Italy: 2023 Budget Law

Tax & Legal Alert
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This Tax & Legal Alert summarizes the main tax, employment and other measures introduced by article 1 of Law no. 197 of 29 December 2022 (the '2023 Budget Law'), published in Official Gazette no. 303 on 29 December 2022 and in force since 1 January 2023.

Contents of this alert:

Tax measures

Article 1 (2-9) – Special subsidy for businesses, in the form of a tax credit, for the purchase of electricity and natural gas

Certain tax credits were granted to businesses in 2022[1] to offset the increased costs of electricity and gas incurred, in the most recent case, up to the end of December 2022. These tax credits have been raised and extended by the 2023 Budget Law to the first quarter of 2023.

The following subsidies are available.

— A tax credit for energy-intensive enterprises. This tax credit is equal to 45 percent (instead of 40 percent) of the price of electricity purchased and actually consumed in the first quarter of 2023.
— A tax credit for businesses that have 4.5kW or 4.5kW+ electricity meters (other than businesses classed as energy-intensive ones). This tax credit is equal to 35 percent (instead of 30 percent) of the price of electricity actually consumed in the first quarter of 2023.
— A tax credit for businesses that are big gas consumers. This tax credit is equal to 45 percent (instead of 40 percent) of the price of gas consumed in the first quarter of 2023 for purposes other than thermoelectric ones.
— A tax credit for the purchase of gas by businesses that are not big gas consumers. This tax credit is equal to 45 percent (instead of 40 percent) of the price of gas consumed in the first quarter of 2023 for purposes other than thermoelectric ones.

The new measures regulate the way in which the tax credits can be used and transferred, e.g. by setting 31 December 2023 as the date by which their use and transfer is possible.

Article 1 (64) – Postponement of the plastic tax and sugar tax

The 2023 Budget Law has postponed the implementation date of the plastic tax to 1 January 2024. This is the tax applied to single-use products (MACSI) that are used for the packaging, protection or delivery of goods or foodstuffs, including preforms. It was introduced some years ago[2] but its implementation has been postponed several times.

Also postponed to 1 January 2024 is the implementation date of the sugar tax, which is the tax on the consumption of non-alcoholic sugary drinks, also introduced some years ago[3] and postponed several times.

Article 1 (151) – Sale of goods through digital platforms

To combat VAT fraud in online sales, a special reporting requirement has been introduced for taxable persons that facilitate – through the use of electronic interfaces such as marketplaces, platforms, portals or similar tools – distance sales of certain goods located in Italy, such as mobile phones, game consoles, tablets, laptops and other items to be identified in a ministerial decree. These taxable persons will have to send the Italian Revenue Agency details of the suppliers that use their platforms and of the sales made by suppliers to private consumers.

Article 1 (84-86) – Non-deductibility of costs deriving from transactions with enterprises located in non-cooperative tax countries or territories

The 2023 Budget Law, by amending the IITC[4], reimposes limits on the deductibility of expenses and other costs deriving from transactions with enterprises resident or located in non-cooperative tax jurisdictions, and with professionals domiciled there[5]. Essentially, the rules on the deduction of these costs, repealed in 2015[6], have been reinstated, with adaptations to reflect the current legislative framework.

Under the new rules, expenses and other costs deriving from transactions with enterprises resident or located in non-cooperative tax jurisdictions – i.e. those identified in the EU list of non-cooperative jurisdictions for tax purposes[7] – are deductible to the extent of their fair market value [8] [9].

The same rule applies to supplies of services rendered by professionals domiciled in countries on the EU list of non-cooperative jurisdictions[10].

The limits on the deductibility of costs will not apply – and thus it will be possible to deduct amounts that are higher than the fair market value of the purchased goods or services – if the resident enterprise can provide evidence that (a) the transactions serve a real business purpose and (b) have actually taken place. The taxpayer may apply to the Revenue Agency[11] for a prior tax ruling on its evidence, in order to ascertain whether it satisfies the rules on the deductibility of costs[12].

Enterprises must indicate the deductible expenses and costs in a separate section of their tax return.

The 2023 Budget Law also establishes certain procedures for the audit and assessment of deducted costs, requiring the Revenue Agency to hold prior discussions with the taxpayer and to explain its reasoning and decisions in greater detail. Before issuing a notice of assessment, the Revenue Agency must send the target enterprise a special notice, giving it the opportunity to provide, within 90 days, evidence of the transaction's business purpose and actual implementation. Should the Revenue Agency judge the enterprise's evidence to be inadequate, it must specifically explain why in the notice of assessment[13].

These rules on costs deriving from transactions with parties in non-cooperative tax jurisdictions will not apply to transactions with non-residents that fall under CFC rules[14] [15].

The new rules have also been coordinated with existing ones. The first one is article 8 of Legislative Decree no. 471/97, which sets out the administrative penalties: if such costs are not declared in the enterprise's tax return, or are not declared in full, the administrative penalty will amount to 10 percent of the overall undeclared cost and will range from EUR500 to EUR50,000. Another relevant rule is article 31-*ter* of Presidential Decree no. 600/73, regarding advance pricing arrangements: enterprises that operate internationally and qualify for the cooperative compliance regime can arrange in advance, in dialogue with the Revenue Agency, the methods for calculating the fair market price of transactions with parties in non-cooperative tax jurisdictions.

Article 1 (100-106) – Relief on the transfer of assets to shareholders

The 2023 Budget Law reintroduces the possibility for commercial companies (i.e. those with the status of S.n.c., S.a.s., S.r.l., S.p.A. or S.a.p.a) to assign in return for shares, or sell to their shareholders, (i) immovable property other than that used exclusively for business purposes, and (ii) publicly registered movable property not used as capital goods (boats, aircraft, cars, etc.).

The relief available for the extraction of these assets, not used directly in the business at the time of their transfer, can be summarized as follows.

- The capital gains are subject to a substitute tax of 8 percent (10.5 percent in the case of inactive companies), 60 percent of which must be paid by 30 September 2023 and the remaining 40 percent by 30 November 2023. The substitute tax is levied on the difference between the tax basis of the asset and its fair market value, which, in the case of immovable property, can be its assessed value.
- A substitute tax of 13 percent must be paid if, as a contra entry for the assigned asset, the company releases tax-deferred equity reserves.
- Registration tax (*imposta di registro*) is halved.
- The other forms of registration tax (*imposta ipotecaria* and *imposta catastale*) are levied as fixed amounts.

Article 1 (112-113) – Investment funds: step-up in the tax basis of units and shares

The 2023 Budget Law introduces the possibility of treating capital income[16] and miscellaneous income[17], deriving from the sale or redemption of units or shares in undertakings for collective investment (UCIs), as already realised. This is subject to payment of a substitute tax of 14 percent on the difference between the unit or share value reported in the fund statement as at 31 December 2022 and the purchase or subscription price.

To make the election, taxpayers must communicate their decision, no later than 30 June 2023, to the intermediary with whom the custody, administration, portfolio management or other long-term arrangement is in place. The substitute tax must then be paid by the intermediary by 16 September 2023, after receiving the necessary funds from the taxpayer. Numerous intermediaries will be affected by this, e.g. Italian and foreign asset management companies, open-ended investment companies (SICAVs), placement and tax agents, and resident and foreign depositories that are members of a Central Securities Depositary system (CSD).

If there is no custody, administration, portfolio management or other long-term arrangement, taxpayers can elect the step-up in their income tax return for 2022 and pay the substitute tax by the deadline for the payment of the balance of income taxes declared in that return.

This option is available for all units or shares in the same category, held on 31 December 2022 and on the date of election.

It is not available for securities held under portfolio management arrangements for which the managed saving tax regime (so-called '*risparmio gestito*') has been elected[18].

Article 1 (153-159) – Less expensive settlement of bills generated by automated checks of returns

Taxpayers will be able to settle bills issued after the automated checking of returns for the financial years in progress on 31 December 2019, 31 December 2020 and 31 December 2021, provided that the payment deadline for the bills expires after 1 January 2023 or instalments were still being paid on that date.

Settlement is conditional upon payment of 100 percent (or remaining amount if payment by instalments has started) of the taxes, social security contributions and interest; while the penalties have been reduced to 3 percent. Payment can also be made in instalments.

The 2023 Budget Law also extends, by one year, the deadline by which the authorities can serve bills following automated checks of returns for the financial year ended 31 December 2019.

Article 1 (166-173) – Regularisation of formal errors

By paying EUR200 for each financial year, taxpayers can remedy any formal errors, violations and instances of non-compliance committed up to 31 October 2022 and not affecting the calculation of the CIT, VAT or IRAP base or the payment of those taxes.

Article 1 (174-178) – Special voluntary remedying of tax violations

A 'special' way of voluntarily remedying tax violations has been introduced, additional to the 'ordinary' one[19]. This will allow taxpayers to remedy substantive violations connected with taxes falling under the remit of the Revenue Agency and declared in tax returns filed up to 31 December 2021 (or earlier returns if the assessment deadlines have not yet expired). This mechanism cannot be used if the Revenue Agency has already challenged the taxpayer about the violations or if they can be remedied under the measures introduced by article 1 (153-159) or (166-173), described above. Qualifying violations can be remedied by paying, no later than 31 March 2023, the full taxes and interest (or the first instalment), plus penalties reduced to one-eighteenth of the minimum amount. At the same time the taxpayer must eliminate the irregularity or omission.

Article 1 (179-185) – Negotiated settlement of tax notices on more favourable terms

Taxpayers that take advantage of this mechanism will be able to pay lower penalties (one-eighteenth of the minimum) for the following: (i) tax inspection reports delivered by 31 March 2023; (ii) settlement procedures (i.e. '*accertamento con adesione*') activated as a result of notices of assessment, notices of tax adjustments and tax bills, still open to challenge by the taxpayer on 1 January 2023 or served by 31 March 2023; (iii) invitations to discuss settlements[20], served by 31 March 2023.

It will also be possible to settle (through the so called '*acquiescenza'* procedure) the total amount due under notices of assessment, notices of tax adjustments and tax bills still open to challenge by the taxpayer on 1 January 2023 or served by 31 March 2023, by paying one-eighteenth of the minimum penalty, plus taxes and interest.

The sums may also be paid in a maximum of 20 equal quarterly instalments.

Taxpayers may take advantage of this mechanism only for taxes falling under the remit of the Revenue Agency.

Article 1 (186-205) – Settlement of tax disputes on more favourable terms

It will be possible to settle tax disputes at any level and stage of adjudication, including cases pending before the Supreme Court, provided that the court decisions have not become final.

Access to the mechanism is allowed if (i) the taxpayer's opponent is the Revenue Agency or Customs Agency, (ii) the dispute is not about (even partially) the own resources of the EU, VAT on imports, or the recovery of state aid.

Pending disputes may generally be settled by paying a sum equal to the amount in controversy (i.e. the tax, excluding penalties and interest). However, the following exceptions apply.

— Payment of 90 percent of the amount in controversy, if the case is pending before the Provincial Tax Court (court of first instance).

— Payment of 40 percent of the tax, if the Provincial Tax Court has ruled in favour of the taxpayer.

— Payment of 15 percent of the tax, if the Regional Tax Court (appeal court) has ruled in favour of the taxpayer.

— If the taxpayer has won part of a case or a court has ruled, to differing extents, against both the taxpayer and the Revenue Agency, full payment of the tax, excluding interest and penalties, in respect of the part of the case that the taxpayer has lost; for the remaining part, the taxpayer must pay the reduced 40 percent or 15 percent.

— Payment of 5 percent of the amount in controversy if the case is pending before the Supreme Court if the tax authority has lost the case in each of the lower courts.

There are specific measures for disputes just about penalties, depending on whether or not they are linked to tax.

Taxpayers wishing to benefit from this mechanism must, by 30 June 2023, file an application and pay the reduced amount (or the first instalment), deducting payments already made in the course of the proceedings.

There are also specific rules on the suspension of proceedings and on the deadlines for challenging decisions and reinstating proceedings.

Notifications of any applications that are turned down must be given by 31 July 2024 and can be challenged, within 60 days, before the court presiding over the case.

Article 1 (206-212) – Settlement of tax disputes on more favourable terms – reconciliation

As an alternative to the settlement process regulated by paragraphs 186-205, disputes with the Revenue Agency, pending before the Provincial or Regional Tax Court, can be settled by signing a reconciliation agreement and paying the full taxes plus interest and a reduced penalty (one-eighteenth of the minimum amount).

The reconciliation agreement[21] must be concluded by 30 June 2023 and the payment must be made within 20 days of signing it.

Payment may be made in up to 20 equal quarterly instalments.

Article 1 (213-218) – Facilitated discontinuation of Supreme Court cases

As an alternative to the settlement process referred to in paragraphs 186-205, taxpayers can end disputes with the Revenue Agency, pending before the Supreme Court, and benefit from a reduction in penalties to one-eighteenth of the minimum amount (the taxes, interest and any additional charges must be paid).

Access to the mechanism is allowed if (i) the taxpayer's opponent is the Revenue Agency, (ii) the dispute is not about (even partially) the own resources of the EU, VAT on imports, or the recovery of state aid.

To discontinue the action, the taxpayer must sign a settlement agreement with the Revenue Agency and, within 20 days of signature, pay the full amount due. Offsetting is excluded and the taxpayer will not be entitled to recoup any payments already made, even if they are higher than the amount agreed in the settlement.

Article 1 (219-221) – Regularisation of unpaid instalments due as a result of accepted tax bills, negotiated settlements, appeal+mediation, or reconciliation

Taxpayers may regularise unpaid (or underpaid) instalments, already due for payment by 1 January 2023 as a result of accepted tax bills, negotiated settlements, mediation agreements[22], or judicial settlements reached through reconciliation.

Regularisation is possible provided that a tax collection notice has not yet been served. Only the full tax has to be paid, all at once by 31 March 2023 or in up to 20 quarterly instalments (of which the first is due by 31 March 2023).

Article 1 (231-252) – Less expensive settlement of debts handed over to tax collectors between 1 January 2000 and 30 June 2022

In line with previous rules that allowed taxpayers to settle tax collection notices less expensively[23], it will be possible to settle debts handed over to tax collectors between 1 January 2000 and 30 June 2022.

These tax collection notices can be settled by paying the full amount of taxes; the penalties, interest (including interest on arrears) and collection fee will be annulled.

It is not possible to settle collection notices in certain cases, such as those involving the recovery of state aid, payments ordered by the State Auditor's Department, fines and sanctions imposed by criminal courts, sanctions imposed for reasons other than tax violations, or social security contributions.

To take advantage of this opportunity, it is necessary to abandon any pending litigation, submit a special application by 30 April 2023 and make the full payment (or the first of 18 quarterly instalments) by 21 January 2023.

The 2023 Budget Law also coordinates the provisions with previous such measures, to reset the payment schedule for delinquent taxpayers.

Article 1 (253) – Notification of uncollectable sums

In view of the new settlement opportunities, the 2023 Budget Law has also extended the deadlines by which tax collectors must notify the relevant authority that the sums cannot be collected.

Article 1 (255) – Implementation in Italy of the Investment Manager Exemption

A safe harbour has been introduced so that no permanent establishment (PE) will arise in Italy, triggering domestic tax rules, when a non-resident investment vehicle operates in Italy through an independent asset manager. In particular, article 162 IITC, which defines a PE for tax purposes, has been amended[24].

The concept of a PE as defined in article 162 IITC is relevant for both IRES and IRAP purposes, as reference must be made to it when identifying business income taxable in Italy.

Article 162 IITC specifies that if a person operates in Italy on behalf of a non-resident enterprise by engaging in a series of asset management activities, the foreign enterprise is deemed to have a PE in Italy, in relation to each activity performed by that person on its behalf.

The Investment Manager Exemption introduced by the 2023 Budget Law applies to resident and non-resident parties (investment managers) that, even when operating through their own PE in Italy:

— in the name and/or on behalf of the non-resident investment vehicle or its direct or indirect subsidiaries, even by exercising discretionary powers, habitually enter into purchase and/or sale and/or trading agreements;

— contribute, even through preliminary or ancillary activities, to the purchase and/or sale and/or trading of financial securities, including derivatives and equity holdings, and receivables.

If the following conditions are met, the investment manager will be considered independent of the foreign enterprise and, since no agency PE will arise, the foreign enterprise will escape the application of article 162.

1. The non-resident investment vehicle and its subsidiaries must be resident or located in a state or territory that allows an adequate exchange of tax information with Italy[25].
2. The non-resident investment vehicle must meet the independence requirements to be established by a forthcoming decree.
3. The resident or non-resident investment manager, operating in Italy in the name and/or on behalf of the non-resident investment vehicle, must not (i) be a member of the management or oversight bodies of the foreign investment vehicle and its direct or indirect subsidiaries, or (ii) be entitled to more than 25 percent of the profits of the foreign investment vehicle, also considering the profit entitlements held by other entities of the group (the forthcoming decree will establish how these profit entitlements should be computed).
4. A resident investment manager (or the Italian PE of the non-resident enterprise) that provides services under agreements with other entities in the same group must receive, for services performed in Italy, a remuneration supported by appropriate documentation[26].

Article 1 (264) – Increase in the substitute tax on life assurance mathematical reserves

The 2023 Budget Law has raised from 0.45 percent to 0.50 percent, with effect from 2023, the rate of substitute tax to be paid by insurance undertakings on life assurance mathematical reserves reported in annual financial statements.

Article 1 (115-121) – Temporary windfall tax for 2023

Paragraph 115 introduces a special and temporary windfall tax for 2023. It will be levied on producers, importers, distributors and sellers of electricity, natural gas or petroleum products, in order to alleviate the impact of soaring energy prices and tariffs on businesses and consumers. The targeted businesses will have to pay, as a windfall tax, 50 percent of any additional income earned in 2022, compared with the average income of the four previous years, because of the exceptional increase in energy prices. The tax must be paid within six months of the end of the financial year prior to that in progress on 1 January 2023 and it cannot be deducted for IRES and IRAP purposes.

Paragraphs 120 and 121, introduced by the Chamber of Deputies, also amend the rules on the windfall tax for 2022[27], by adjusting certain aspects of its computation as well as the effects of the variation in the amount due for financial year 2022.

Article 1 (126-147) – Crypto

Tax rules have been introduced for crypto.

— Paragraph 126 explicitly includes crypto within the framework of personal income tax.

— Paragraph 126(a) introduces a new category of miscellaneous income[28], represented by gains and other income realised from the redemption, sale, exchange or holding of crypto that, in whatever form, amount to no less than EUR2,000 in the financial year.

— Paragraph 126(b) defines capital gains realised from crypto.

— Paragraph 127 establishes the legal framework for the calculation of gains realised in crypto transactions up to 1 January 2023 and allows the deduction of losses.

— Paragraph 128 amends the rules that govern substitute tax on capital gains and other forms of income[29] and that allow three different regimes: the 'tax return' regime, the 'non-discretionary investment' regime (*regime amministrato*) and the 'discretionary' investment regime (*regime gestito*).

— Paragraph 129, by adding a reference to crypto and to providers of digital portfolio services, amends the law[30] regulating the recognition for tax purposes of certain transfers of money, shares and securities to and from Italy.

— Paragraph 130 establishes that the additional revenues generated by the implementation of article 1 (126-129) will be allocated to the fund set up by the Ministry of Finance to reduce the tax burden (tax-reduction fund).

— Paragraph 131 establishes that items of income and costs arising from the valuation of crypto will not be included in the calculation of income for IRES and IRAP purposes.

— Paragraphs 133-137 allow taxpayers to use, in calculating gains and losses, the purchase price of crypto held on 1 January 2023, provided that a 14 percent substitute tax is paid on that price. The additional revenues generated by this substitute tax will also be allocated to the tax-reduction fund.

— Paragraphs 138-143 enable taxpayers who have failed to declare crypto in their tax return, or the income deriving from these, to regularise their position by submitting a special application. They must pay a penalty for the omission and, if the crypto have generated income, a substitute tax equal to 3.5 percent of the value of the crypto held at the end of each year or at the moment of their realisation.

— Paragraphs 144-147 introduce a stamp duty of 0.2 percent per annum on crypto transactions. The ordinary payment methods and deadlines apply. With effect from 2023, a tax will be levied on the value of crypto held by all residents of Italy. These tax revenues will also be allocated to the tax-reduction fund.

Employment measures

Article 1 (281) – Partial exemption from social security contributions for employees

For employment contracts (excluding those of domestic workers) and payment periods falling between 1 January and 31 December 2023, there will be an exemption from the proportion of social security contributions earmarked for invalidity, retirement and surviving-spouse benefits.

The exemption will amount to two percentage points and, to qualify, the employee's pre-tax remuneration (based on 13 monthly instalments) must not exceed EUR1,538.

Article 1 (294-299) – Extension of the contribution exemption to stimulate hiring

For 2023, employers will be able to claim an exemption from 100 percent of the relevant social security contributions (excluding INAIL premiums and contributions), for a maximum of 12 months according to the type of worker, and with a cap of EUR8,000 per year, if:

— they hire, on open-ended employment contracts, recipients of 'citizens' income (*'reddito di cittadinanza*');
and/or

— they hire, on open-ended employment contracts, people under the age of 36 (in this case, however, the exemption is for a maximum of 36 months and is capped at a gross amount of EUR6,000); and/or

— they hire female workers; and/or

— they convert fixed-term contracts into open-ended ones.

This exemption will apply to new hires and/or conversions made by the employer between 1 January and 31 December 2023.

The validity of the exemption is, however, conditional upon authorisation from the European Commission under the Treaty on the Functioning of the European Union.

Article 1 (306) – Remote working

Up to 31 March 2023, employees in the public and private sectors who are in poor health (i.e. certified as suffering from a chronic and serious illness) may work remotely, even by performing different duties within their same job category and level, without any cut in pay.

If more favourable to the employee, the provisions of the collective bargaining contract governing the individual employment relationship will take precedence.

Article 1 (342-354) – Changes to the rules on occasional work

There have been changes to the rules on occasional work (previously falling under the voucher scheme).

— The maximum amount that each user can pay for occasional work has been raised from EUR5,000 to EUR10,000 per financial year (for the entirety of the occasional workers). Instead, the maximum annual payment that each occasional worker can receive is still capped at EUR5,000.

— This type of contractual arrangement can now be used for occasional work at clubs, dance and similar venues (identified by ATECO code 93.29.1).

— Users that have up to 10 (previously the number was five) employees on open-ended contracts can use the services of occasional workers.

— For the agricultural sector, and the two-year period 2023-2024, special rules have been introduced to help employers hire occasional seasonal workers on a fixed-term contract.

- This type of contract has been extended to cover seasonal agricultural work, for a maximum period of 45 days per calendar year and per worker. In computing the 45 days, the presumed days of actual work must be considered and not the overall duration of the employment contract (which can have a maximum duration of 12 months).
- Qualifying workers are those who have not worked as ordinary agricultural employees in the three years prior to the start of the occasional work contract and who are: (i) unemployed, or recipients of NASpI or DIS-COLL unemployment payments, or claimants of citizens' income or other benefits; (ii) receiving an old-age or retirement-age pension; (iii) under 25 years of age, if they are duly enrolled at an educational institute of any type or level (provided that the occasional work is compatible with their course of study) or are duly enrolled on a university course (in which case the occasional work is possible at any time of year); (iv) those serving a prison sentence or committed to institutions, including, in either case, those on work-release.
- To use this type of contract, the employer must obtain a self-certification from the worker, about their circumstances, and notify the employment services before the arrangement starts.
- It is no longer obligatory for occasional workers to certify – via an online platform – that they were not enrolled in lists of agricultural workers the previous year.
- Agricultural employers who are not compliant with the national and provincial collective bargaining contracts signed by the comparatively most representative trade unions are precluded from hiring occasional workers on fixed-term contracts.
- The remuneration for occasional work does not affect the worker's status as an unemployed person and can be combined with any type of pension.
- If the 45-day annual limit is exceeded, the occasional work arrangement will be converted into an open-ended employment contract. Failure to submit the notification or use of people other than those listed above will expose the employer to a fine ranging from EUR500 to EUR2,500 per ascertained day of violation (unless the worker has provided false information).

Other measures

Article 1 (384) – Cash payments

The 2023 Budget Law has raised the limit on cash payments from EUR1,000 to EUR5,000[31].

Article 1 (391) – National Register of State Aid. The platform incentivi.gov.it

Spending of EUR900,000, from 2023, has been authorised to cover the costs of managing and updating the National Register of State Aid[32] and the platform incentivi.gov.it. The expenditure is intended to (i) enhance the efficacy of public measures supporting economic and productive activities, ensuring that the tools for evaluating and monitoring activated measures, as well as the tools for communicating initiatives, are operating fully and effectively, and (ii) facilitate the systematisation of these tools.

Article 1 (595-599) – COVID-19 state aid and the recovery of overpayments

The 2023 Budget Law includes certain provisions on access to the state aid introduced in response to the Covid-19 pandemic, also in light of Communication C(2020) 1863 of 19 March 2020 from the European Commission ("*Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak*" – the 'Communication').

In particular, it has been established that aid available under Italian law and governed by the conditions and limits laid down in the Communication can be combined with other aid authorised by that same Communication.

If the caps set in the Communication are exceeded, the portion of the aid that exceeds the cap can be voluntarily returned by the beneficiary, together with interest[33]. If the aid is not voluntarily returned, the corresponding amount will be deducted from state aid subsequently received by the relevant enterprise. In either case, no penalties will be applied.

Notes

(1) By Decree Laws no. 4, no. 17, no. 21, no. 50, no. 115, no. 144 and no. 176 of 2022.

(2) By Law no. 160/2019.

(3) Also by Law no. 160/2019.

(4) The Italian Income Tax Code set out in Legislative Decree no. 917/1996.

(5) The limits have been reimposed by adding a series of paragraphs (9-*bis* to 9-*quinquies*) to article 110 IITC.

(6) By Law no. 208/2015.

(7) Published as Annex I to the Council of the European Union's conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes.

(8) Determined in accordance with article 9 IITC.

(9) Article 110 (9-*bis*) IITC.

(10) Article 110 (9-*quinquies*) IITC.

(11) Under article 11(1)(b) of Law no. 212/2000.

(12) Article 110 (9-*ter*) IITC.

(13) Article 110 (9-*ter*) IITC.

(14) The CFC rules laid down by article 167 IITC.

(15) Article 110 (9-*quater*) IITC.

(16) As referred to in article 44 (1)(g) IITC.

(17) As referred to in article 67 (1)(c-*ter*) ITTC.

(18) Under article 7 of Legislative Decree no. 461/1997.

(19) The ordinary system is governed by article 13 of Legislative Decree no. 472/97.

(20) Those issued under article 5-*ter* of Legislative Decree no. 218/1997.

(21) Under article 48 of Legislative Decree no. 546 of 31 December 1991.

(22) Reached in accordance with article 17-*bis* of Legislative Decree no. 546/92.

(23) Decree Laws no. 193/2016, no. 148/2017, no. 145/2018, no. 34/2019 etc.

(24) Paragraph b) of article 1 (255) has added three new paragraphs (7-*ter*, 7-*quater* and 7-*quinquies*) to article 162 IITC, while paragraph a) of article 1 (255) has amended article 162 (6) IITC by inserting the references to the new paragraphs introduced by paragraph b).

(25) That is, a state or territory appearing on the list indicated in article 11 (4)(c) of Legislative Decree no. 239 of 1 April 1996, as subsequently amended.

(26) That referred to in article 1 (6) of Legislative Decree no. 471 of 18 December 1997.

(27) Introduced by article 37 of Decree Law no. 21/2022.

(28) By inserting paragraph c-*sexies* in article 67 (1) IITC.

(29) Articles 5, 6 and 7 of Legislative Decree no. 461/1997.

(30) Decree Law no. 167/1990.

(31) By amending article 49 (3-*bis*) of Legislative Decree no. 231 of 21 November 2007 (the so-called 'Anti-Money Laundering Law').

(32) The register referred to in article 52 of Law no. 234 of 24 December 2012, which sets out the "*General rules on Italy's participation in the adoption and implementation of the laws and policies of the European Union*".

(33) Calculated in accordance with Regulation (EC) No 794/2004.

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