



Indirect Tax

VAT Controversy update

Le crédit de TVA sur le compte courant ne prescrit pas

Dans un arrêt du 17 juin 2022 (F.20.0038.F), la Cour de Cassation a jugé qu'un crédit de TVA sur le compte courant de TVA ne prescrit pas. Ainsi, la Cour confirme un arrêt de la cour d'appel de Liège du 28 juin 2019 (2018/RG/149). Et l'administration de la TVA est donc à nouveau en tort.

L'affaire concernait une demande de remboursement d'un crédit de TVA sur le compte courant suite à la cessation de l'activité de TVA en tant qu'agriculteur. Dans son arrêt, la Cour de Cassation confirme que l'inscription d'un crédit de TVA sur un compte courant n'est pas une « cause de restitution » qui fait courir un délai de prescription à l'égard du contribuable pour demander effectivement le remboursement de ce crédit.

Dès que le droit à déduction ou à restitution de la TVA a été exercé à temps dans la déclaration de TVA (pour laquelle des délais de prescriptions s'appliquent), il n'y a plus de « prescription » par rapport aux crédits de TVA sur le compte courant (et ils peuvent donc être reportés indéfiniment sur une période ultérieure).

Il est intéressant de noter que le commentaire administratif sur la TVA indique encore toujours la prescription éventuelle d'un tel crédit de TVA dans le compte courant (livre VII, section 11, C.). Une position qui doit probablement être reconsidérée.

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