



Italy: Changes to the R&D tax credit system

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The Italian R&D tax credit system was changed at the end of last year by the 2020 Budget Law⁽¹⁾.

Timing

The new tax credit system operates only for the fiscal year following that in progress on 31 December 2019, i.e. 2020 for calendar-year taxpayers.

The previous R&D tax credit system⁽²⁾, which should have applied up to and including fiscal year 2020, has ended one year early.

Eligible taxpayers

The relief can be taken by enterprises resident in Italy and by Italian permanent establishments of foreign enterprises, provided they are not involved in insolvency proceedings and have not been placed under any bans⁽³⁾.

The use of the tax credit is conditional on the enterprise:

- i. complying with industry rules on occupational health and safety;
- ii. duly paying its workers' national insurance and social security contributions.

Requirements i and ii are new and have not yet been clearly defined.

Eligible activities

The new tax credit rewards three main categories of activity⁽⁴⁾:

- A. fundamental research, industrial research or experimental development in the areas of science or technology;
- B. technological innovation in areas – other than category A activities – that could contribute to the development of new or substantially enhanced products or production processes;

(1) Law no. 160 of 27 December 2019.

(2) Regulated by article 3 of Law Decree no. 145/2013.

(3) More specifically, the bans indicated in article 9(2) of Legislative Decree no. 231/2001.

(4) The criteria for the correct application of the following definitions are set out in an implementing decree of 26 May 2020, published in the Official Gazette on 21 July 2020.

- C. the creation of aesthetic and other designs – with a view to planning and producing new products and samples – by firms operating in various product sectors: textiles, fashion, footwear, eyewear, gold, furniture and furnishings, ceramics.

Eligible expenses

The new tax credit is predicated on specific categories of expenses. The following types of costs are eligible:

- personnel costs of researchers and technicians;
- depreciation charges and leasing of tangible assets and software;
- contracted research;
- depreciation on the purchase of industrial or biotech inventions from third parties (category A activities only);
- advisory and equivalent services related to the eligible activities;
- costs of materials and supplies used in the eligible activities.

Such expenses must always follow the general rules: they must be the actual costs and be business-related and reasonable.

Size of the tax credit

The size of the tax credit depends on the category of research:

- A. For Category A activities, the tax credit amounts to 12 percent of the cost base, net of any subsidies or contributions received for the same eligible expenses. The maximum tax credit is EUR3 million.
- B. For Category B activities, the tax credit amounts – depending on the type of innovation – to 6 or 10 percent of the relevant cost base, net of any subsidies or contributions received for the same eligible expenses. The maximum tax credit is EUR1.5 million.
- C. For Category C activities, the tax credit amounts to 6 percent of the cost base, net of any subsidies or contributions received for the same eligible expenses. The maximum tax credit is EUR1.5 million.

Tax credit features

The tax credit can be used:

- to pay different kind of liabilities, e.g. income taxes, VAT, social security contributions⁽⁵⁾;
- in three equal annual instalments, starting from the financial year subsequent to that in which it has accrued;
- subject to certain certification requirements.

It is excluded from the direct tax base and can be used with other forms of tax relief, on condition that the combined tax relief is not higher than the expense.

In no circumstances can the tax credit be sold or transferred.

Compliance

Any taxpayer wishing to claim the R&D tax credit must obtain a certificate from an auditor, attesting that the taxpayer has actually incurred the eligible expenses and that they match those indicated in the accounting records. Enterprises that are not required by law to undergo a statutory audit can add up to EUR5,000 of the certification costs to the tax credit.

The taxpayer must also compile and keep a technical report illustrating the purposes, substance and results of the eligible activities pursued in each financial year in relation to the projects/sub-projects underway.

Finally, enterprises that take the tax credit must notify the Ministry of Economic Development of this (merely so that it can acquire the information needed to estimate the progress, take-up and efficacy of the new measures).

Right to a tax ruling

In the event of objective uncertainty as to how to interpret the tax measures, the taxpayer can request a ruling from the Italian Revenue Agency.

Enterprises can apply for a technical opinion from the Ministry of Economic Development if they have any doubts about whether their activities qualify for the tax credit.

(5) In compliance with article 17 of Legislative Decree no. 241/97 (so-called 'horizontal offsetting').

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