

New tax amnesty

Budget Law 2023 following the entry into force of so-called “Bollette” Law Decree, effective as of 31 March 2023.



Introduction

Following the entry into force of so-called “Bollette” decree (Law Decree no. 34/2022), some amendments were introduced to the provisions concerning the concessional settlement of unpaid taxes introduced by Budget Law 2023 ([please refer to previous alert](#)).

In particular: (i) the terms to apply for the concessional measures have been extended; (ii) the scope of some of the above measures has been better specified; (iii) the possibility to benefit from the exemption from punishment due to some criminal-tax breaches originated from cases that are subject to the concessional settlement have been extended.

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 tax returns, VAT returns, IRAP returns and withholding agents' returns referring to the tax period being current at 31 December 2021 and previous periods.

The new deadline for the settlement is set at 30 September 2023, by which the first or single instalment must be paid, subject to the removal of the irregularities/omissions committed.

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).

The “Bollette” decree has clarified that breaches related to income generated abroad, IVAFE (tax on the value of financial assets held abroad) and IVIE (tax on real estate investment abroad) can be regularized, while breaches related to tax monitoring (of the assets held abroad) cannot.

The regularization can also take place by deferring the amounts due in up to 8 equal quarterly instalments.

Regularization of formal irregularities (Para. 166 - 173) - The deadline for the payment of the first or single instalment has been postponed to 31 October 2023.

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. Moreover, in order for the regularization to be valid, irregularities or omissions committed must be removed by 31 March 2024.



The following are confirmed to be excluded from the regularization: (i) Penalties infliction notices that became final on 1 January 2023 and those issued as part of the so-called voluntary disclosure procedure; (ii) Irregularities deriving from the emergence of assets and financial assets held outside the territory of the Italian State; (iii) irregularities or defaults subject to remission in bonis (e.g.: option for tax consolidation, group VAT liquidation, so-called “cedolare secca”).

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. The “Bollette” decree specifies that this measure also applies to tax assessment settlements related to tax assessment notices notified after that date (but within the tax assessment statutory of limitations term), based on the results of the abovementioned tax audit reports.

A similar concession is provided for tax assessment acceptance, amendment and liquidation deeds and tax credit recovery notices, which are unchallenged and can still be challenged and were 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.

The exclusion of deeds issued as part of the voluntary collaboration procedure is confirmed.

The first or 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.

Tax litigation

Settlement of tax disputes (Para. 186 – 205)

- The provision includes 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. Therefore, disputes related to tax collection Agency are included, provided that the Revenue Agency is a formal party to the procedure.

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.

The new terms and deadlines to be considered for such settlement measures are the following:

- the deadline for the submission of the application and for payment is 30 September 2023;
- the term to contest court judgments and resumption decisions, as well as to bring a counterclaim before the Court of Cassation, expiring between 1 January 2023 and 31 October 2023, is suspended for 11 months;
- the possible refusal to apply the settlement measure should be notified to the tax authorities by 30 September 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 15 February 2023, can be settled, in case of conciliation agreements, by 30 September 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 September 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.

Lastly, the “Bollette” decree has extended the possibility to benefit from the exemption from punishment for the following tax crimes:

- omitted payment of due or certified withholding taxes,
- omitted payment of VAT, and
- improper offsetting of (undue) tax credits.

The exemption from punishment for the above cases applies when breaches are correctly defined and amounts due are fully paid according to the terms and conditions provided under the measures of the tax amnesty, as long as the relevant procedures are settled before the judgment by the Court of Appeal.

The other provisions introduced by Budget Law, listed below, remain unchanged:

- para. 153 - 157: “Concessional settlement of amounts due following an automated control on tax returns”;
- para. 222 – 230: “Write-off of tax debts up to 1.000 Euro”
- para. 231 – 252: “‘Scrapping’ of tax debts” (i.e.: “rottamazione quater”).

To this regard, we point out that, with reference to “Rottamazione quater” measure, art. 4 of Law Decree no. 51/2023 has postponed the deadline to file the relevant application with the Revenue Office to 30 June 2023. Subsequently, the Revenue Agency will notify the amounts due to taxpayers by 30 September 2023.

Considered the possible diverse scenarios related to the cases described above and due to the technical expertise required to carry out case-by-case analyses, we invite you to contact our professionals in order to receive a more detailed picture of your case and of applicable regulations. In order to better identify possible cases, please find a supporting [check-list](#).

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



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