



NEWSLETTER NO. 4 - 2024

4 March 2024 Page 1/3

5.0 TRANSITION PLAN

On 26 February 2024, the Italian Council of Ministers approved the National Recovery and Resilience Plan (PNRR)-decree setting forth the general principles of the 5.0 Transition Plan (so-called *piano di transizione*). This plan will be operational after the issuance of the implementing decrees only.

The 5.0 Transition Plan aims to promote the digital transformation and energy transition of enterprises by enacting the ECOFIN Council decision adopted on 8 February 2023.

Please find below the most important aspects of the 5.0 Transition Plan.

From a subjective point of view, the Plan is destined to resident enterprises and to permanent establishments of non-residents in Italy, regardless of their legal form, of their industry, size and tax scheme for business income.

However, enterprises subject to voluntary liquidation, bankruptcy, compulsory administrative liquidation, creditor arrangements (*concordato preventivo senza continuità aziendale*) or subject to other insolvency proceedings pursuant to the Italian royal decree 267/1942, the Italian Distressed Companies and Insolvency Code (Italian legislative decree 14/2019) or other special laws, as well as enterprises that are subject to banning penalties pursuant to the Italian legislative decree 231/2001 are excluded thereof.

From an objective point of view, the Plan relates to new investments for 2024 and 2025 in production facilities located in Italy within the framework of innovation projects aimed at reducing energy consumption.

If the subjective and objective requirements are met, a contribution is recognized - within pre-established limits - as a tax credit, it being understood that the provisions on workplace safety must be met and the social security contributions for employees must be correctly paid.

Investments in new tangible and intangible fixed assets used for the conduct of the business, as specified under annex A and annex B to the Italian law 232/2016 interconnected to the company's production management system or the procurement network are eligible, provided that through such investments

- a reduction of energy consumption of the production facilities located in Italy by no less than 3 percent or, as an alternative,
- a reduction of energy consumption of the processes concerned by the investment by no less than 5 percent can be achieved.

NEWSLETTER NO. 4 - 2024

4 March 2024 Page 2/3

The assets under annex B of the Italian law 232/2016 include also:

- a) software, systems, platforms or applications for smart plants that ensure continuous monitoring and visualization of energy consumption, including self-produced and self-consumed energy, or introduce energy efficiency mechanisms through the collection and treatment of data, including energy dashboards;
- b) corporate management software, if purchased jointly with the software, systems or platforms under a) above.

The following investments are eligible, within the innovation projects that lead to a reduction in energy consumption in line with the above measures and conditions, exceeding an amount of EUR 40,000:

- a) investments in new operational tangible fixed assets for self-production of energy from renewable resources used for self-consumption, except for biomass, including plants for the storage of produced energy. As to photovoltaic modules, only the investments under article 12 (1a), (1b) and (1c) of the Italian law-decree no. 181/2023 are deemed eligible. The investments in the assets under b) and c) add to the tax credit calculation base for an amount equal to 120 and 140 percent of their cost respectively;
- b) the expenses for training of personnel, as provided for under article 31 (3) of the regulation (EU) no. 651/2014 of the Commission of 17 June 2014 aimed at acquiring or strengthening the technological competences required for the digital transformation and energy transition of production processes up to 10 percent of the investments made in the assets under a), and in any case up to the maximum amount of EUR 300,000, only if the training is provided by the external trainers specified in a decree.

Investments aimed at the following activities are not eligible in any case: a) those directly connected to fossil fuels; b) those within the context of the EU emission trading system (ETS) that generate greenhouse gas emissions set forth not to be lower than the relevant reference parameters; c) those connected to landfill sites, incinerators and to mechanical biological treatment plants; d) those whose production process generates a high amount of polluting agents that classify as special hazardous waste under Commission regulation (EU) no. 1357/2014 of 18 December 2014 and whose long-term disposal might cause damage to the environment.

Investments in assets granted for free of enterprises operating under concessions and based on tariffs in the energy, water, transport, infrastructure, postal services, telecommunication, wastewater collection and treatment and waste collection and disposal industries are also excluded.

The tax credit is recognized at:

- 35 percent of the cost for an investment share of up to EUR 2.5 million,
- 15 percent of the cost for an investment share from EUR 2.5 million to EUR 10 million.
- 5 percent of the cost for investment shares of more than EUR 10 million and up to the maximum limit of eligible costs equal to EUR 50 million per year for each beneficiary enterprise.

For investments made by entering into financial leasing agreements, the cost incurred by the lessor for purchasing the asset is relevant. For investments in assets specified in annex B to the Italian law 232/2016 used through cloud computing solutions or by shared and connected calculation resources, also the costs relating to expenses for services recorded on an accrual basis are relevant.

The above tax credit is increased

- by 40, 20 and 10 percent respectively, if the production facility in Italy reduces its energy consumption by more than 6 percent or, alternatively, the energy consumption of the processes concerned by the investment is reduced by more than 10 percent.
- by 45, 25 and 15 percent respectively, if the production facility in Italy reduces its energy consumption by more than 10 percent or, alternatively, the energy consumption of the processes concerned by the investment is reduced by more than 15 percent.

The annually commensurate reduction of consumption is calculated based on the energy consumption recorded in the business year prior to the one in which the investments were commenced, net of variations of the production volumes and the external conditions that impact energy consumption. The energy saving for newly incorporated businesses is calculated by comparison with the average annual energy consumption relating to a counterfactual scenario identified according to the criteria set forth by decree.

NEWSLETTER NO. 4 - 2024

4 March 2024 Page 3/3

Enterprises must file a special notice with the Italian Ministry of Enterprises and Made in Italy before and after completion of investments to be granted, in accordance with the methods and deadlines to be set forth by decree.

The recognition of the contribution is subject to the filing of special certificates issued by an independent valuer, in accordance with the methods and deadlines to be set forth by decree, confirming a) - before completion - the energy consumption savings achievable through the investments, b) - after completion - the actual accomplishment of the investments, as specified in the before completion certificate, and the interconnection of the assets with the company's production management system or the procurement network.

As regards SMEs, the expenses incurred to fulfil the certification duty are recognized as an increase in the tax credit by an amount not exceeding EUR 10,000.

The tax credit:

- may be used for set-off in the F24 payment form only, as provided for under article 17 of the Italian legislative decree no. 241/1997, with no limits, through the Italian tax authority's electronic services only by 31 December 2025; otherwise payment will be declined. The amount not yet used on the above date will be carried forward and can be used in five yearly instalments of equal amount;
- this amount does not add neither to business income nor to the IRAP taxable base;
- this amount cannot be transferred (not even under the tax consolidation scheme).
- this amount may not be cumulated, as regards eligible costs, with other tax benefits financed through EU funds and with the tax credit for investments in new operational assets under article 1 (1051 et seq.) of the Italian law no. 178/2020, or with the tax credit for investments in the sole special economic zone (SEZ) under article 16 of the Italian law-decree no. 124/2023;
- this amount may be cumulated with other incentives referred to the same costs, provided that such cumulation does not result in costs incurred being exceeded, also taking into account that they do not add to taxable income for corporate tax (IRES), income tax (IRPEF) and regional tax on productive activities purposes (IRAP).

If eligible assets are disposed of to third parties, used for purposes other than the operation of a business or used in production facilities other than those entitled to the tax benefit (even if they belong to the same person), as well as if the repurchase option for assets under lease is not exercised by 31 December of the fifth year following the one in which the investments are completed, the tax credit is reduced accordingly, and the relevant cost excluded from the original calculation base.

The higher tax credit, if any, already used for set-off is paid back directly by the beneficiary by the date set forth for the payment of the income tax balance due for the tax period in which the above-mentioned events occur, with no penalties and interest applicable. The provisions contained under article 1 (35) and 1 (36) of the Italian law no. 205/2017 on replacement investments will apply.

The Italian Ministry of Enterprises and Made in Italy, jointly with the Italian Ministry of Economy and Finance, will set forth the implementing modes for the tax benefit by a decree to be adopted within 30 days from the entry into force of the decree.