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DIRECT TAXES

STATE AID

The Italian tax authority issued an order allowing taxpayers to provide useful information to regularize the error related to the failure to register state aid and de minimis state aid in the records:

- RNA (Italian Register of State Aid),
- SIAN (Italian Agricultural Information System),
- SIPA (Italian System of Fisheries and Aquaculture),

in the "State Aid" section of the income tax returns REDDITI, IRAP and 770 filed for the 2021 tax period (Italian tax authority, order 2444832 of 5 June 2025).

CARS GRANTED TO EMPLOYEES FOR BUSINESS AND PRIVATE USE

Further to the amendments introduced under the Italian law 60 of 24 April 2025 (energy bills decree - *decreto bollette*), published in the Official Gazette of the Republic of Italy 98 of 29 April 2025, the fringe benefit for cars granted to employees for business and private use continues to be determined in accordance with article 51 (4.a) of the Italian income tax code (TUIR), as in force as at 31 December 2024:

- for cars granted to employees for business and private use as of 1 July 2020 until 31 December 2024,
- as well as for cars ordered by employers by 31 December 2024 and granted to employees for business and private use as of 1 January 2025 until

June 2025.

According to Assonime (Italian Association of Joint Stock Companies) the former rules apply to:

- all vehicles granted to employees for business and private use between "1 July 2020 and 31 December 2024", and
- until the vehicle continues to be used - without interruptions - for these purposes, i.e. until the vehicle is returned to the leasing or rental company, resold, scrapped or otherwise used for other purposes (Assonime, newsletter 12 of 27 May 2025).

EMPLOYMENT INCOME

The Italian tax authority provided operational instructions on the tax news related to income from employment contained in the 2025 Italian budget law and in the Italian legislative decree 192/2024 (*decreto delegato*) (Italian tax authority, newsletter 4 of 16 May 2025).

TRANSFER OF SURFACE RIGHT

The transfer of the surface right - or the ownership of the existing building separately from the land - if occurred outside of business or professional income qualifies as other income pursuant to article 67 (h) of the Italian income tax code (and not pursuant to article 67 (b) of the Italian income tax code).

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The income is determined pursuant to article 71 (2) of the Italian income tax code and is taxable also after the expiry of five years of ownership of the property (Italian tax authority, answer to request for advance ruling 129 of 13 May 2025).

SEPARATE TRANSFER OF LEGAL OWNERSHIP AND RIGHT OF USUFRUCT

If legal ownership is sold separately from the right of usufruct:

- the consideration arising from the establishment of the right of usufruct for consideration qualifies as taxable other income pursuant to article 67 (1.h) of the Italian income tax code;
- whereas the capital gain from the sale of the legal ownership qualifies as taxable other income pursuant to article 67 (1.b) of the Italian income tax code, if the sale occurs within five years from the purchase (Italian tax authority, answer to request for advance ruling 133 of 14 May 2025).

BLACKLIST DIVIDENDS

For dividends to be classified as black or white:

- the level of foreign taxation must be compared solely with the corporate tax (IRES) rate;
- the outgoing withholding taxes levied by the foreign country are not relevant when comparing the level of foreign and Italian taxation (Italian tax authority, answer to request for advance ruling 131 of 13 May 2025).

PARTICIPATION EXEMPTION

As to the application of the participation exemption scheme under article 87 of the Italian income tax code (95 percent capital gain exemption), the construction phase of a building to be used as a hotel by a company with a relevant corporate purpose:

- falls under the use of the building for business operations
- and thus meets the business requirement (Italian Supreme Court, judgement 14800 of 2 June 2025).

FLAT TAX ON RENTAL INCOME (CEDOLARE SECCA)

The landlord may opt for the flat tax scheme on rental income (so-called "cedolare secca") even if the tenant enters into the residential lease agreement within the exercise of his or her profession, and more specifically to meet the housing needs of his or her employees.

Indeed, article 3 (6) of the Italian legislative decree 23/2011 sets forth that the rules on the flat scheme on rental income do not apply to "leases of residential property units made within the exercise of a business activity, or of arts and professions". Therefore, this exclusion refers only to residential lease agreements executed by the landlord within the exercise of a business activity or of arts and professions (Italian Supreme Court, judgement 12079 of 7 May 2025).

PERIOD OF ACCRUAL FOR INCOME COMPONENTS ARISING FROM JUDGMENTS

For income tax purposes, contingent assets arising from:

- the judicial affirmation of a claim, or
- the judicial disallowance of a pre-existing debt,

must be reported in the tax year in which the judgement affirming the claim or disallowing the debt was filed. The filing of the judgement constitutes the time, when the claimed item becomes certain and existent and objectively determinable pursuant to article 109 of the Italian income tax code, provided that the enforceability of the judgement of conviction has not been suspended in the meantime (Italian Supreme Court, judgement 11917 of 6 May 2025).

TAX RATE (IRAP)

To benefit from the reduction of the regional tax on productive activities (IRAP) rate by 1.22 percentage points set forth under article 21-bis (7-septies) and (7-octies) of the Bolzano Provincial Law 9/1998 for:

- taxpayers who apply first-level collective labour agreements entered into in the Bolzano province or second-level collective labour agreements, including territorial agreements - signed as of 1 January 2022 - and corporate agreements signed by the most representative trade unions at provincial level or their trade union representatives (RSA) or unified trade union representative (RSU)

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- taxpayers who pay performance bonuses introduced before 29 October 2024, in compliance with the relevant industry-specific territorial collective labour agreements

the agreements/arrangements must meet all the following requirements:

- they must be signed by the most representative trade unions at provincial level or by their trade union representatives (RSA) or by the unified trade union representative (RSU);
- they must be filed, as provided for by the law;
- they must not have expired;
- they must provide for an additional salary/wage item to be regularly paid.

Agreements/arrangements are meant to include territorial or corporate collective labour agreements signed by the most representative trade unions at provincial level, applicable to the generality of employees or in any case to most of them, without prejudice to the signatory parties' right to freely decide on the number of employees affected by the additional salary/wage item.

The agreement/arrangement must be filed with the Italian Ministry of Labour's website or with the Provincial Labour Inspectorate within the regular deadline set forth for the filing of the IRAP tax return related to the tax period to which the tax benefit is applied.

IRAP taxpayers with no employees are excluded from this tax benefit (Provincial council resolution 322 of 20 May 2025).

TRANSFER OF TAX CREDIT

In general, tax credits may be transferred pursuant to article 43-bis of the Italian DPR 602/1973, in accordance with the provisions contained in article 69 and article 70 of the Italian royal decree 2440/1923. Hence:

- the transfer of the tax credits hereunder must arise from a "public deed or a notarized private deed";
- the deed of transfer must be served to the Provincial Directorate of the Italian tax authority, which is competent due to the transferor's tax domicile;
- the transferee may not further transfer the acquired tax credit and therefore use it only by means of offset through the F24 payment form.

As an alternative, tax credits may be transferred intra-group in accordance with article 43-ter of the Italian DPR 602/1973, i.e. the tax credits accrued in favour of a company belonging to a group may be transferred, entirely or in part, to one or more companies of the same group. There is no need to comply with any of the formalities provided for under article 69 and article 70 of the Italian royal decree 2440/1923. In such case, the transfer is effective, provided that the transferring company specifies the details of the transferees in its tax return as well as the amounts transferred to each of them (Italian tax authority, decision 32 of 15 May 2025).

TAX BENEFITS FOR "FIRST HOME" BUYERS

If a property is purchased by benefiting from the tax benefits for "first home buyers", the longer two-year term set forth under the 2025 Italian budget law for the resale of the property already owned and previously purchased by benefiting from the tax benefits for "first home buyers" applies

- not only to properties purchased as of 1 January 2025,
- but also to those purchased earlier and for which the previous one-year term had not yet expired on 31 December 2024 (Italian tax authority, answer to request for advance ruling 127 of 5 May 2025).

UNDUE TAX CREDITS

As to the crime of undue tax offsets, introduced under the Italian legislative decree 87/2024, the notions of "non-existing" and "undue" tax credits are to be interpreted according to the jurisprudential guidance adopted prior to the reform. Therefore, these notions may be applied even retroactively even to acts carried out prior to the entry into force of the Italian legislative decree 87/2024 (29 June 2024) (Italian Supreme Court, judgement 19868 of 28 May 2025).

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

On 4 June 2025 the Italian Council of Ministers finally approved the legislative decree on supplementary and corrective provisions related to bi-annual tax settlement proposals.

The most important news on bi-annual tax settlement proposals are specified below:

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- the bi-annual tax settlement rules for flat-rate taxpayers are repealed. Therefore, the bi-annual tax settlement scheme is no longer applicable for the 2025 tax period and the subsequent tax periods by flat-rate taxpayers;
- as of the adhesion to the bi-annual tax settlement proposal (2025-2026), if it did not occur prior to the entry into force of the decree hereunder, the more advantageous 10 percent, 12 percent and 15 percent tax rates are applicable within the limits of an excess income of no more than EUR 85,000. Limited to the portion that exceeds this sum, the substitute tax is applicable as follows: 43% for individual income taxpayers (IRPEF) and 24% for corporate taxpayers (IRES);
- another two reasons for exclusion/loss applicable as of the adhesion to the bi-annual tax settlement proposal (2025-2026) are introduced, if such adhesion did not occur prior to the entry into force of the decree:
 - with regard to the tax period (2024) prior to the settled bi-annual period, for taxpayers who individually report self-employed income and concomitantly own a share in a professional association / firm of professionals / law firm;
 - for professional associations/firms of professionals /law firms, if not all associates/partners reporting self-employed income individually do adhere to the bi-annual tax settlement proposal in the same tax periods,.These reasons for exclusion/expiry do not apply if the association / subsidiary adheres to the bi-annual tax settlement proposal for the same tax periods for which the associate/partner adheres or if the associate/partner adheres to the bi-annual tax settlement proposal for the same periods in which the association / subsidiary adheres.
- based on an authentic interpretation rule, it is confirmed that only those transactions by which a business or a business branch (and not single assets/cash) is transferred are deemed contributions for the application of the reasons for exclusion/expiry;
- the deadline for adhering to the bi-annual tax settlement proposal is set forth on 30 September (or by the ninth month after the end of the business year for corporate taxpayers with a tax period not coinciding with the calendar year);
- the so-called "maxi deduction" of labour cost may be deducted from the settled income;
- maximum thresholds for the settlement proposal are introduced for income taxes/regional tax on

productive activities, calculated as a percentage of the income of the period (e.g. 2024) preceding the bi-annual period to which the proposal (e.g. 2025-2026) is referred to, inversely proportionate to the ISA score for that period;

- it is set forth that the taxpayer expires from the bi-annual tax settlement proposal if an amicable tax assessment notice is received and the sums due are not settled within 60 days from receipt of such notice.

ENFRANCHISEMENT OF RESERVES

In accordance with article 14 of the Italian legislative decree 192/2024 an option for the enfranchisement of asset revaluation and reserves under tax suspension, as recorded in the financial statements for the year ending on 31 December 2023 and still remaining at the end of the business year ended 31 December 2024 may be exercised.

The enfranchisement is made, fully or in part, by applying a 10 percent rate payable instead of income taxes and regional tax on productive activities (IRAP).

The substitute tax is calculated upon filing of the income tax return related to the tax period ending 31 December 2024 and is mandatorily payable in four instalments:

- the first instalment is due within the deadline set forth for the payment of the income tax balance related to the same tax period,
- the other instalments are due within the deadline set forth respectively for the payment of the income tax balance related to previous tax periods.

The payment is made by specifying the tax code 1867 (Italian tax authority, decision 35 of 4 June 2025).

VAT

SECONDMENT OR LOAN OF PERSONNEL

The Italian tax authority clarifies the VAT scheme applicable to the secondment or loan of personnel further to the repeal of article 8 (35) of the Italian law 67/1988 due to its non-compliance with Community law.

For transactions made based on agreements entered into or renewed as of 1 January 2025 personnel secondments or loans against a fee equal to the mere reimbursement of the related cost constitute a supply of services falling with the scope of VAT.

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The taxpayers' conduct in the event of recharging of the mere cost related to transactions made before 1 January 2025 remains unaffected hereof, i.e.

- application of VAT in accordance with the ECJ ruling C-94/2019,
- non-application of VAT in accordance with article 8 (35) of the Italian law 67/1988,

unless final tax assessments are in place (Italian tax authority, newsletter 5, 5 May 2025).

SPLIT PAYMENT

EU Council decision 2023/1552 authorized the extension of split payment from 1 July 2023 to 30 June 2026.

However, for listed companies included in the Ftse Mib index, the extension was limited to 30 June 2025: therefore, the split payment mechanism will cease to be applicable for supplies and services to such companies as of 1 July 2025.

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Yours sincerely,

HAGER & PARTNERS