

Dear clients:

Object: From Sunday 1 September 2024, rules on tax penalties have changed.

The modifications are contained in Legislative Decree 87/2024, which applies the sanctioning part of the tax reform: this decree is above all known for having reduced sanctions in general and for having improved coordination with criminal laws.

However, there are still problems, especially in coordinating the new rules with the criminal ones and for cash reasons.

Therefore, some situations become more difficult to manage or are still exposed to the heavy sanctions in force.

Relief and effective date

Here is how the sanctions change for some of the most important and common cases:

- penalties for failed payments decrease from 30% to 25%
- for an unfaithful declaration, the penalty goes from 90-180% to 70% and the omitted declaration will be able to be submitted until the deadline in case checks have not already begun.
- for non-existent reverse charge invoices, the penalty will be 5%, provided there is good faith.

These new sanctions apply only for the future, i.e. for offenses committed from 1 September onwards; for violations committed up to 31 August the old rules remain valid.

Repentance

The changes also concern the regularization of violations committed from 1 September: the reductions in sanctions provided for in the event of repentance will be applied to the new reduced amounts.

By doing this, the reductions (such as those to 1/6 and 1/7 of the minimum) will be commensurate with the new reduced penalties.

In the presence of multiple violations committed since 1 September, it will also be possible to apply legal cumulation.



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The reduction percentage will be calculated based on the first violation and the Revenue Agency should provide a specific software for these situations, which is not yet available.

Reductions based on notification

With the new rules on mandatory preventive cross-examination (article 6-bis of the Taxpayer's Statute), which provide for the notification of the tax provision scheme, the reduction of sanctions depends on the notification itself and on the possible drafting of the assessment report. Especially:

- the sanction is reduced to one sixth of the minimum if the regularization takes place after the communication of the tax deed scheme, without an assesment report (PVC) and without acceptance;
- the sanction is reduced to one fifth of the minimum if the regularization takes place after the violation has been ascertained (as with a PVC), without having sent communication of compliance with the report and in any case before communication of the tax deed scheme;
- the penalty is reduced to a quarter of the minimum if the regularization takes place after the communication of the tax deed scheme following a PVC, without having presented an assesment application with acceptance.

General rules

If there are situations in which the sanction is clearly disproportionate to the committed violation, it can be reduced by up to a quarter of its expected value, whether fixed, proportional or variable.

The assessment to obtain this reduction will no longer be based on the comparison between the amount of the tax and that of the penalty, but rather on the violation itself compared to the amount of the penalty.

Basically, there won't be only a check on the numbers, but the specific circumstances of the violation will be taken in consideration . Previously, a reduction of up to half the minimum was possible only if there was a clear disproportion between the tax and the fine.

With the new rules, it will be possible to reduce up to a quarter, but in particularly serious cases there may be an aggravating circumstance up to a half.

Double regime between VAT and income on returns for 2023

The application of the new sanction regime for tax violations committed from 1 September 2024 will have two particular consequences.



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The first concerns investigations on violations relating to the 2023 tax year, which appear in the tax and VAT returns submitted in 2024, the other on non-due and non-existent tax credits.

As for the first, given that the 2023 VAT return was presented before the entry into force of the new regime and the tax return is presented afterwards, there will be a sort of double regime in the inspection:

1. VAT violations reported in declarations, submitted by April 2024, will be sanctioned with the old (more severe) rules
2. The same violations, if also relevant for income taxes and present in the declarations sent after 1 September 2024, will be sanctioned according to the new (more favorable) rules.

The second peculiarity concerns the introduction of a new notion of non-existent tax credit compared to that which is not due.

To avoid the issues raised by jurisprudence (especially criminal), it was specified that the new concepts will have both administrative and criminal value, but with two starting dates:

1. immediately and retroactively with regard to criminal sanctions, if more favorable than the old definitions;
2. from 1 September 2024 with regards to the tax profile.

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