



Press Release of 11 March 2022

LOCAL TAX COLLECTION: THE “REVERSE EXPIRY MECHANISM” DOES NOT APPLY TO PRIVATE SPIN-OFF COMPANIES

The rule laid down by Article 1(815) of the Budgetary Law for 2020, which retroactively extends to “private spin-off companies” both the reverse expiry tax collection mechanism [*“meccanismo scalare inverso”*, i.e. the mechanism whereby more recent tax debts are payable before older tax debts] as well as the exemption from controls of “tax debts referred to collection agents” of up to 300 euros does not pass the “reasonableness standard” of constitutional review.

This is the ruling contained in [judgment no. 66](#) filed today (author Luca Antonini) in which the Constitutional Court declared unconstitutional the retroactive extension to private spin-off companies of a special procedure for tax collection and exemption from controls, which had been introduced with the “specific intention of addressing special and exceptional needs pertaining solely and exclusively to ‘public’ collection agents for which the time limits for serving notices of non-enforceability had not yet expired at the time it entered into force, in contrast to those relating to private ‘spin-off’ companies, which had by contrast already expired”.

The judgment also declared inadmissible certain questions concerning Article 4 of Decree-Law no. 119 of 23 October 2018 (which provided for the automatic cancellation of debts with a residual amount below one thousand euros) “also for the purposes of matters pending between local government bodies and private ‘spin-off’ companies”.

However, the judgment clarified that - now that the circumstances that had led in the past to major backlogs of debts that were difficult to

enforce no longer obtained - during the future operational phase of the new regime established by the reform of the public tax collection system, “any initiatives involving ‘writing off’ or ‘cancellation’ should be avoided, being contrary to the constitutional value of the duty to pay tax, which may as such be liable to undermine the system of civil and social rights protected by the Constitution (judgment no. 288 of 2019)”.

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