



*E io pago...*

# When you are prescribing debts?

Types of debts and events that determine the extinction of the benefit to which the debtor is required

**Avv. Daniele Paolanti** - All rights (except those unavailable and except those for which the law provides otherwise) are subject to prescription.

The extinctive prescription is essentially an institution aimed at identifying a period of time within which a law can be **enforced**.

If no decision is the deadline set by law the right can no longer be relied upon. The reference standard is **art. 2934 c.c.** which provides: "*Every right is extinguished by prescription when the holder does not exercise for not fixed by law. are subject to prescribing the inalienable rights and other rights established by law*". It should be noted, for the sake of completeness, that **the prescription can not be detected in the office but it must be raised by the debtor** who has to detect the course of the period prescribed by law and which determines the extinction of credit.

Still, and at the conclusion of this introduction, please note that where the debtor has paid a debt already prescribed these can no longer enforce the prescription of the same. Ordinary prescription set by the legislator is ten years unless they are set shorter terms.

## How to calculate the prescription

For the purpose of calculating the prescription you must have regard to all the days that are shown in the calendar including Saturdays and holidays. Not to be calculated starting day ("dies a quo non computatur in termino") and where the due date is a public holiday the deadline is extended to the right to the next working day.

## Types of debts and their prescription

We will now examine the prescription of certain categories of debts and, in species: the INPS debts, the debts Equitalia, the debt service and the professional credit.

### INPS payables

For INPS debts is referred to, for the purposes of prescription, Law 335/1995 which provides that the debts are barred after five years (in derogation therefore, the ordinary prescription).

Article. 9 of prefata law expressly provides that "The contributions to pension and mandatory social security are prescribed and can not be paid with the time-limits set out below: a) ten years to the contributions attributable to the Pension Fund employees and other compulsory pension expenditure, including the contribution of solidarity provided for in Article 9 bis, paragraph 2 of the decree-law of 29 March 1991, n. 103, ratified with amendments by law June 1, 1991, n. 166, and excluded each additional contribution rate is not devolved to pension management.

As from 1 January 1996 this period is reduced to five years, except in cases of worker's complaint or his survivors; b) five years for all other contributions to pension and social assistance required. "



## Debts Equitalia

The prescription of debts arising from tax assessments is variable and changes depending on the nature of the debt. So to each type of tax or penalty applies a different limitation period.

## Monthly Debts

Illuminating the point was a decision of the Supreme Court, the judgment of 25 February 2014, n. 4489, which established it as the prescription "starts from the resolution of the report and approve the allotment was, constituting the title against the individual blocks."

The limitation period of the listed debt is five years since Article. 2948, paragraph 4 of the Civil Code, "all that needs to be paid periodically to year or for shorter terms" shall expire five years (in the case of precisely Monthly debts).

## Professional Credits

Under Article. 2956 cc shall be barred three years the rights "of professionals, paid and reimbursement of expenses correlative" for the work compensation.

Source: [www.StudioCataldi.it](http://www.StudioCataldi.it)

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