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CREDIT SETTLEMENT FOR LAWYERS PRACTICING FREE LEGAL AID WITH TAXES (VAT INCLUDED)

With a press release of 15th July 2016, the Ministry of Justice stated that a new measure will allow the lawyers to balance credits deriving from free legal aid at the expense of the State (presidential decree 30/05/2002 n. 115, artt. 74 - 141) 'with everything they owe for every tax'.

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Free legal aid allows the less well-off people, who have a lower income than 11,528.41 euros (1), to have a legal aid lawyer (2), whose professional fee will be paid by the State, in civil, criminal and tax procedures (or others). In case the State bears the cost of legal aid, the lawyer cannot accept any kind of payment from their beneficiary, otherwise they will commit a serious disciplinary offence (see art. 85).

The settlement system has always been strongly criticized due to the public administration's payment delay to the Advocates. This reform was introduced by the 2016 stability law (art. 1, paragraph 778 of law 28.12.2015 n. 208) (3), and this new decree represents its realization. The aim of this reform is to deal with such payment delays, allowing the lawyers to **balance the credits they obtained from various kinds of taxes, VAT included.**

According to the Ministry press release, 'lawyers who boast unopposed credits deriving from expenses, rights and fees, accrued but not settled yet, have the right to use them as a compensation through the electronic platform supplied by the Italian Ministry of Economy and Finance. They will be able to do so from 17th October to 30th November 2016, and from 1st March to 30th April for the following years. The judicial authority is in charge of credit settlement and the fixed expendable sum for this year is 10 million euros '.

(1) The amount has been recently updated by the Ministry of Justice's decree of 7th May 2015.

(2) The selected lawyer has to be subscribed to the Register of Lawyers for at least two years and they must have applied for the admission in the list of lawyers practicing legal aid paid by the State.

(3) Art. 1, paragraph 778 of law 28.12.2015 n. 208: 'Starting from 2016, in a maximum expense of 10 millions euros per year, lawyers boasting credits for expenses, rights and counsel's fee notes gained in every moment but not settled yet, and obtained in accordance with article n.82 following the consolidated law of regulations and rules concerning judiciary expenses, stated in decree n.115 of 30th May 2002 by the President of the Italian Republic and its following modifications, can receive a compensation that

actually is the sum they owe for every tax or fee, including value-added tax (VAT). In addition, they are entitled to social security contributions through the assignment of receivables, even partially, with a maximum sum that is equal to the credits themselves, plus VAT and the lawyers' social security fund. The assignment of receivables are exempt from any kind of fee or roll. Based on this law, all unopposed credits can be reimbursed or given according to article n.170 of the consolidated law stated in decree n.115 of 30th May 2002 by the President of the Italian Republic and its following modifications. The assignment of receivables or their transfer can be made even partially and in a maximum sum that is equal to the credits themselves, plus VAT and the lawyers' social security fund'.

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