

Alert | Existence of tax debts until 12/31 | Cancellation of tax benefits

As another fiscal year is coming to an end, it is important to remember that, in the event of debts, in terms of taxes or social security, and if the situation of default is maintained, the Tax and Customs Authority (AT) may have the legitimacy to initiate the procedure provided for in article 14, paragraph 5 et seq. of the Tax Benefits Statute (EBF) and which consists of, essentially, in the cancellation of tax benefits.

In fact, as provided for in paragraphs 5 et seq. of article 14 of the EBF,

"5 - In the case of permanent or temporary tax benefits dependent on recognition by the tax administration, the administrative act that granted them shall cease to be effective in the following situations:

- a) the taxable person has ceased to pay any tax on income, expenditure or assets and contributions related to the social security system, and if the situation of non-compliance remains;*
- b) The tax debt has not been the subject of a complaint, challenge or opposition, with the provision of a suitable guarantee, when required*

6 - In the event of the situations provided for in subparagraphs a) and b) of the preceding paragraph, the automatic benefits shall not take effect in the year or period of taxation in which their assumptions occur.

7 - The provisions of the preceding paragraphs shall apply whenever the situations provided for in paragraph 5 occur:

- a) With regard to income taxes, at the end of the year or tax period in which the tax event occurred and remain at the end of the period for the exercise of the right to be heard within the scope of the tax assessment procedure to which the benefit relates;*

- b) Regarding periodic taxes on wealth, at the time when the tax event occurred and remain at the end of the deadline for the voluntary payment of the tax or the first instalment, when applicable;*
- c) In the case of single obligation taxes, on the date on which the tax event occurred.*
- d) As regards contributions to the social security system, if, at the time the consultation takes place, the contributory situation has not been regularised.*

In particular, with regard to income taxes, such as IRS and IRC, the situation of non-compliance may be determined with reference to the last day of the tax year in question - **31 December** - so the **existence of tax debts on that date may compromise the use of tax benefits** in terms of these taxes.

The debts in question can cover all taxes, on income, wealth and social security.

We find, for example, that there are often IMI or IUC debts at the end of the year due to mere distraction and that can have an impact on the IRS settlement.



In fact, if the AT activates the mechanism of article 14 and cancels the tax benefits, it may be at stake, in the sphere of individual taxpayers, for example, the non-deduction of contributions to PPR and Pension Funds or the non-deduction of donations under the Patronage Statute.

In the case of companies, the cancellation of tax benefits such as RFAI, SIFIDE, certain exemptions or incentives, with significant value, may be at stake.

This information is of the nature of an alert, and does not constitute an analysis of the regimes provided for in article 14 of the EBF or tax advice



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