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To all
clients

Circular
No. 39/2023

Bolzano, 10 October 2023

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

By way of reminder: the Budget Law for 2023 once again provided for a so-called amnesty for formal irregularities. The corresponding payment should originally have been made by 31 March 2023, but Law Decree No. 34/2023 then granted an extension of the deadline to 31 October 2023. We have already informed you in principle about the amnesty in our Circular No. 19/2023. In view of the forthcoming due dates, please find below some further guidance:

For formal irregularities committed up to 31 October 2022, an amnesty is granted against payment, namely upon payment of a flat-rate settlement fee of 200 euro per year, payable either in a single instalment by 31 October 2023 or in two equal instalments by 31 October 2023 and by 31 March 2024. In order to increase the incentive for this amnesty somewhat, the deadline for the service of the corresponding notices by the tax authorities was at the same time extended by 2 years for irregularities committed up to 31 October 2022 and recorded in a report.
The amnesty for formal irregularities applies to all taxpayers, i.e. to businesses and self-employed professionals (also in their capacity as withholding agents) as well as to the private sphere of individuals.
As a matter of principle, all irregularities that have no effect on the taxable base for income taxes

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and value added tax are deemed to be formal irregularities. Expressly not capable of being remedied, however, are errors in connection with the reporting of foreign assets in form RW of the tax return. In defining formal irregularities, the Agency refers to its Circular No. 11/E of 2019, but then nevertheless provides a revised, illustrative and non-exhaustive list of possible formal irregularities. Below is once again an extract, prepared by „Eutekne“, also indicating whether a correction is required for the errors or not:

Offence	Provision	Correction required	Note
Missing/incorrect disclosure of “black list” costs	Art. 8 para. 3-bis Legislative	Subsequent report required	See Circ. 11/2019
Missing/incorrect reporting of impairment losses on shareholdings/financial assets	Art. 11 para. 4-bis Legislative Decree 471/97	Subsequent report required	-
Disclosure of the recipients of payments in form 770	Art. 2 para. 4 Legislative Decree	Subsequent report required	-
Inaccurate tax return	Art. 8 para. 1 Legislative Decree	Subsequent report required	see Circ. 2/2023
Filing of the tax return on the wrong forms	Art. 8 para. 1 Legislative Decree 471/97	Subsequent report required	see Circ. 2/2023
Incorrect reporting in form 770	Art. 8 para. 3 Legislative Decree	Subsequent report required	-
Errors in the disclosures on CFCs, dividends, ruling requests, etc.	Art. 8 para. 3-ter, 3-quater e 3-quinquies Legislative Decree 471/97	Subsequent report required	-
Late filing of returns by intermediaries	Art. 7-bis Legislative Decree 241/97	-	Remedied pursuant to Circ. 2/2023
Failure to file returns by intermediaries	Art. 7-bis Legislative Decree 241/97	Subsequent report required	No reference in Circ. 02/2023
Incorrect certificate of conformity	Art. 39 Legislative Decree 241/97	-	Not remediable pursuant to Circ. 11/2020
Periodic VAT settlements	Art. 11 para. 2-ter Legislative Decree 471/97	Subsequent report, unless the data have already been communicated with the VAT return	Can be settled if there are no errors in invoicing and VAT payment
INTRASTAT	Art. 11 para. 4 Legislative Decree	Subsequent report required	Remediable under Circ. 2/2023
Communications relating to the health card	Art. 3 para. 5-bis Legislative Decree	Subsequent report required	Remediable under Circ. 2/2023
Withholding agent certificates (issue of the CU)	Art. 4 para. 6-quinquies Presidential Decree 322/98	-	Not remediable under Circ. 11/2019

Errors in the notification of the commencement of activity and of	Art. 5 Legislative Decree 471/97	Subsequent report required	Remediable under Circ. 2/2023
Reporting of financial transactions	Art. 10 Legislative Decree 471/97	Subsequent report required	Remediable under Circ. 2/2023
Options under Presidential Decree 442/97	Art. 11 Legislative Decree 471/97	Subsequent report required	Remediable under Circ. 2/2023
Incorrect invoicing without effect on the tax liability	Art. 6 para. 1 last para. Legislative Decree 471/97	Reissue of the invoice, where possible	Remediable under Circ. 2/2023
Irregularities in non-taxable, zero-rated or exempt transactions with effects on income taxes	Art. 6 para. 2 Legislative Decree 471/97	-	Not remediable under Circ. 11/2019
Irregularities in non-taxable, zero-rated or exempt transactions without effects on income taxes	Art. 6 para. 2 Legislative Decree 471/97	Reissue of the invoice, where possible	Remediable under Circ. 2/2023
Application of an excessive VAT rate	Art. 6 para. 6 Legislative Decree	No correction required	Remediable under Circ. 2/2023
Irregularities in reverse charge	Art. 6 para. 9-bis.1 e 9-bis.2 Legislative Decree 471/97	No correction required	Remediable under Circ. 2/2023
Failure to apply reverse charge	Art. 6 para. 9-bis Legislative	Application of the reverse charge	Remediable under Circ. 2/2023
Failure to apply reverse charge on intra-Community and international acquisitions	Art. 6 para. 9-bis Legislative Decree 471/97	Application of the reverse charge	Remediable under Circ. 2/2023
Accounting irregularities	Art. 9 Legislative Decree 471/97	Supplementing the registers or correcting the errors	Remediable under Circ. 2/2023
Irregularities in the allocation to the correct accounting period without loss to the tax authorities	Art. 1 para. 4 Legislative Decree 471/97	No subsequent report required	Remediable under Circ. 2/2023
Failure to file form F24 in the case of full set-off	Art. 15 Legislative Decree 471/97	-	Not remediable under Circ. 11/2019
Failure to respond to summonses from the tax office	Art. 11 Legislative Decree 471/97	Submission of the documents	Remediable under Circ. 2/2023

Also settled are delays in the transmission of electronic invoices via the SDI portal, provided that this has had no effect on the correct payment of VAT in the respective periodic settlement. Further errors for which the administrative penalties are remitted concern the late or omitted registration in the VIES/MIAS database for intra-Community transactions, omitted notifications of extensions or rent reductions in the case of lease agreements subject to the substitute tax, failures to reply to questionnaires from the tax office and delays in the communication of foreign transactions (keyword „esterometro“).

Correction of the errors:

Where corrections are required, these must be made by 31 March 2024 (the deadline for the second instalment). In justified cases, however, the correction may also be made later, namely 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 other things, the case where 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 October 2023 or in 2 equal instalments by 31 October 2023 and by 31 March 2024. The payment code in form F24 (field „Erario“) is TF44, and the year for which the settlement is to be made must in each case be indicated as the reference year. Anyone wishing to claim the amnesty for formal irregularities for, say, 2019, 2020, 2021 and 2022 must therefore make four payments of 200 euro each and indicate the reference year 2019, 2020, 2021 and 2022 respectively. Where the financial year differs from the calendar year, the tax period in which the financial year ends must always be indicated. Set-off against existing tax credits is not possible!

Anyone opting for payment by instalments should, in our view, now pay 100 euro per year, precisely in order to provide evidence by means of form F24 that they have submitted the application for, say, 2020.

No notification has to be filed. The payment form serves as confirmation that the amnesty for formal irregularities has been claimed.

<u>Recommendation: In particular 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, claiming the amnesty is to be recommended at least for the years 2022, 2021 and 2020, especially since, precisely on account of the Covid problems, irregularities were almost unavoidable in recent years.</u>

We remain at your disposal for any further information and also refer to our Circular No. 19/2023 on this subject.

Yours sincerely

Josef Vieider