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DIRECT TAXES

PHOTOVOLTAIC ENERGY PRODUCTION BY AN AGRICULTURAL COMPANY

Subject to the fulfilment of the conditions set out in the tax authority's newsletter no. 32/2009 and in compliance with the principle, that the agricultural activity prevails over the photovoltaic energy production, the photovoltaic energy production by an agricultural company is considered to be related to the agricultural activity, irrespective of the number of photovoltaic plants on the land (Italian tax authority, answer to request for advance ruling no. 319 as of 1 June 2022).

FRINGE BENEFIT

The free charging services offered to employees purchasing an electric car within a certain period of time in order to promote resource conservation and an environmentally-friendly approach are considered non-taxable benefits pursuant to section 51 (2)(f) of Italian Tax Code (TUIR) or benefits awarded by the employer for educational purposes (Italian tax authority, answer to request for advance ruling no. 329 as of 9 June 2022).

TAX CREDIT FOR NON-RESIDENTIAL PROPERTY AND BUSINESS LEASE

The tax credit for non-residential property and business lease is considered a tax benefit. Hence, the prohibition to set-off state taxes registered with the tax roll pursuant to section 31 (1) Decree-Law 78/2010 does not apply (Italian tax authority, answer to request for advance ruling no. 331 as of 21 June 2022).

ASYMMETRIC NON-PROPORTIONAL DEMERGER

The partial demerger of a company X by way of assignment of part of its assets in the form of the entire shareholding in the share capital of company Z to the controlling company Y shall not be deemed unlawful, provided that such partial demerger is aimed at the continuation of the business activity by each company involved in the transaction (Italian tax authority, answer to request for advance ruling no. 335 as of 21 June 2022).

TAX CREDIT FOR INDUSTRY 4.0

In the case of a complex investment consisting of several investment transactions through different and independent acquisitions of assets from different suppliers, the tax credit for investments in new assets is granted in proportion to the costs incurred in the respective eligible tax periods, in accordance with the applicable

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provisions (Italian tax authority, answer to request for advance ruling no. 336 as of 21 June 2022).

PARTICIPATION EXEMPTION

The requirement of commerciality for the purposes of the participation exemption scheme is also deemed to be met in relation to a real estate development company that has raised financing and acquired the relevant land, even though the real estate project was never commenced due to the lack of the necessary permits (Italian tax authority, answer to request for advance ruling no. 354 as of 28 June 2022).

VAT

SPLIT PAYMENT

The split payment applies to the public administration registered with the PA's index (IPA), even if the PA has been removed from the ISTAT list (Italian tax authority, answer to request for advance ruling no. 320 as of 31 May 2022).

DEADLINE FOR FILING AMENDMENTS TO VAT RETURNS

The deadline for filing amendments to VAT returns coincides with the "normal" assessment deadline. In the event of postponement of the assessment deadlines due to the taxpayer's failure to submit the documents required by the tax authority for the refund of the excess VAT pursuant to section 57 (3) DPR 633/972, the normal deadline for filing the amendments shall apply (Italian tax authority, answer to request for advance ruling no. 328 as of 9 June 2022).

INDIRECT TAXES

TAX INCENTIVE FOR THE ACQUISITION OF PROPERTY TO BE DEMOLISHED - FORFEITURE OF TAX INCENTIVE RIGHT

In case of acquisition of a building with application of the

registration charge, mortgage registration fee and land register fee in a fixed amount pursuant to section 7 of Decree-Law 34/2019 the following applies: If the building is resold prior to demolition and reconstruction, the tax incentive right is forfeited. Thus, the registration charge, the mortgage registration fee and the land register fee will accrue proportionally and a penalty of 30 % will be levied, without the possibility of voluntary correction of errors (Italian tax authority, answer to request for advance ruling no. 324 as of 6 June 2022).

DEED OF COMMUNITISATION

The deed of communitisation of land between co-owner falls under the tax incentive provided for in section 20 Decree-Law 10/1977, with consequent application of the registration charge and exemption from the mortgage registration fee and the land register fee (Italian tax authority, answer to ruling application 326 as of 8 June 2022).

PROPERTY TRANSFER UNDER A MANDATE AGREEMENT

The free transfer of a property under a mandate agreement whereunder the contractor has undertaken to acquire a property in his own name but on behalf of the principal, with subsequently transferring the property to the principal, is subject to gift tax and mortgage registration and land register fees at a pro rata rate of 2% and 1% respectively (Italian tax authority, answer to request for advance ruling no. 347 as of 27 June 2022).

SIMPLIFICATION DECREE

Decree-Law no. 73 as of 21 June 2022 (so-called "Simplification-Decree") introduced the following tax measures.

MICRO-ENTITIES

As of 2022, micro-entities under section 2435-ter of Italian

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Civil Code preparing their financial statements in the ordinary form shall apply the so-called reinforced derivation principle.

CORRECTION OF ACCOUNTING ERRORS

For tax purposes, the so-called reinforced derivation principle also applies to items recorded in the course of correcting accounting errors (except for negative income items for which the deadline for filing amendments has expired).

COMPANIES WITH SYSTEMATIC LOSSES

From the 2022 tax period, the tax scheme for companies with systematic losses shall be abolished.

IRAP

From the 2021 tax period, the rules for determining the IRAP tax base shall change.

For businesses that determine the (net) production value in accordance with section (5-9) of Legislative Decree no. 446/1997, the total costs for employed personnel with permanent contract are deductible.

The deductibility also applies at the rate of 70 % of the total costs for each seasonal worker employed for at least 120 days in two tax periods, starting with the second contract concluded with the same employer within two years of the termination of the previous contract.

ADDITIONAL CORPORATE TAX (IRES) IN THE OIL SECTOR

The additional corporate tax (IRES) for companies operating in the exploration and extraction of liquid and gaseous hydrocarbon is abolished.

PERIODIC VAT SETTLEMENT COMMUNICATION

The deadline for the periodic VAT settlement communication for the second half of the year is

postponed from 16 to 30 September of the respective tax year.

INTRASTAT

The deadline for filing INTRASTAT lists is postponed to the end of the month following the reference period.

STAMP DUTIES ON E-INVOICES

From 2023, the threshold applicable to stamp duties (deferral of payment of stamp duties on e-invoices to the payment deadline of the second quarter) will be increased from EUR 250 to EUR 5,000.

TOURIST TAX

For the years 2020 and 2021, the deadline for filing the declaration of overnight stays is postponed from 30 June to 30 September 2022.

REGISTRATION OF DEEDS

The deadline for applying for registration of deeds within a certain period is extended from 20 to 30 days from the date of the deed.

REVERSE CHARGE

The application period of the reverse charge scheme applying to mobile phones, tablets, transfer of greenhouse gas emission allowances and the supply of gas and electricity to a VATable retailer is extended to 2026.

STATE AID

The deadline for registration of state aid with the Italian State Aid Register (RNA) will be extended from 31 December 2022 to 30 June 2023.

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IMU TAX RETURN

The deadline for filing the IMU tax return relating to the year 2021 is postponed from 30 June to 31 December 2022.

RESEARCH AND DEVELOPMENT TAX CREDIT CERTIFICATE

Businesses may apply for a certificate to prove the classification of investments made or to be made for the purposes of eligible research and development activities, technological innovation and design and aesthetic innovation.

Such certificate shall be considered binding to the tax authority.

Yours sincerely,

HAGER & PARTNERS