30 June 2023, the main or interlocutory appeal, following the settlement reached with the counterparty. Disputes concerning traditional own resources and amounts due as State aid recovery are excluded.

The settlement implies the payment of the amounts due for taxes, penalties reduced to 1/18 of the minimum required by law, interest and any accessories and is completed with the signing and payment of total amounts due within twenty days of signing the agreement between the parties (offsetting in F24 form is excluded).

The measure at issue does not imply the refund of amounts already paid, even if these are higher than the amounts due according to the settlement.

## **Tax collection**

**Write-off of tax debts up to 1.000 Euro (para. 222 – 230)** – The rule at issue provides for the automatic write-off of tax debts up to 1.000 Euro (including principal, interest and penalties) committed to the tax collection agents from 1 January 2000 to 31 December 2015, even if included in previous concessional measures relevant to tax debts committed to the tax collection agent.

**“Scrapping” of tax debts (para. 231 – 252)** - Tax debts committed to the tax collection agents from 1.1.2000 to 30.6.2022 can be settled by benefitting from the relief from penalties and interest and paying the amounts due as principal (and any amount due as refund of executive and notification expenses).

By 30 April 2023, taxpayers must notify their intention to the tax collection agent by filing a proper electronic application, indicating the presence of any pending dispute and their intention to waive them.

By 30 June 2023, the tax collection agent will notify the taxpayers who filed the above application a statement with the total amount due, as well as the amount and due date of each instalment.

Payment of amounts due can be performed in a single payment, by 31 July 2023, or in up to 18 instalments: the first two ones, each being equal to 10% of total amounts due, are due by 31 July and 30 November 2023; the following ones are due by 28 February, 31 May, 31 July, and 30 November of each year starting from 2024.



Please feel free to contact us for further details and information on the above issues.

