



Caducidad o decaimiento administrativo por prescripción, preclusión y resolución [

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text (article)

Analítica

Partial regulation on the extinction of administrative legal realities has been a fertile soil for uncertainty in Chile. Currently, the author of an act levied with penalty or tax does not know whether the excessive delay of the State in imposing it will produce a perpetual lack of definition due to the exclusion of the statute of limitations or the interruption or suspension of the period to exercise powers due to the initiation of the administrative procedure. He does not know either whether his perplexity will have an end date due to the application of fatal terms either proper or analogous (civil, criminal), or due to a declaration of procedural lapse. This uncertainty is mainly caused by the variety of postulates on the questions raised in legal literature and case law. While some contribute to the lack of definition at the expense of the perpetrator's expectations, others try to solve it, although in a manner which may be inconsistent with public interests at stake. This paper aims to contribute to the solution of the practical problems and uncertainty caused by administrative delay or inactivity in a way that reconciles private and public interests. It proposes to recover the concept of expiry or administrative decay as a generic extinctive effect in accordance with its etymology and legal nature, to define its essential features, and to assign a specific denomination and legal regime to the causes that trigger it, namely, statute of limitations, preclusion and termination

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