

# INDIRECT DONATIONS EMERGED FOLLOWING THE SO-CALLED VOLUNTARY DISCLOSURE: EXPIRY OF THE ASSESSMENT DEADLINE

## Supreme Court Judgment No. 18724 of 9.7.2024

- ✓ With this judgement the Supreme Court provides clarifications regarding the expiration of the tax administration's right to ascertain indirect donations that emerged following the so-called voluntary disclosure, as well as the relevant start date for this period.
- ✓ In particular, the Supreme Court, after noting that the voluntary collaboration procedure is aimed at the assessment of taxes and that the declaration made within this procedure *"is capable of concretizing the legislative prerequisite"* for the application of the inheritance and gift tax, stated that (i) the expiration of the term (*dies a quo*) for the assessment action of indirect donations starts from the taxpayer's declaration to the tax authorities and not from the time of the donations, and (ii) that the five-year expiration period under Article 76 of Presidential Decree No. 131/1986 applies due to the reference in Article 60 of Legislative Decree No. 346/1990 and considering that the tax prerequisite is verified precisely by the taxpayer's declaration in the voluntary disclosure process.
- ✓ However, it should be noted that in the recent judgement No. 7442/2024, the Supreme Court argued that there was no expiration but a ten-year statute of limitations under Article 78 of Presidential Decree No. 131/1986 *"because an «obligation» [to register] in this sense does not seem to exist"* and, moreover, *"the «confession» cannot certainly be considered as the dies a quo for the start of the limitation period"*. It therefore concluded by stating that *"taxes on «confessed» donations that have a date earlier than the tenth year from the date of the «confession» cannot be demanded"*.

