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Double jeopardy and legal certainty: this is how the Supreme Court sets limits on the Tax Authority

The Supreme Court has established a decisive criterion on the limits of the Tax Administration when a tax assessment has been annulled. In its Judgment of 29 September 2025, the Supreme Court narrows and redefines the doctrine known as "double jeopardy".

This ruling strengthens legal certainty for taxpayers and prevents the Administration from prolonging procedures through successive tax assessments, a practice that could lead to situations of uncertainty and lack of legal protection.

WHAT IS THE "DOUBLE JEOPARDY" DOCTRINE?

The "double jeopardy" doctrine is a prior judicial construction that allowed the Administration to issue new tax assessments to replace one that had previously been annulled, provided that its right to determine the tax debt had not become time-barred. The Supreme Court Judgment of 29 September 2025 does not create this doctrine, but rather limits and redefines it, establishing a clear boundary: the Administration may issue only a single additional assessment after the annulment of the first one.

After the annulment of an initial assessment, the Administration may issue a second one to correct the identified defect, provided that its right has not expired. With this second assessment, its power is definitively exhausted and it is no longer possible to issue a third one.

Thus, even where the second assessment contains errors, whether formal or substantive, the Administration may not issue further assessments based on the same facts. The aim is to prevent proceedings from being unnecessarily prolonged and to strengthen legal certainty, ensuring that the Administration acts with diligence, proportionality, and respect for the fundamental principles of Administrative Law.

A CASE WITH UP TO FOUR ASSESSMENTS: THE ORIGIN OF THE DISPUTE

The case decided by the Supreme Court concerns an inheritance managed by the Galician regional tax authority in the context of Inheritance Tax. The proceedings ended up accumulating four different tax assessments.

Rambla de Catalunya 123, At. 1
Tel. +34 93 238 89 10 – Fax +34 93 238 01 56
08008 Barcelona
www.maluquerabogados.com

First, the taxpayers challenged the initial assessments, and the Regional Economic-Administrative Court (TEAR) of Galicia annulled them due to lack of reasoning, ordering the Administration to issue new assessments. The Administration complied with this order and issued second assessments.

Subsequently, the Administration declared the procedure time-barred and opened a new file, which concluded with third assessments. These were again challenged, and the High Court of Justice of Galicia annulled them, ordering that fourth assessments be issued.

This repetition led the taxpayers to lodge a cassation appeal before the Supreme Court, requesting clarification as to whether it was legally possible to continue issuing new assessments once the second assessment had been issued.

THE TRUE SCOPE OF TAX "DOUBLE JEOPARDY"

The Supreme Court focuses its analysis on defining the limit of "double jeopardy". It explains that the Administration may issue a second tax assessment when the first has been annulled by a reviewing body or a court. However, that second assessment has a strictly limited purpose: to correct the identified defect and to comply with what was ordered in the decision that annulled the first act.

The Court is categorical in stating that there is no legal basis allowing the issuance of a third or subsequent assessments. Nor is the nature of the error contained in the second assessment relevant. Whether the defect is formal or substantive, the Administration may not initiate a new procedure to issue a third assessment, since its power to act is exhausted with the second one.

This interpretation prevents proceedings from being prolonged indefinitely and stops the Administration from attempting to correct its errors repeatedly, thereby safeguarding the taxpayer's legal certainty.

THE PRINCIPLES UNDERPINNING THE LIMITATION

The Supreme Court bases this doctrine on several fundamental principles of Administrative Law. First and foremost, legal certainty, which requires that citizens know what to expect and are not left indefinitely exposed to new actions by the Administration concerning the same facts.

It also highlights the principle of good administration and good faith, which imply that the Administration must act efficiently and must not shift the consequences of its errors onto the

taxpayer. Allowing an indefinite number of assessments would be incompatible with these principles.

WHY THE THIRD AND FOURTH ASSESSMENTS WERE IMPROPER

In the specific case, the Supreme Court considers particularly problematic the decision of the Galician Administration to declare the expiry of the procedure in order to initiate a new one. Given that, at that time, the Administration was implementing what had been ordered by the TEAR, it could not rely on the expiry of the procedure to disengage itself from that decision and open a completely new file that would conclude with third assessments.

Nor was it legally admissible for the High Court of Justice of Galicia to order the issuance of fourth assessments. Until this judgment, the doctrine of double jeopardy had been interpreted broadly, allowing the Administration to issue new assessments as long as the limitation period had not elapsed. The Supreme Court Judgment of 29 September 2025 definitively narrows this doctrine and establishes that the Administration may issue only a second assessment to replace the first annulled one, but not a third.

DOUBLE JEOPARDY: A CLEAR AND DEFINITIVE DOCTRINE

The judgment establishes a clear rule: the Administration may issue only a second assessment after the annulment of the first, and that power does not extend to a third act or any subsequent one. This interpretation allows no exceptions and applies regardless of the type of error contained in the second assessment.

> *«1) The power recognised for the Administration to reiterate the content of acts in substitution of other annulled acts—known in administrative and judicial practice as double jeopardy—regardless of the nature of the defect or concurrent legal infringement—whether formal or substantive—allows it to issue a second act, precisely the one aimed at complying with what was previously ordered in the review proceedings, as required or authorised, depending on its nature. However, such power does not authorise the reiteration of that activity or its materialisation in a third or subsequent assessment..*
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> *«2) Under no circumstances and in no situation is it lawful for the Administration to issue a third, much less further, subsequent administrative acts, even if the second act suffers from any defect, whether formal or substantive, in breach of the legal order. The general principles of good administration and good faith, among others, absolutely preclude such a possibility. It is not admissible to grant the Administration an indefinite opportunity to*

repeat administrative acts of an adverse nature until it finally gets it right, to the detriment of citizens.»

CONCLUSION

The Supreme Court Judgment of 29 September 2025 represents a significant step forward in protecting taxpayers against successive tax assessments. From now on, the Tax Administration must act with greater precision and responsibility, as it has only one additional opportunity to correct an annulled assessment. Once the second assessment has been issued, the Administration is prohibited from issuing a new one.

This criterion strengthens the stability of the tax system and provides greater confidence for citizens, while ensuring enhanced legal certainty by preventing them from being subjected to endless proceedings or repeated actions by the Administration based on the same facts.