

Dear Clients:

Object: News on Public Contracts

The Agency of Revenue has clarified the new modality of computation and payment of the stamp duty on public contracts.

The application of this new rule is limited to tender contracts which are written onerous contracts stipulated between one or more economic operators aiming to put out the execution of the assignment or provision of services.

The Circular written by the Agency of Revenue on the 28th of July 2023 has confirmed that the dispositions containing the new procedures offer valid solution in order to reduce the management costs. These new producers are only to be applied for contracts that derive from the new Code of Public Contracts.

It affirms that the new dispositions can only be applied at the enactment of the stipulation of the Tender Contract as foreseen by the procedure of the new Public Contracts Code; by norming so, all the antecedent phases activated in stipulating the contract, are not included in the new procedure.

In addition, it confirms that the modality of identification of the stamp duty must be applied also in case of stipulated or authenticated by Public Notaries or other Public Officials, undergoing registrations with telematic procedures.

The duty stamp cannot be paid in virtual modality and its import must be determined in relation to the maximum import foreseen by the contract.

The Revenue Agency explains why the new flat staggered tax is only applied at the enactment of the contract between the economic operator and the contracting authority, on basis of the maximum corresponding to the net of the VAT of the same contract, taking account that the payment paid by the successful bidder at the stipulation of the contract meets the mandatory stamp duty fee due for the deeds of the entire procedure. It is important to consider that the subscription between the parties of successive deeds that lead to decrease or increase the maximum corresponding, does not produce on the bidder right of reimbursement or any other obligation.

There are not particular exemptions on the stamp duty on tender contract invoices. The payment of the flat rat tax in brackets substitutes the stamp duty for all deeds and documents concerning the procedure of selection and execution of the tender contract, this exemption is not applied on the various economic operators participating to it at its initial phase.

The announcement n. 1/2023 approved by the ANAC Council foresees that the application of participation to a tender contract, if there is no case of exemption, must include the payment of the

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stamp duty of 16,00 € to be paid through F24 with a telematic countersign or virtually with a previous released authorization by the Agency of Revenue or by the service.

Only the successful bidder can recover what paid deducting it from what it is due. There has not provision regarding the eventual import paid or acquitted by the participants as title of the treasury. Nothing has been provided regarding the eventual exceeding import compared to the one due that must have been paid by the successful bidder during the preceding phase of the stipulation.

The stamp duty fee and its new rules have been published by the Revenue Agency the 28th of June 2023 indicating the modality of payment through F24 models and establishing the tribute codes to acquit the stamp duty linked to its specific context.

Contracts written by Public Officials subject to telematic registration, although included in the new Code of the Public Contracts, do not have to pay the stamp duty through F24 models. These new rules on the stamp duty have been valid since the 1st of July 2023.

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