



Italy: a review of the tax dispute system

Tax & Legal Alert
07 September 2022

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This Tax Alert recaps the measures recently introduced by the Italian parliament aimed at speeding up tax disputes as well as at elevating the efficiency and the quality of the decisions from the tax courts.

The law, whose objectives were set out under the Recovery Plan, was approved on 9 August 2022 and came into effect with its publication in the Official Gazette.

1. Higher expertise from the tax courts

Aiming at elevating the expertise of the members of the tax courts, the law has established a new selection process for tax judges. Applicants must have a degree in law or in economics, pass a three-step public selection and train for six months as member of a tax court, before a final assessment. The law also provides rules to reduce the age of tax judges (they will have to retire at 70). A special committee will monitor and evaluate the efficiency and the quality of the decisions from the tax judges.

2. Measures to ensure greater efficiency of tax litigation

Here is a selection of the measures introduced for local trials:

- 'minor' disputes (whose value does not exceed EUR3,000) shall be decided at the first-tier court by one tax judge (instead of a court of three judges);
- a tax court is empowered to admit written declarations from witnesses;
- hearings to discuss and to decide on the suspension of provisional collections of taxes must be scheduled within 30 days from the submission of the taxpayer's application; as of 1 September 2023, online hearings may be held as an alternative to in-person hearings;
- new rules for the compromise after appeal apply: (a) increased legal fees are charged to the party (either the taxpayer or the tax authorities) that rejects the compromise proposal if the outcome of the decision is against it; (b) the court is allowed to propose a compromise for minor and simple disputes, even if the attempt between the parties to settle has failed;
- a selection of the most relevant cases decided by the tax courts will be summarized and archived as case law by a special committee;
- a new section of the Supreme Court will be dedicated to tax disputes.

3. A new amnesty program to reduce the numbers of disputes before the Supreme Court

To reduce the backlog of disputes before the Italian Supreme Court, the law has introduced an amnesty program. This program applies to the following disputes:

- with a value up to EUR100,000, the taxpayer who won before both the courts (of first and second instance) may settle the litigation paying an amount equal to the 5 percent of the disputed value;
- with a value up to EUR50,000, the taxpayer who won at least before one of the two courts can settle the litigation paying an amount equal to the 20 percent of the disputed value.

The amnesty program does not apply to disputes concerning the EU's own resources, value-added tax collected on importation, as well as those concerning sums due for the recovery of state aid.

The amounts already paid on a provisional basis cannot be recovered, if they are higher than the settlement amount.

This procedure requires the submission of the application, the request for a suspension of the trial, and the payment of the amount due within 120 days of the entry into force of the provision. The rejection of the settlement is subject to appeal before the Supreme Court.

On a side note, the law has also reduced the thresholds to access a ruling request for substantial investment (and also to the cooperative compliance regime) that were reduced from EUR20M to EUR15M. This measure aims at increasing the dialogue with between tax authorities and taxpayers.

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Tax & Legal Alert / KPMG in Italy / 07 September 2022

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