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INDIRECT TAXES

VAT group settlement: the exemption from the guarantee must be certified on time

The Supreme Court has clarified that the substantive existence of the net-equity requirements for exemption from the guarantee in intra-group offsets is not sufficient to avoid the penalty: compliance with the deadline for filing the affidavit in lieu of a notarial deed is a constitutive condition of the exemption, and not a merely formal one. Documentation produced subsequently, including by way of a supplementary return, has no curative effect (Court of Cassation, order no. 21122/2026).

The affidavit must therefore be filed within the deadline for submitting the annual VAT return. In the event of non-compliance:

- delay of up to 90 days after the deadline: fixed penalty of between EUR 1,000 and EUR 4,000 (art. 11, para. 7-bis, Legislative Decree 471/1997);
- delay of more than 90 days or complete omission: proportional penalty of 25% of the amount of the excess credits offset (art. 13, para. 1, Legislative Decree 471/1997).

IOSS scheme incompatible with the small enterprise scheme

The Explanatory Notes updated by the European Commission confirm that the IOSS scheme and the special scheme for small enterprises are incompatible: a person who has opted for the latter cannot also join the IOSS, and vice versa. The exclusion, laid down in the new art. 369-quaterdecies of Directive 2006/112/EC, is intended to avoid the risk of the tax not being applied and operates within the new single VAT registration rules introduced by the "ViDA" Directive, which take effect on 1 January 2027 (Directive 2025/516/EU; European Commission Explanatory Notes and OSS/IOSS Guidelines).

Automated assessment where the annual VAT return is omitted

The procedures have been laid down for the automated assessment of the tax due where the annual VAT return has not been filed: the tax is determined on the basis of the data from electronic invoices issued and received, from electronically transmitted daily receipts and from the periodic VAT settlement communications (LIPE), deducting the input VAT resulting from the invoices received and the payments made; the previous year's credit, by contrast, is not recognised, even where it was reported in a duly filed return.

The outcome is notified via certified email (or, if delivery fails, by registered post) and is made available in the taxpayer's online tax file (cassetto fiscale). This notification precludes eligibility for the 75 per cent reduction in the penalty provided for a missing tax return submitted within the assessment deadline and in the absence of any control activity (Revenue Agency Provision No. 239129 of 28 August 2026).

TAX INCENTIVES

Tax credit 4.0: completion communication by 15 September

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The deadline for the completion communication relating to investments in tangible 4.0 assets "booked" by 31.12.2025 (order accepted and down payment of at least 20%) and carried out within the "extended" deadline of 30 June 2026 has been postponed from 31 July to 15 September 2026. Businesses on the waiting list that receive notice from the GSE of newly available funding must submit the confirmation communication together with the down payment within 30 days of receipt of the notice and must in any event complete the procedure by 15 September 2026, including for investments completed by 31.12.2025. Failure to submit within the deadlines means that the procedure is not completed and that the credit cannot be used (Ministerial Decree of 31.7.2026).

The deadline concerns those included within the available funding: for the credit in question the exhaustion of the funds has in fact been announced, although preliminary communications may still be submitted; where new funding becomes available, the GSE notifies businesses in the chronological order in which the applications were submitted.

The credit may be used for offsetting in three annual instalments (tax code "7077", indicating as the reference year the year of completion notified); in the REDDITI 2026 return, lines RU5 and RU140 must be completed for investments booked in 2025 and carried out within the extended deadline (Art. 2 of the Ministerial Decree of 15.5.2025, as amended by the Ministerial Decree of 16.6.2025).

Hyper-depreciation: confirmation communication within 60 calendar days

For the purposes of the new hyper-depreciation, the confirmation communication together with a down payment of at least 20% must be submitted within 60 days of the positive outcome of the GSE's preliminary check: the updated operating instructions clarify that these are calendar days and not working days (GSE operating instructions).

The access procedure involves three main communications (art. 3, paras. 1-5, of the Ministerial Decree of 7.5.2026):

- preliminary communication, for each production facility, setting out the company's details and the type and amount of the planned investments;
- confirmation communication, within 60 days of the GSE's positive outcome, evidencing payment of down payments equal to at least 20% of the cost of each asset, together with the invoice details;
- completion communication, by 15.11.2028, once the investments have been completed and the assets interconnected, together with confirmation that the sworn technical report and the accounting certification are held.

Having verified that the data have been correctly uploaded and that the information provided is complete, the GSE notifies the company of the positive outcome of the checks carried out within 10 days of the receipt confirming submission of the communications (or of the data and documentation to be supplemented within 10 days).

INTERNATIONAL TAXATION

Foreign dividends: credit for foreign taxes and refunds

Resident individuals receiving foreign dividends are subject in Italy to a final withholding tax or substitute tax of 26%, with the result that the taxes paid abroad cannot be credited under art. 165 of the Italian Income Tax Code (TUIR), which makes the credit conditional on the income forming part of total taxable income. The option for ordinary taxation – which would allow the credit to be recovered – is however excluded by law: the substitute regime applies on a mandatory basis, with no alternative available to the taxpayer.

Some double tax treaties deny the credit for foreign taxes only where the substitute taxation results from a choice made by the recipient. Since no such choice exists under the Italian system, the Supreme Court has held that these treaties cannot be relied upon to deny the credit or the refund: taxes paid abroad are therefore creditable, or may be claimed as a refund, up to the treaty rate (Court of Cassation nos. 25698/2022 and 10204/2024).

The principle has been confirmed in a number of lower-court decisions, including at second instance, concerning dividends of German, Swiss and Dutch origin, in which it was observed that granting the refund creates no distortion, merely altering the allocation of the tax take between the source State and Italy while leaving the overall tax burden unchanged. There are, however, decisions to the contrary: filing claims therefore requires a careful review of the wording of the individual treaty and evidence that the foreign tax is final, by means of the withholding agent's certificates and proof of any refund of the portion exceeding the treaty rate (Tax Court of Second Instance, Tuscany, no. 48/1/26; Tax Court of Second Instance, Lombardy, no.

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1013/9/26; Tax Court of First Instance, Milan, nos. 152/11/26 and 153/11/26).

German social security pensions

Pensions paid under German social security legislation to individuals who are Italian nationals and residents and who were previously resident in Germany are taxable in Italy on a basis determined in accordance with the rules of German legislation, with the result that the relevant exempt portions apply (§ 14, letter e), of the Protocol to the Italy-Germany double tax treaty).

From a procedural standpoint, under the mutual agreement between Italy and Germany of 15 and 17 November 2025, effective from 1 January 2025, the Neubrandenburg tax office issues to pensioners resident in Italy holding Italian nationality a "one time certificate" setting out the portion of the pension that is exempt under German legislation, which may be used to support the partial exemption in the tax return. Taxpayers who, in the absence of such a certificate, subjected the German pension to tax in full may file a supplementary return in their own favour (Italian Revenue Agency, ruling no. 164 of 24.8.2026).

COOPERATIVE COMPLIANCE

Clarifications on the new structure of the regime

The Italian Revenue Agency has set out the cooperative compliance regime as redesigned by the tax reform, in a general part and a second part structured as questions and answers. Among the clarifications of greatest interest are those on the integration of the *tax control framework* with the other internal control systems and, first and foremost, with the system covering financial and accounting reporting: for entities applying Law 262/2005, the SOX rules or equivalent systems, the reliability of accounting data is deemed to be already assured, so that the *tax risk officer* may adopt the results of the tests carried out by the financial reporting officer (dirigente preposto) or by the SOX officer (Italian Revenue Agency, circular no. 6 of 6.8.2026).

LOCAL TAXES

Electronic IMU return and settlement of local taxes

A "single" IMU return form is to be adopted, merging the current IMU/IMPi and IMU ENC forms, to be filed exclusively by electronic means by 30 June of the year following that in which possession began or relevant changes occurred; until the approving decree is adopted, the forms currently in force remain usable. In addition, the possibility of entering into a settlement agreement within the negotiated crisis composition procedure has been extended to local taxes (Legislative Decree 147/2026).

COMPANIES

Small and micro enterprises: new accounting standard out for consultation

The OIC has put out for consultation, until 28 February 2027, the draft accounting standard for companies preparing abridged financial statements (art. 2435-bis of the Italian Civil Code) and for micro enterprises (art. 2435-ter of the Italian Civil Code): a single coherent text bringing together provisions currently scattered across the individual national accounting standards, governing the situations most frequently encountered by smaller businesses and introducing new simplifications. Application will be optional: a company may adopt the standard in full or rely on only some of the simplifications provided for (OIC, consultation draft of 7.8.2026).

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Kind regards

HAGER & PARTNERS