

Environment - Italy

Court confirms non-retroactivity of municipal waste taxes

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In Italy, municipalities are responsible for municipal solid waste management. Municipal solid waste collection and disposal are mostly performed by municipally owned companies.

According to the 'polluter pays' principle, citizens and companies pay the municipality for waste management. They are charged a municipal waste tax composed of two parts: a fixed tax and a variable tax. For companies, the fixed tax is assessed in proportion to the area dedicated to the activity from which waste is produced. The variable tax is determined by municipalities on the basis of the hypothetical costs of the waste management service. Municipalities often allocate the function of waste tax collection to the municipal waste management companies.

On January 1 2013 new rules concerning municipal solid waste taxation were introduced. In light of the designated transition period, municipal waste management companies will not cash municipal waste taxes until July 2013. However, some municipal waste management companies have retroactively recalculated the tax rate for municipal solid waste, requiring higher rates for past years and thus violating the principle of non-retroactivity of taxes.

A recent decision of the Catania Administrative Court (Decision 547/2013) confirmed that the retroactive application of the tax is unlawful. Moreover, the Taxpayers' Bill of Rights forbids the retroactive application of tax provisions, with the exception of interpretative provisions. The statute also provides that new rules concerning periodic taxes will apply only from the tax period following that in which they are introduced.

The Taxpayers' Bill of Rights is supplemented by specific provisions on local taxes. Law 296/2006 requires local authorities to approve local tax rates by the date set for deliberation of the local budget. The tax rate will be applied from January 1 of the tax year in progress only where the rate has been approved by the deadline for approval of the budget. After the expiration of this term, the local tax rate can be changed only for the subsequent tax period and any retroactive application of the rate is thus unlawful.

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