

Decision 2018-01-23 n.558

Regional Tax Commission of Campania

(Section IX[^])

RUNNING OF THE PROCEEDINGS

- With the appealed Decision, the Provincial Tax Commission of Salerno rejected the action brought by a Non-profit Organization (Onlus) against the payment of a residual sum as a complement to the contribution ...;

- *omissis* -

-The Regional Tax Commission adopted this decision, as per ruling and reasons set out below.

REASONS FOR THE DECISION

The appeal is unfounded.

- *omissis* -

What is deduced from the Provincial Tax Commission is reflected in the jurisprudence of legitimacy (Cfr. Cass. No. 21522/13) that includes in the exemption in question only the administrative acts of the ONLUS and not also the judicial acts, considering the exceptional and derogatory nature of the law n. 266/91, hence hermeneutical extensions are not possible.

Greater consideration deserves the remark regarding the contested legitimacy of the fiscal claim, as it were, atomistic and non-cumulative of the tax (contributo unificato) for each of the appealed acts, as expressly provided for under article 14 co. 3 bis, D.P.R. no. 115/02 which refers to the article 12 co. 5 Legislative Decree 546/02, as modifies by article 1, co. 558, law no. 147/13.

- *omissis* -

Hence derives the consequence that the widest possible autonomy is for the ordinary legislator with regard to the enforceability of the tax (contributo unificato), as well as in the determination and individuation of any other tribute as such, topic that however cannot be shared, because otherwise the legislative discretionary power in tax matters would turn into arbitrariness, not staying subservient, as it should be, to the principles of rationality, equality and justice pursuant to Articles 3 and 24 of the Constitution, whereupon the proposed equation between the tax nature of the contribution (contributo unificato) and the possibility of fixing *ad libitum* every aspect of its collection cannot in any way be legitimized.

Judicial fees are compensated pursuant the art. 92 c.p.c. (Code of Civil Procedure), recognizing extraordinary and exceptional reasons for the tax issue in question, due to the complexity of the decided matter.

For These Reasons

The appeal is rejected and the Commission compensates for judicial fees.