



## NEWSLETTER NO. 13 - 2024

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### "OMNIBUS" DECREE

The Italian law-decree 113 of 9 August 2024 ("Omnibus" decree), published in the Italian Official Gazette 186 of 9 August 2024, introduced some tax measures outlined in more detail below.

#### TAX CREDITS FOR SEZ (SPECIAL ECONOMIC ZONE) INVESTMENTS

Companies that filed the notice under article 5 (1) of the decree issued by the Italian Ministry of European Affairs, for Southern Italy, Cohesion policies and the National Recovery and Resilience Plan (PNRR) to have access to the tax credit for SEZ investments must submit to the Italian tax office - between 18 November 2024 and 2 December 2024 - an supplementary notice confirming that the investments specified in the notice previously submitted were made by 15 November 2024. Otherwise, they will be excluded from the incentive of tax credit.

The notice must also specify the amount of the tax credit accrued for investments actually made and the relevant e-invoices as well as the details of the certification under article 7 (14) of the decree.

#### SUBSTITUTE TAX EUR 100,000

The substitute tax on foreign income owed by individuals who transfer their tax residence to Italy and opt for the substitute tax under article 24-bis of the Italian Tax Code (TUIR) is increased from EUR 100,000 to EUR 200,000.

The increase applies to individuals who transferred their residence to Italy for the purposes of article 43 of the Italian civil code after 11 August 2024.

#### FRONTIER-WORKERS IN SWITZERLAND

Employees resident in the municipalities under annex 1 to the Omnibus decree may opt for the application of a substitute tax on individual income tax (IRPEF) on income from employment received in Switzerland of 25 percent of the taxes applied in Switzerland to the same income.

To exercise the option, the following requirements must be met:

- the employee is a frontier-worker pursuant to article 2 of the double taxation agreement (DTA) between Italy and Switzerland, as ratified by the Italian law 83/2023;
- at the date of entry into force of the above DTA, i.e. between 31 December 2018 and said date, the employee was employed in Switzerland, in the cantons of Graubünden, Ticino and Vallais, by a Swiss-resident employer or by a permanent establishment or a fixed base of business of the same in Switzerland;
- the income is subjected to taxation in Switzerland pursuant to article 3 of the DTA.

If the option is exercised, the taxes paid in Switzerland on the income subject to substitute tax are not eligible for deduction.

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The option for substitute tax may be exercised even by the employees resident in the municipalities of the Province of Brescia and of the province of Sondrio included in the list under annex 2 to the Omnibus decree, for which the same conditions apply, and that on the date of entry into force of the DTA were employed in Switzerland in the cantons of Ticino and Valais by a Swiss-resident employer or by a permanent establishment or a fixed place of business of the same in Switzerland.

The employees who exercise the option deduct an amount of 20 percent of the contributions under article 1 (237-239) of the Italian law 213/2023 from the substitute tax.

The new provisions apply as of the 2024 tax period.

### INVENTORIES REGULARISATION

The payment deadline for the first tax instalment due, pursuant to article 1 (82) of the Italian law 213/2023, for inventories regularisation is postponed until 20 September 2020 for taxpayers, whose payment deadline expires by 29 September 2024. If due to such postponement, the payment deadline for the first tax instalment expires after the one for the payment of the second instalment, the latter term is postponed also until 30 September 2024.

2. For the purpose of the provisions under article 1 (78-85) of the Italian law 213/2023, taxpayers, whose deadline for the approval of the financial statements relating to the business year ongoing on 20 September 2023 expires by 29 September 2024, may provide for an alignment of the opening balance (initial inventories) by 30 September 2024 in the accounting records relating to the subsequent business year.

### RI-DETERMINATION OF THE COST OF SHAREHOLDINGS AND LAND

The deadline, by which to exercise the option for the re-determination of the purchase values of shareholdings and land held by individuals on 1 January 2024, is postponed from 30 June 2024 until 30 November 2024.

### CORRECTIVE DECREE ("DECRETO CORRETTIVO")

The Italian legislative decree 108 of 5 August 2024

("decreto correttivo"), published in the Italian Official Gazette 182 of 5 August 2024, introduced some tax measures outlined in more detail below.

### VAT PAYMENT

The VAT payment due based on the periodical VAT settlement for December is payable by 16 January of the subsequent year.

The payment deadline, by which the VAT from periodical VAT settlements relating to the first three quarters is due, is anticipated to 16 November (from 16 December), if the amount due is lower than EUR 100.

### CERTIFICATIONS ON INCOME ("CERTIFICAZIONE UNICA")

As of 2025 the certifications on income pursuant to article 2 (6-ter) of the Italian DPR 322/1998 containing income from self-employment deriving from the habitual exercise of arts and professions only are submitted electronically to the Italian tax authority by 31 March of the year following the one in which the sums and values are paid.

### PRE-FILLED TAX RETURN

As of 2025, the pre-filled income tax return is made available, by conferring appropriate delegation, also through one of the persons delegated to submit electronic income tax returns pursuant to article 3 (3) of the Italian DPR 322/1998.

### DEADLINE FOR FILING OF TAX RETURNS

The deadline for the electronic filing of individuals' income and IRAP tax returns is set forth on 31 October of the year following the one in which the tax period is closed.

The deadline for the filing of corporate TAXPAYERS (IRES) income and IRAP tax returns is set forth on the last day of the tenth months (instead of the ninth month) following the one in which the tax period is closed.

### TAX SETTLEMENT SCHEME (ROTTAMAZIONE-QUATER)

The failure to pay, or the insufficient or late payment of, the (fifth) instalment due by 31 July 2024 for the tax settlement scheme ("rottamazione-quater") pursuant to the Italian law 197/2022 does not lead to the

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ineffectiveness of the incentivized settlement of tax payment notices, if the debtor provides for the full payment of such instalment by 15 September 2024.

### PENALTY-FREE TAX NOTICES ("AVVISI BONARI")

As of 2025, the payment deadline for sums due based on an irregularity notice is increased from 30 to 60 days from receipt of such notice. If payment is made by such deadline, the penalty of 30 percent (reduced to 25 percent as of 1 September 2024) is reduced to 1/3 for automatic settlements and to 2/3 for formal settlements.

### INCOME ASSESSMENT SYSTEM ("REDDITOMETRO")

It is permitted to determine the income of individuals based on the expenses incurred, provided that:

- the assessable total income exceeds the filed income by at least one fifth, and anyway,
- by at least ten times the amount equal to the annual welfare allowance ("*assegno sociale*"), which is updated bi-annually by law, also based on ISTAT adjustment indexes:

However, the taxpayer must prove that:

- the expenses were paid by income other than the one owned in the same tax period, or by tax-exempt income or income subject to withholding tax, or income legally excluded from the taxable income base or by individuals/entities other than the taxpayer;
- the assigned expenses are of a different amount;
- the share of savings used for consumption and investment was formed over previous years.

### BI-ANNUAL TAX SETTLEMENT PROPOSAL ("CONCORDATO PREVENTIVO")

Amendments to the rules on the bi-annual tax settlement proposal were introduced.

### 5.0 TRANSITION PLAN

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Article 38 of the Italian law-decree 19/2024 (5.0 Transition Plan) introduced a tax credit for companies that - as of 1 January 2024 and until 31 December 2025 - make new investments in companies in Italy, in accordance with innovation projects that lead to a reduced energy consumption for production facilities of no less than 3 percent or, alternatively, a reduced energy consumption of the processes concerned by the investment of no less than 5 percent (please see our newsletter 4/2024).

The Italian inter-ministerial decree dated 24 July 2024 set forth the implementing modes for the new tax credit, and more specifically its subjective and objective scope of application, the amount of the benefit and the procedure granting access to the tax incentive.

The director's decree dated 6 August 2024 set forth the opening, as of **7 August** 2024, of the IT platform for the filing of advance notices to pre-book the "5.0 Transition Plan" tax credit and of confirmation notices on the orders accepted by the seller with a prepayment of 20 percent of the purchase cost.

Finally, the newsletter of the MIMIT (Italian Ministry of Enterprises and Made in Italy) of 16 August 2024 (and corrigendum dated 19 August 2024) clarified the correct application of the new provisions on the tax incentive.

### DIRECT TAXES

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#### ABUSE OF RIGHT

A transaction carried out by three shareholders of a company (A) meant to implement a restructuring, as follows, is not deemed tax avoidant:

- two shareholders incorporate two new single-member companies to which they confer their shareholding in company A pursuant to article 177 (2-bis) of the Italian Tax Code (TUIR);
- the third shareholder re-values his/her shareholding in company A;
- the two new single-member companies obtain a bank loan and purchase the (revalued) shareholding of the third shareholder.

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The revaluation of the shareholding of the third shareholder and the subsequent sale are a transaction which is deemed functional to the final exit of the selling shareholder from the shareholder structure, whereby no undue tax advantage is obtained (Italian tax authority, answer to request for advance ruling 169 of 12 August 2024).

An invoice issued for a prepayment made for an export supply adds to the VAT free purchase quota. However, if the export supply does not occur, the VAT free purchase quota calculated based on the prepayment invoices must be rectified (Italian tax authority, *Consulenza giuridica* 3 of 6 August 2024).

### INTEREST PAYMENTS MADE BASED ON SETTLEMENT AGREEMENTS AND AMICABLE TAX ASSESSMENT SETTLEMENTS

Interest payments made based on settlement agreements or amicable tax assessment settlements are deductible from business income according to the ordinary rules provided for under the Italian Tax Code (TUIR) (Italian tax authority, answer to request for advance ruling 172 of 20 August 2024).

### SETTLEMENT OF TAX DISPUTES - INTEREST ON PAYMENTS BY INSTALMENTS

In the event of incentivized settlements of tax disputes under the Italian law no. 197/2022 interest due for the payment of the instalments following the first one must be calculated at the legal rate applicable at the date of completion of the settlement itself (Italian tax authority, answer to request for advance ruling 168 of 5 August 2024).

### NOTICE TO ENEA

The failure to file a notice with Enea, or the "late" submission of such notice after the deadline of 90 days from completion of the works does not give rise to the loss of the tax incentives relating to energy saving works (Italian Supreme Court, order 19309 of 12 July 2024).

## VAT

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### REVERSE CHARGE

The reverse charge scheme does not apply to VAT adjustment notices aimed at revising the tax base or the VAT credit or debt, if the main transaction to which the adjustment refers to is not subject to the reverse charge scheme (e.g. since it occurred prior to the entry into force of the reverse charge scheme itself) (Italian tax authority, *Principio di diritto* 2 of 12 August 2024).

### VAT FREE PURCHASE QUOTA

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Yours sincerely

HAGER & PARTNERS