

Labor and tax litigation

General Objectives:

This course aims to equip participants with the knowledge and skills to enable them to prevent and manage labor and tax disputes more effectively.

Specific Objectives:

At the end of this course participants will be able to:

- Know the different types of litigation;
- Prevent labor litigation;
- Master the different stages of the procedure;
- Prepare the dossier and choose the defense strategy (axes);
- Anticipate the consequences of a judgment and the means of appeal;
- Understand the scope of the provisions of general tax law;
- Identify the responsibilities and risks of tax infringements;
- Understand the liability commitment mechanisms and their practical consequences for corporate bodies and technicians (TOC's and ROC's);
- Anticipate and apply elementary precautions.

Recipients:

This course is essentially aimed at senior and technical staff in the company who are responsible for initiating and managing labor and tax disputes.

Duration:

30 Hours

Content Program:

Module A - Employment Litigation

Module I - Preventing Employment Litigation

- Identifying risk situations (duration of employment, breach of contract)
- Downsizing and restructuring
- Reducing staff numbers

- Organizing the redundancy process
- When and how to use negotiation.

Module II - Understanding how the Labor Court works

- Labor Courts and Social Sections, Court of Appeal and Supreme Court of Justice.

Module III - How to react to receiving a court summons

- Jurisdiction and attribution, territory, etc;
- The statute of limitations on actions for payment of labor claims;
- Receipt of discharge and global pecuniary compensation.

Module IV - Mastering the different stages of the legal process

- Precautionary measure and action;
- Conciliation stage;
- The burden of proof; the intervention of experts; the importance of witnesses.

Module V - Organizing the Legal Process

- Preparing proceedings effectively;
- Gathering and keeping evidence; means, methods and documents;
- The specific documents to be produced according to the nature of the matter.

Module VI - Preparing the Company's Defense

- Representing or assisting the parties: the lawyer's intervention;
- Defining the strategy to be adopted;
- How to deal with the most common pitfalls and the main incidents at a hearing;
- The importance of the presence of the manager or his representative at the conciliation;
- How to behave towards witnesses;
- Preparing the defense well;
- Attitudes towards the opposing party during and after the proceedings.

Module VII - Anticipating the consequences of the trial and the means of appeal

- The dismissal decision;
- When to appeal a decision?
- Effects of an appeal;
- A final decision;
- Reinstatement of the worker;
- Means of preventing reinstatement;
- Compensation.

Module B - Tax Litigation

Module I - The legal tax relationship

- The subjects of the legal relationship: the active subject and the passive subjects:
 - Tax substitution and liability to pay tax
 - Tax liability: subsidiarity and the reversion mechanism.
- The object of the relationship - constitution and extinction:
 - Payments on account and withholdings;
 - The compensatory interest regime;
 - Termination of the legal relationship: payment in installments, forfeiture and prescription.
- The guarantee of the tax payment: suspension of enforcement proceedings and exemption from providing a guarantee.

Module II - The tax procedure

- The content and fundamental principles:
 - The right to be heard and the need for reasons;
 - Direct assessment as a rule;
 - Indirect assessment: typicality, the burden of proof and the request to review the tax base.
- Tax procedures:
 - Binding prior information;

- The review of tax acts: serious and notorious injustice and double collection;
- The administrative appeal: the applicable rules, the grounds and the deadline. Tacit rejection.

Module III - The tax process

- Knowledge of tax acts: The consequences of insufficient communication or notification;
- Judicial challenge: nature, grounds and time limit;
- Enforcement proceedings: opposition, grounds and time limit;
- Complaints against decisions made by the Tax Administration;
- Accessory procedural means.

Module IV - Tax infringements

- Concept and types of infractions;
- Tax, criminal and administrative liability;
- Tax crimes: applicable penalties and suspension of enforcement;
- Prescription, interruption and suspension of criminal proceedings;
- Dismissal and special mitigation of penalties;
- Administrative offenses: Qualification;
- Reduction of fines and waiver or mitigation;
- The statute of limitations for administrative offenses;
- Tax criminal proceedings: the direction of the investigation;
- Suspension of criminal proceedings: prior assessment of the tax;
- Administrative offense proceedings: jurisdiction;
- Suspension of administrative offense proceedings;
- The application of fines: the administrative phase;
- Anticipation of payment and voluntary payment;
- The application of fines: the judicial phase;
- Appeal against the decision and appeal against the judgment;
- Tax crimes: the special case of fraud and abuse of trust.