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Circular No. 02/2023

Bolzano, 6 January 2023

Subject: Budget Law for 2023 – Changes for real estate and construction

Set out below are the main changes in the field of real estate and construction, as enacted by the Budget Law for 2023 (Law 197/2022), which as a rule are in force from 1 January 2023. Since the Budget Law essentially consists of a single article, the legal references relate to the respective paragraph of Art. 1 of the Law.

1. Tax deductions and subsidies for real estate:

Below is a brief overview of the tax deductions for various renovation works which may still be claimed in 2023, of course without any claim to completeness:

50% tax deduction for renovation works unchanged

The tax deduction for renovation works on residential buildings in the increased form of 50% on expenditure of up to 96,000 euros (instead of 36% on a maximum of 48,000 euros) pursuant to Art. 16-bis of the Income Tax Code (TUIR) was already extended last year, namely until 31 December 2024.

As a reminder: this relief is essentially available only for dwellings and appurtenances and may be claimed only for IRPEF purposes. The deductions are

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deductible in equal instalments over 10 years.

Tax deduction for the purchase of renovated dwellings

The extension until 31.12.2024 referred to above also applies to the purchase of dwellings in buildings fully renovated by construction companies, where the sale takes place within 18 months of completion of the works. Until the end of 2024, a tax deduction of 50% on 25% of the purchase price may therefore be claimed for the purchase of such dwellings, whereby the deduction may not exceed 48,000 euros per dwelling. Here too, this extension finally provides legal and planning certainty for several years. The deductions are deductible in equal instalments over 10 years.

65% tax bonus for energy-efficiency refurbishment

The increased tax deduction of 65% on expenditure for energy-efficiency refurbishment (paras. 344-349 of Art. 1 of Law 296/2006) has likewise been extended unchanged, namely also until 31.12.2024. The tax deduction generally amounts to 65%, with the exception of windows (50%), solar shading (50%), heating (50%) and air conditioning (50%). For works on common parts, by contrast, the increased deductions of 75% and 70% respectively apply until the end of 2024.

The access requirements and the relevant threshold values have remained unchanged compared with the previous year.

As a reminder: the reliefs for energy-efficiency refurbishment are also available for commercial properties and may therefore also be claimed by businesses, irrespective of their legal form. The tax deduction is in principle offset over 10 years in equal instalments.

Important: pursuant to a decree of 6 August 2020, since October 2020 building works for energy-efficiency refurbishment require, in addition to the other well-known technical certifications (keyword: ENEA notification), expert appraisals certifying the appropriateness of the costs incurred (in South Tyrol by reference to the provincial schedule of standard prices); a so-called price verification is therefore required, unless the works are minor works involving amounts of up to 10,000 euros or works for which no building permit is required.

Extension and amendment of the 110%

Here we have completely different rules for condominiums and non-condominiums, whereby for tax purposes any building with at least 2 residential units qualifies as a condominium, even where it is owned by a single person:

- The relief consisting of the 110% tax deduction for single-family and terraced

tax deduction (para. 894)

houses as well as independent residential units within multi-family buildings (i.e. to the extent that they do not fall under condominiums) expired, as is known, already on 30 June 2022, with the exception of those cases where at least 30% of the planned building works had been carried out as at 30 September 2022. In these cases a tax deduction of 110% continues to be available, namely for expenditure incurred by 31 March 2023; this extension of the deadline was enacted by the Budget Law.

- For building works within jointly owned buildings (so-called condominiums), by contrast, the increased deduction of 110% was originally to apply to works up to 31 December 2023, and was then to be reduced to 70% in 2024 and to 65% in 2025. Subsequently, however, it was decreed that the deduction be reduced to 90% already for 2023 and that its subjective scope of application be severely restricted (keywords: family income and main residence; see our latest circulars).

The Budget Law now provides that the reduction of the deduction from 110% to 90%, together with the subjective restrictions, does not apply to expenditure in 2023 where

- the condominium had already filed a certified notice of commencement of works (“CILA”) as at 25 November 2022; or
- where the building works for the condominium had been approved by 19 November 2022 and the certified notice of commencement of works (“CILA”) was sent by 31 December 2022, or
- in the case of the demolition and reconstruction of a condominium for which the building application was filed with the competent municipality by 31 December 2022.

Where one of these 3 conditions is met, the full deduction of 110% under the “old” rules may still be claimed for 2023 as well and, more importantly: the restriction under which only taxpayers with income of no more than 15,000 euros per family member, limited to the main residence, are entitled to the deduction does not apply.

<u>Note: to the extent that the requirements for one of the transitional rules described above are not met, the 110% tax deduction will no longer be applicable from this year onwards, also on account of the income limit introduced in the autumn!</u>

Superbonus 110% and photovoltaic installations (para. 10)

Non-profit organisations (Onlus) and voluntary associations, as well as associations for the promotion of the community (so-called APS), registered in the relevant registers, are granted a tax deduction of 110% (recognition of costs within the framework of Law Decree 34/2020) for the installation of photovoltaic systems with a capacity of up to 200 kw, and provision is even made for the possibility, under certain conditions, of building such installations within energy communities.

Deductions for furniture and household appliances (para. 277)

The 50% tax bonus for the purchase of furniture and household appliances (only energy class A+, or A for ovens) where renovation works are carried out was extended last year until 31.12.2024; the upper limits are now amended once again:

- 2022 upper limit of 10,000 euros
- 2023 upper limit 8,000 euros and
- 2024 upper limit 5,000 euros.

As already communicated, the ENEA notification is also required for the purchase of household appliances

In addition, the deduction may be claimed in 2023 only by those who commenced renovation works on the relevant building unit (dwelling) after 1 January 2022; it is not necessary for those works also to have been paid for already (Italian Revenue Agency reply No. 62/2019). For subsequent years the reference year will shift forward accordingly.

The deduction is moreover also available for furnishing dwellings purchased after renovation by construction companies, to the extent that the purchase took place after 1 January 2022.

The deduction must still be spread over 10 years.

Tax deduction for green areas

The deduction newly introduced in 2017 for works in gardens, on terraces and on green areas was likewise already extended last year until 31.12.2024. As a reminder: natural persons are granted a tax deduction of 36% with an upper limit of eligible expenditure of 5,000 euros (i.e. a tax credit of no more than 1,800 euros) per residential unit for such expenditure. The credit is likewise to be offset over 10 years in equal instalments. It is a requirement that payment be made by traceable means. Unlike the “furniture bonus”, there is no requirement here for any renovation works to be carried out on the residential unit in parallel. The deduction may be claimed by holders of rights in rem over the dwellings or also by tenants and borrowers, if they bear the relevant costs.

Façade bonus

The façade bonus introduced by the Budget Law for 2020 has not been further extended.

Removal of architectural barriers (para. 365)

The bonus for the removal of architectural barriers, introduced last year in fact only for the year 2022, is extended by three years until 31 December 2025. As a reminder: a tax credit of 75% is granted, to be offset in equal instalments over 5 years.

The following upper limits apply to the eligible costs:

- 50,000 euros for single-family houses,
- 40,000 euros per building unit for buildings with 2 – 8 building units and
- 30,000 euros per building unit for buildings with more than 8 building units.

The deduction is available for all types of buildings and does not provide for any subjective restrictions, so that it may also be claimed by businesses which, for example, install a lift in an office building.

For condominiums, this year's Budget Law has moreover lowered the majority threshold for the condominium meeting: a majority in the condominium meeting representing at least one third of the total thousandths of the building is sufficient. The precise technical requirements for the eligible building works are set out in Ministerial Decree No. 236/1989.

Bonus for earthquake-proof building ("Sismabonus") (para. 37 Budget Law 2022)

The so-called Sismabonus pursuant to Art. 16 para. 1-quinquies of Law Decree 63/2013, amounting to 75% or 85% of eligible costs of a maximum of 96,000 euros per building unit, remains available until the end of 2024. The deduction is offset in equal instalments over 5 years.

<u>Note: the reliefs for earthquake-proof building apply, as is known, to the areas of Italy classified in classes 1-3 (South Tyrol is less exposed and is in class 4).</u>

"Sismabonus acquisti"

The increased tax deduction of 110% on 96,000 euros for the purchase of buildings refurbished to be earthquake-proof, by contrast, expired on 30 June 2022 and has not been extended. Deductions of 75% or 85% now apply – depending on the improvement in the seismic class – always by reference to the upper limit of 96,000 euros.

Superbonus and SOA

Since 1 January 2023 the changes introduced last year with regard to SOA certifications have taken legal effect: where a single contract of more than 516,000 euros is awarded to construction companies, those companies must hold an SOA certification, as provided for in Art. 84 of the Public Procurement Code. This obligation applies to all the eligible building works set out above, from simple renovation (50%) through to the removal of architectural barriers. For a transitional

period until 30 June 2023, however, it is sufficient for the company to be able to demonstrate that it has applied for the relevant certification.
The SOA obligation applies, incidentally, retroactively as well to contracts with a contract value above 516,000 euros, to the extent that the contract was awarded after 21 May 2022.

Other obligations

For works with a contract value of more than 70,000 euros, the relevant obligations concerning the appropriateness of the labour input ("durc di congruità della manodopera") and concerning the indication of the collective bargaining agreement in the contract and in the invoice continue to apply; we informed you about these measures on several occasions last year.

2. Other changes relating to real estate and construction:

Land and ownership income of farmers (para. 80)

In 2023 as well, owner-farmers and agricultural entrepreneurs are exempt from IRPEF on the ownership and agrarian income from their land. Please note: the relief does not apply to agricultural companies, with the exception of the simple agricultural partnership.

Purchase of a first home "under 36" (paras. 74-75)

The reliefs introduced by Law Decree 73/2021 for the purchase of dwellings by taxpayers under 36 years of age are extended and amended. The relief now applies to contracts concluded by 31 December 2023.
Anyone purchasing a first home who does not reach the age of 36 in the year of purchase (!) is fully relieved, on the purchase, of value added tax (4%) or registration tax (2%) as well as of mortgage and cadastral tax. It is a requirement, however, that annual income for the purposes of the so-called "ISEE" (national indicator of income and asset position) does not exceed the threshold of 40,000 euros. Whereas a full exemption is granted in the case of registration tax, in the case of VAT the purchaser receives a corresponding tax credit which may then be offset. The relief applies not only to purchase contracts for full ownership, but also to the transfer of other rights in rem. In addition to the aforementioned requirements as to age and income, all the relevant conditions required for the tax reliefs on the purchase of a first home must also be met.
And that is not all: in addition, loans taken out to purchase, build or convert the first home are exempt from the general substitute tax, again where the above conditions are met.

Contracts for luxury dwellings (categories A/1, A/8 and A/9) are excluded.
Appurtenances (e.g. cellars and garages) are not specifically mentioned in the law, but in Circular No. 12/2021 the Italian Revenue Agency clarified that the reliefs are also available for one appurtenance each in categories C/2, C/6 and C/7 (always within the framework of the reliefs for the purchase of a first home).

Tax credit on the purchase of energy-efficient buildings (para. 76)

A relief dating from 2015 is being reintroduced: anyone who by 31.12.2023 purchases a newly built or renovated dwelling in energy class A or B from a construction company or an OICR is granted a tax deduction of 50% of the value added tax borne, to be offset over 10 years. There is no requirement for the property to be a first home, and luxury dwellings are not excluded from the relief either. The purchase from a housing cooperative is also eligible.
Please note: the relief applies only in the case of a purchase contract, and not in the case of a works contract!
The relief is certainly to be seen as an alternative to the above-mentioned relief for the "under 36", and in the case of renovations it may be combined with the tax deduction pursuant to Art. 16-bis of the Income Tax Code (TUIR) for the purchase of renovated dwellings from construction companies, whereby the tax deduction of 50% (on 25% of the purchase price) may of course then be calculated only on 50% of the VAT. The tax deduction for the purchase of a newly built garage may also be combined.

Registration tax on small-scale farming property (para. 110)

The relevant reliefs for the acquisition for consideration of agricultural land together with appurtenances, with taxation at a fixed amount for registration tax and mortgage tax purposes and application of cadastral tax at 1%, are now also available to natural persons under 40 years of age who do not meet the relevant professional requirements at the time of acquisition but declare in the contract that they intend to complete the registrations with the NISF/INPS as a farmer within 24 months of the purchase contract. This should finally put an end to the unspeakable disputes with the NISF/INPS, in which the institute required an activity already to be carried on for the purposes of registration, whereas such an activity is difficult to carry on without land to work.

Agricultural land in mountain areas (para. 111)

The next reliefs, concerning mountain areas, go much further – and it should be recalled once again that the whole of South Tyrol is classified as a mountain area. The existing reliefs for transfers (under any legal title whatsoever) of agricultural land in mountain areas are extended to the effect that taxation at a fixed amount (together with exemption from cadastral tax) is now also possible where the acquirer is not a professional farmer or owner-farmer with the corresponding registration with the NISF/INPS; it is sufficient instead for the acquirer to declare in the deed that he intends to farm the property directly over the next 5 years. A failure to farm the land or a sale within that monitoring period results in forfeiture of the relief. The relief also removes any reference to the addition to or rounding off of existing properties, so that it is not necessary already to own a plot of land. The transfers are moreover exempt from stamp duty. According to the current wording of the provision, a purchase through commercial companies should also be possible.

Revaluation of land (paras. 107 – 109)

Although the last "extraordinary" revaluation of shareholdings and non-business land expired only last November, the corresponding deadline is being reopened once again. By 15 November 2023 it will again be possible for natural persons, simple partnerships and non-commercial entities to revalue unlisted shareholdings and land not held in a business to their market value as at 1 January 2023 against payment of a substitute tax. However, the substitute tax now amounts to 16%, calculated not on the capital gain but on the value of the shareholdings and land. As a reminder: years ago this substitute tax still stood at 4% and has since been raised in stages to the now staggering 16%.

We remain at your disposal for any further information.

Yours sincerely
Josef Vieider