

BERNITSAS briefing

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TAX BRIEFING: Alert

The Supreme Administrative Court (in Plenary Session) Judgement No. 1738/2017

On 27 June 2017, the Supreme Administrative Court ruled on the legality of provisions extending the limitation period within which audits may be carried out by the tax authorities.

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Supreme Administrative Court Judgement No. 1738/2017 on the Legality of Provisions Extending the Limitation Period for Tax Audits

The full text of the Supreme Administrative Court's Decision has not yet been released, but excerpts from the judgment indicate that the Court has ruled as follows:

1. The repeated legislative extensions to the limitation period within which audits may be carried out by the tax authorities is not Constitutional.
2. Limitation periods should be 'reasonable' in view of the fact that new technology provides sufficient tools for tax audits to be completed and that taxpayers' financial data is automatically uploaded by way of digital tax returns.
3. It is in the public interest for taxpayers' liabilities towards the State to be cleared in a timely manner.
4. The repeated and continuous extensions of the limitation periods for audits are contrary to the principle of legal certainty.
5. Limitation periods should have a reasonable term in accordance with the principle of proportionality and any extension is Constitutional, as long as the relevant legal provision enters into force at the latest by the year following that in which the tax liability arose.
6. Legislation extending limitation periods commencing before the calendar year preceding the year the legislation comes into force, is invalid on grounds that it is in breach of the principle of legal certainty.

A further Alert will follow upon release of the full judgment.

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