



Press Office of the Constitutional Court

Press release of 19 November 2020

SINGLE MUNICIPAL TAX (IMU) ON CAPITAL GOODS: ITS COMPLETE NON-DEDUCTIBILITY FROM INCOME TAXES IS UNCONSTITUTIONAL

The Constitutional Court, meeting in chambers today, examined questions as to the constitutionality of the non-deductibility of the single municipal tax (*imposta municipale unica*, IMU) for 2012 from income taxes.

The Provincial Tax Board of Milan had initiated a challenge to Article 14(1) of Legislative Decree No. 23 of 14 March 2011 (Provisions on municipal fiscal federalism) as originally issued. The provision established that companies could not deduct any part of the IMU from their income taxes.

According to the Board, the non-deductibility of the IMU relating to capital goods from corporation taxes (*imposta sui redditi delle società*, IRES) contrasts with Articles 3, 53 and 41 of the Constitution, in terms of the effectiveness of the tax, the ban on double taxation, the principles of reasonableness, consistency and equality, and the freedom of private economic initiative.

Pending filing of the judgment, the Press Office of the Constitutional Court informs the public that the questions were deemed well founded with reference to Articles 3 and 53 of the Constitution, in particular in terms of breaching the principles of consistency and reasonableness.

Indeed, once the Legislator has exercised its discretion to identify “net total revenue” (Article 75(1), Consolidated law on income taxes) as the basis for the IRES, it cannot then establish that a tax such as the IMU on capital goods, being a fiscal cost intrinsic to the generation of revenue, is non-deductible.

The Court thus declared the unconstitutionality of the challenged provision, which was in force only for 2012. The Court then addressed the issue of whether to extend, as a consequence, this unconstitutionality to subsequent legal provisions, which gradually recognized that the IMU on capital goods could be partially deducted from

income taxes. However, it held that there were no bases for doing so, considering that the gradual steps taken by the Legislator in light of the need to achieve a balanced budget (Article 81 of the Constitution) resulted in the complete deductibility of the tax starting from 2022 (as currently provided for in Article 1(773) of Law No. 160 of 2019).

The judgment will be filed in the coming weeks.

Rome, 19 November 2020

Palazzo della Consulta, Piazza del Quirinale 41 Roma - Tel. 06.46981/06.4698224/06.4698376