

**The simplification of the tax procedures\*****Mario Carmelo Piancaldini<sup>1</sup>**

In order to pursue the simplification of tax obligations it is necessary to take action in two directions, making use of actions and instruments. The actions should contemplate an organic and unitary revision of the rules that regulate our fiscal system, rules which date back to the last century and, hence, need to be revised through an organic intervention, considered that their succession and stratification, over time, modified the existing ones without a systematic approach. The revision should concern both the tax to be determined and the administrative and accounting requirements which are today attributed to the taxpayers. The legislator structured the latter ones in a certain way because at the time every obligation was complied through paper while today it is necessary to adapt the rules to the electronic invoicing and the digitalization. It is obvious that such intervention has to be accompanied by a rationalization of the working methods of the Tax Administration and, hence, there is a strong complementariness between the two actions. As long as the instruments are concerned, in rule-making, the legislator should be supported by both an inter-institutional collaboration within the Tax Administration and a forum composed by the stakeholders, meaning the public and private parties that are interested by the regulation of tools, such as the electronic invoice and the electronic conservation of documents. The

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latter ones should make proposals which are deeply structured from a technical point of view, through the extra institutional dialogue between the Tax Administration and the other public and private stakeholders that are interested by tax issues.

Technology and digitalization, when well exploited, are likely to become tools that can greatly improve the relationship between the Tax Administration and the taxpayer. In order to improve and reorganize, from the point of view of both positive law and administrative law, the actual situation it is necessary that this working groups are well defined and that the relevant coordinating roles and more generally, roles of responsibility, are attributed to the right subjects. So, the characteristics of every individual are crucial.

Having personally experienced the conversion of *Ministero delle Finanze* in *Agenzia delle Entrate*, I can affirm that today the latter is one of the most efficient Italian public administrations even though it had to deal with the proliferation of rules that took place in Italy in the last twenty centuries because of the continuous change of Governments and political orientations. More in detail, I deal with the control and analysis of the risk in the world of small-micro-medium enterprises. In Italy we have six millions of VAT identification numbers and around 90% of these subjects have a turnover which is lower than five millions euro and are defined by our tax system as *small enterprises*.

The OECD, after more than one year working, with the participation of Italy, during which it took into account the experiences and evolutions of the tax systems belonging to the western tradition, drew the conclusion that the role of the Tax Administration is evolving from that of mere passive receivers of the communications of the taxpayers to that of active facilitator of tax compliance, hence to the role of supporters of the taxpayer during both the phases of the drafting of the tax declaration and liquidation of the amount due. In order carry on these tasks, the Tax Administration needs to have fast, well structured and manageable information. Technology helps and is fundamental today in order to reset this new role of the Tax

Administration.

Additionally, this type of tax reforms influences the evolution of the enterprises because pushing, through tax rules, to the adoption of processes such as the electronic invoicing, is an incentive for the enterprises towards digitalization and, so, it pushes the country to improve in this respect, creating a new market and new job opportunities: in this way having the effects of a new fiscal reform also within the country. The OECD concluded that, as long as the compliance within the world of small and medium enterprises is concerned, the objective of the countries should be that of pushing in the direction of digitalization of the processes and obtaining, through the use of technology, rapidly and in a structured manner, information that the taxpayers can provide to the Tax Administration so that the latter can support, before monitoring, the taxpayer.

A typical example is what is now happening in Italy with the introduction of the so *called precompiled declaration* that nowadays concerns only part of the taxpayers and, more in detail, individuals, those who do not carry out entrepreneurial activities.

In that forum the Tax Administration, already having a certain set of information at its disposal, which have been transmitted by the substitutes for taxes and by third parties, with whom the taxpayer has contacts as far as his expenses are concerned, acquiring this information, is able to process, pre-compile and fast offer to the taxpayer his model of tax return. This is fundamental for two reasons: first of all, because the Italian tax administration, notwithstanding the technological evolution that it undertook (Italy was the first country to oblige all the taxpayers to electronically transmit their tax returns), still mainly produces automated forms of control. These are forms of control that are useful to check the correctness of the tax returns and the largest part of the revenue deriving from the tax recovery because of the incorrectness of the tax returns which have been submitted and automatically paid to the Tax Administration. Anticipating the drafting of the tax return should drastically reduce the

amount of mistakes that can take place during the compilation of the tax return itself and, hence, allow the Tax Administration to move, orientate and allocate its human and organizational resources towards a world that can be called the *world of controls*.

The Italian legislator tried to implement OECD's guidelines within tax law, however, the way in which it did it amounts to a lost opportunity because, although it could, it did not provide for a more harmonious discipline of the tax system. More in detail, this legislation deals with the strengthening of the monitoring activities of the Tax Administration in Article 9. So it gives to the legislator the possibility to introduce rules which aim at modifying and strengthening the actual system through which the Tax Administration acquires information which is relevant for tax purposes, focusing on technology and encouraging the processes of digitalization and electronic diffusion of information. The final aim is, as stressed by the piece of legislation, to simplify the accounting and administrative duties of the taxpayers.

Article 9 has been implemented through *decreto legislativo* 127/2015 that, in the context of the information that one can find in the certification document concerning the tax operation carried out between taxable persons having a VAT identification number, has identified some of the items of information that would allow the Tax Administration to offer to the same taxable persons, some reorganized information so that the enterprise can get to know which information the Tax Administration already has and is facilitated in submitting its tax return and in paying the amount of tax due. Until now the Tax Administration already knew this information, however, the same Tax Administration did not have them in real time but rather once a year and they were used in order to carry on *ex post* monitoring. So *decreto legislativo* 127/2015 aims at rationalizing the fulfillments that are currently up to the enterprises, reducing them to only one fulfillment but, at the same time, granting to the Tax Administration the possibility to obtain information in a more transparent, fast and structured way. The aim is to substitute the current fulfillments leaving to the taxpayer the

option to choose whether or not to replace the various fulfillments with that of the transmission of the invoice and consideration. Probably such reform is only partial in that, on the one hand, it does not bring clarity for the taxpayer and because the introduction of optional systems creates confusion in the taxpayer who eventually has to orientate himself in the final choice. On the other hand, it creates another problem to the Tax Administration, in that the latter has to deal with flows of information which arrive separately in terms of both time and content. So, the question is "when does the tax legislation have to impose a certain behavior to the taxpayer instead of offering optional regimes?".

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