

Tax settlements and evasion: Sherpa begins a procedure before the French Council of State

Question & Answer – July 2025

What is a tax settlement (« règlement d'ensemble ») ?

A tax settlement procedure known as “règlements d'ensemble” allows tax authorities to reach agreements with taxpayers in cases of fraud, not only on penalties but also on the amount of taxes due. These settlements are based on a memo from the main administrative tax authority in France, the *Direction générale des impôts*, published on June 20, 2004 stating that in certain situations, the administration may be led to conclude a global settlement with the taxpayer that includes a reduction in the amount of taxes due.

What is the loss of revenue for the State budget?

In 2019, 116 settlements were concluded in fraud cases, of which 80 concerned legal entities and 36 individuals. With 94% of the cases involving legal entities, these disputes concerned €770 million in penalties and €2.4 billion in evaded taxes, for a total exceeding €3 billion.¹

Every year, the tax authorities forgo several billion euros in taxes, primarily to the benefit of multinational companies.

Why is this practice potentially illegal?

The French Court of Audit (*Cour des Comptes*) has been particularly critical of tax settlements, describing them as practices that, in some cases, deviate from the legal framework, or as devoid of any legal basis.²

The practice is in direct contradiction with the legal provisions of article L. 247 of the Book of Tax Procedures (*Livre des Procédures Fiscales*), which prohibits the administration, regardless of the nature of the tax procedure, to accept rebates or conduct negotiations on the amount of taxes due, except in cases of temporary inability to pay taxes on the part of the taxpayer, a situation diametrically opposed to that of the large companies that benefit from tax settlements, such as Google or McDonald's.

Above all, the Constitution stipulates that it is the legislator's prerogative to establish rules concerning the basis of assessment, rates and collection procedures for taxes of all kinds. However, tax settlements

¹ Pierre Januel, « [Quand Bercy renonce à plus d'un milliard d'impôts](#) » (in French), October 16, 2020.

² French Court of Audit (*Cour des Comptes*), « [Rapport public annuel 2018. Tome I - Les observations](#) » (in French), February 2018, p. 74 and 76.

cuts across a number of areas normally left to the legislator: tax auditing, because settlements count as a method of resolving tax claims; the tax base, because it makes it possible to determine the amount of duties and penalties; and litigation, because it makes it possible to anticipate a dispute by amicable means.

In what way is this practice contrary to the principle of equal treatment of taxpayers?

In this case, the settlements mainly benefit large companies, whose international tax optimisation strategies generate complex cases for which tax authorities prefer the security of amicable negotiation to the uncertainty of a court ruling. However, no reason of general interest, nor any difference in situation, can justify more favourable treatment of those who benefit from the uncertainties of the tax system.

Additionally, the constitutional principle of equality before the law could stand in the way of negotiations on taxes owed, currently explicitly excluded by article L. 247 of the Book of Tax Procedures. As such, the waiving of taxes, supposedly only reserved for very specific cases of indigence, benefits the wealthiest taxpayers.

How does the practice infringe fundamental rights?

In this case, the memo violates the 1946 preamble to the French constitution, which enshrines a principle of national solidarity that can be invoked against the arbitrary and unregulated nature of the tax settlements.

Today, the principle of national solidarity has a legal basis in paragraphs 10 and 11 of the Preamble to the 1946 Constitution, and serves as the foundation for both social security and social assistance. There can be no doubt that the loss of revenue resulting from the lack of a framework for the system runs counter to the provisions of the preamble and the constitutional principle of national solidarity.