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To all
clients

Circular
No. 19/2023

Bolzano, 11 March 2023

Subject: Amnesty for formal irregularities – payment by 31 March 2023

We already briefly informed you of this in our Circular No. 1/2023: the Budget Law for 2023 has once again introduced a so-called amnesty for formal irregularities. Specifically, an amnesty subject to payment is granted for formal irregularities committed up to 31 October 2022, namely against payment of a flat-rate settlement fee of 200 Euro per year, payable in 2 instalments, one by 31 March 2023 and a second by 31 March 2024. A single payment by 31 March 2023 is, however, also possible. In order to increase the incentive to make use of this amnesty somewhat, the deadline for the service of the relevant assessment notices by the tax authorities was at the same time extended by 2 years in respect of irregularities committed up to 31 October 2022 and recorded in an official report.

In the meantime, the necessary implementing provisions have also been issued by Decree No. 27629 of 30 January 2023, and by Circular No. 2 of 27 January 2023 the Agency explained the new rules and set out its understanding of formal irregularities. In general, it may be noted that the rules are largely identical to those of the amnesty for formal irregularities in 2019, under which, as is well known, irregularities committed up to 24 October 2018 could likewise be remedied against payment of a fee of 200 Euro per year.

The amnesty for formal irregularities applies to all taxpayers, i.e. to enterprises and self-

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employed professionals (also in their capacity as withholding agents) as well as to the private sphere of individuals.

In principle, all irregularities which have no effect on the taxable base for income taxes and value added tax are deemed to be formal irregularities. Errors in connection with the reporting of foreign assets in form RW of the tax return are, however, expressly not eligible for remedy. In defining formal irregularities, the Agency first refers to its Circular No. 11/E of 2019, but then goes on to reproduce a revised list of possible formal irregularities, which is illustrative and not exhaustive. Below is an extract prepared by "Eutekne", also indicating whether a correction is necessary or not:

Offence	Provision	Correction required	Note
Missing/incorrect reporting of costs relating to the "black list"	Art. 8 para. 3-bis Legislative	Subsequent filing required	See Circular 11/2019
Missing/incorrect reporting of impairment losses on participations/financial assets	Art. 11 para. 4-bis Legislative Decree 471/97	Subsequent filing required	-
Indication of the payees in form 770	Art. 2 para. 4 Legislative Decree	Subsequent filing required	-
Inaccurate tax return	Art. 8 para. 1 Legislative Decree	Subsequent filing required	see Circular 2/2023
Filing of the tax return on the wrong forms	Art. 8 para. 1 Legislative Decree 471/97	Subsequent filing required	see Circular 2/2023
Incorrect declarations in form 770	Art. 8 para. 3 Legislative Decree	Subsequent filing required	-
Errors in the information on CFCs, dividends, rulings, etc.	Art. 8 paras. 3-ter, 3-quater and 3-quinquies Legislative Decree 471/97	Subsequent filing required	-
Late filing of returns by intermediaries	Art. 7-bis Legislative Decree 241/97	-	Remedied under Circular 2/2023
Omitted filing of returns by intermediaries	Art. 7-bis Legislative Decree 241/97	Subsequent filing required	No reference in Circular 02/2023
Incorrect certificate of conformity	Art. 39 Legislative Decree 241/97	-	Cannot be remedied under Circular 11/2020
Periodic VAT settlements	Art. 11 para. 2-ter Legislative Decree 471/97	Subsequent filing, unless the data have already been reported in the VAT return	Can be settled if there are no errors in invoicing and VAT payment
INTRASTAT	Art. 11 para. 4 Legislative Decree	Subsequent filing required	Can be remedied per Circular 2/2023

Communications relating to the health insurance card	Art. 3 para. 5-bis Legislative Decree	Subsequent filing required	Can be remedied per Circular 2/2023
Withholding agent certificates (issue of the CU)	Art. 4 para. 6-quinquies Presidential Decree 322/98	-	Cannot be remedied per Circular 11/2019
Errors in the notifications of commencement of activity and of	Art. 5 Legislative Decree 471/97	Subsequent filing required	Can be remedied per Circular 2/2023
Reporting of financial transactions	Art. 10 Legislative Decree 471/97	Subsequent filing required	Can be remedied per Circular 2/2023
Options under Presidential Decree 442/97	Art. 11 Legislative Decree 471/97	Subsequent filing required	Can be remedied per Circular 2/2023
Incorrect invoicing without effects on the tax liability	Art. 6 para. 1 last subpara. Legislative Decree 471/97	Reissue of the invoice, where possible	Can be remedied per Circular 2/2023
Irregularities in non-taxable, tax-free or tax-exempt transactions with effects on income taxes	Art. 6 para. 2 Legislative Decree 471/97	-	Cannot be remedied per Circular 11/2019
Irregularities in non-taxable, tax-free or tax-exempt transactions without effects on income taxes	Art. 6 para. 2 Legislative Decree 471/97	Reissue of the invoice, where possible	Can be remedied per Circular 2/2023
Application of an excessive VAT rate	Art. 6 para. 6 Legislative Decree	No correction necessary	Can be remedied per Circular 2/2023
Irregularities in the reverse charge	Art. 6 paras. 9-bis.1 and 9-bis.2 Legislative Decree	No correction necessary	Can be remedied per Circular 2/2023
Omitted reverse charge	Art. 6 para. 9-bis Legislative	Application of the reverse charge	Can be remedied per Circular 2/2023
Omitted reverse charge on intra-Community and international acquisitions	Art. 6 para. 9-bis Legislative Decree 471/97	Application of the reverse charge	Can be remedied per Circular 2/2023
Irregularities in the accounting records	Art. 9 Legislative Decree 471/97	Subsequent entry in the register or correction of the errors	Can be remedied per Circular 2/2023
Irregularities in the allocation to the proper accounting period without loss to the tax authorities	Art. 1 para. 4 Legislative Decree 471/97	No subsequent filing necessary	Can be remedied per Circular 2/2023
Failure to submit form F24 in the case of full offsetting	Art. 15 Legislative Decree 471/97	-	Cannot be remedied per Circular 11/2019
Failure to reply to summonses from the office	Art. 11 Legislative Decree 471/97	Production of the documents	Can be remedied per Circular 2/2023

In particular, delays in the transmission of electronic invoices via the SDI portal are also settled, provided that this has had no effect on the correct payment of VAT in the relevant periodic

settlement.
Further errors for which the administrative penalties are waived concern the late or omitted registration in the VIES/MIAS database for intra-Community transactions, omitted notifications in the case of extensions or rent reductions under lease agreements subject to the substitute tax, failures to reply to questionnaires from the tax office and delays in the reporting of foreign transactions (keyword “esterometro”).
The aforementioned Circular No. 2/2023 also sets out various cases for which the amnesty is expressly excluded. In this respect, mention is made of omitted notifications to the energy authority Enea for energy-efficiency refurbishments, and of omissions and errors in connection with assets held abroad and the reporting in form RW.

Merely by way of clarification: by paying 200 Euro per year, all irregularities of the relevant tax period are settled.

Correction of the errors:
Where corrections are required, these must be made by 31 March 2024 (deadline for the second instalment). In justified cases, however, the correction may also be made later, namely, as communicated, within 30 days of a corresponding request by the tax authorities, for instance in the course of a tax audit. Circular No. 11/2019 mentions as justified, among others, the case in which the taxpayer was unable to identify the error despite exercising the diligence of a “prudent head of household”. Should a particular error not have been corrected and the aforementioned leniency not be granted, this affects only the administrative penalties for the error concerned. The amnesty nevertheless remains valid for any other errors committed.

Payment must be made either in full by 31 March 2023 or in 2 equal instalments by 31 March 2023 and by 2 March 2024. The payment code in form F24 (field “Erario”) is TF44, and the year for which the settlement is to be made must be indicated as the reference year in each case. Anyone wishing, for example, to make use of the amnesty for formal irregularities for 2019, 2020, 2021 and 2022 must therefore pay Euro 200 four times and indicate the reference year 2019, 2020, 2021 and 2022 respectively. Incidentally, where the financial year differs from the calendar year, the tax period in which the financial year ends must always be indicated. Offsetting against existing tax credits is not possible, because the State needs money!
No notification has to be submitted. The payment form serves as proof that the amnesty for formal irregularities has been applied for.
In our view, anyone opting for payment by instalments should now pay 100 Euro per year, precisely in order to provide evidence by means of form F24 that the application was made, for example, for the year 2020.
Recommendation: particularly with regard to the transmission of electronic invoices, the

application of the reverse charge procedure and the correct allocation of expenses and income to the proper accounting period, we recommend making use of the amnesty at least for the years 2022, 2021 and 2020, especially since irregularities were almost unavoidable in recent years precisely on account of the Covid-related problems.

Finally, one further note: under the last amnesty for formal irregularities in 2019, irregularities committed up to 24 October 2018 were remedied. Anyone wishing to have the whole of 2018 settled will therefore now have to pay a further 200 Euro for that year. Likewise, the present amnesty again covers only the period up to 31 October 2022; in the event of a future renewal of the amnesty, one will therefore face the same dilemma again for the year 2022. A justification for this is difficult to comprehend, other than, as stated above: the State needs money.

And one further note: by Decree No. 61196 of 6 March 2023 the Italian Revenue Agency provided that reminder letters are to be sent out in the coming days, drawing attention to irregularities known to the office. In the letter, taxpayers are urged to check the irregularities indicated and, where appropriate, to inform the office if these are unfounded. The irregularities themselves will as a rule be capable of being settled by means of the amnesty for formal irregularities described above; nevertheless, the letters should be examined in detail and the necessary corrections made where appropriate. Any correction should be notified to the office in advance in order to avoid subsequent objections or queries and consequently further loss of time.

We remain at your disposal for any further information.

Yours sincerely
Josef Vieider