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To all
clients

Circular No. 03/2025

Bolzano, 4 January 2025

Subject: Changes for self-employed professionals

This year we begin our communications on the changes taking effect at the turn of the year with self-employed professionals. Legislative Decree No. 192 of 13 December 2024 (published in the Official Gazette of 16 December 2024), in force since 31 December 2024, has in fact introduced far-reaching changes to income from self-employed professional activity as well as to the tax-neutral reorganisation or restructuring of professional partnerships and professional companies. Art. 5 of the decree has essentially rewritten Art. 54 of the Income Tax Code (TUIR). Most of the changes apply retroactively as from tax period 2024 and must therefore be taken into account immediately. In addition, the Budget Law for 2025 (Law 207/2025) also contains a number of specific changes for self-employed professionals. Here is a first overview:

Extension of the concept of income (Art. 5 Legislative Decree 192/2024):

In future, all consideration in cash and in kind connected with the exercise of the activity shall be deemed to be income from self-employed professional activity, even if it is not paid directly by the client. This essentially adopts the definition commonly used for income from employment.

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Consequently, the previous provision in Art. 54 TUIR on the taxation of compensation for the sale of a client base has also been deleted, precisely because it is clear that the corresponding consideration falls under income from self-employed professional activity. For such compensation, however, the option of separate taxation is confirmed, provided that the settlement is paid out within a single tax period.
Note: The effects of this new definition will probably only become apparent through administrative practice and case law over the coming years.

Redefinition of the cash basis principle (Art. 5 - 6; Legislative Decree 192/2024):
As a result of the reform, income of a self-employed professional is to be allocated to the tax period in which the paying debtor or client makes the payment and thereby becomes obliged to apply the withholding tax, irrespective of whether the payment is credited to the recipient's account only at a later date. Previously, the date of receipt by the beneficiary professional (credit to the account) was decisive; now, essentially, the outflow principle at the client's level applies. In concrete terms: if an invoice was paid by the client on 30 December 2024, the corresponding income is to be taxed in 2024, even if the credit to the professional's account may only take place on 7 January 2025. The question remains: how can the self-employed professional know, particularly towards the end of the year, when the client actually ordered the payment? For this purpose he needs the client's CU certificate at an early stage, which this year the client must issue by 31 March 2025. Where applicable, this information may also be retrieved from the tax mailbox, although only towards April/May.
Incidentally: the change already applies to tax period 2024, and not only that: to the extent that taxpayers also acted in this sense in their tax returns in earlier years, this is now retroactively approved. This essentially amounts to a tacit amnesty.
Note: This change will certainly lead to a considerable simplification and, above all, to the avoidance of discrepancies between the income declared by self-employed professionals on the one hand and the amounts reported by clients in the CU forms and in the annual 770 return on the other, which have repeatedly given rise to understandable queries and often also to objections from the tax authorities.

Changes to depreciation (Art. 5 Legislative Decree 192/2024):
The provisions on the acquisition and depreciation of tangible fixed assets and intangible assets are now regulated uniformly and comprehensively (Art. 54-quinquies and Art. 54-sexies TUIR). For the depreciation of tangible fixed assets used for the activity, reference is made to

the depreciation rates set out in the tables that also apply to businesses. What is new is that, as for businesses, the relevant depreciation rates are to be halved on a flat-rate basis in the year of acquisition.

If tangible fixed assets are acquired under a lease, the term of the contract must correspond to at least half of the depreciation period. Passenger cars are excluded from this, as for them the lease term must correspond to the full depreciation period (4 years). For the leasing of real estate (office, practice), a minimum term of 12 years is required.

The purchase of real estate continues to be unregulated, so that no depreciation is provided for in this respect either; instead, only the cadastral income may be deducted. Accordingly, capital gains are not taxable either.

Where assets are also used privately in part, depreciation and other expenses are reduced by half.

The deduction of lease instalments is not governed by the cash basis principle but by the accrual principle.

The depreciation of intangible fixed assets and of multi-year expenses is also regulated for the first time: software and copyrights may be depreciated at a maximum rate of 50%; multi-year costs for the conversion of properties are depreciable in equal instalments over 6 years. Costs for the acquisition of a client base and similar expenses (along the lines of the goodwill of businesses) may be depreciated at a maximum rate of 20% per year; originally, depreciation over 18 years was to be provided for, as for businesses, but this was prevented in the course of the parliamentary procedure.

Other multi-year costs are depreciable in line with the term of the contract.

All of these changes apply retroactively for tax period 2024, with the exception of the depreciation of the client base, which only takes effect as from 2025.

Other changes in the determination of the surplus (Art. 5 Legislative Decree 192/2024):

- Capital gains from the transfer of interests in professional associations or professional companies are subject to separate taxation.
- Capital gains from the transfer of lease contracts are now also taxable for self-employed professionals; this confirms the position taken by the Italian Revenue Agency in a reply issued in 2020 (No. 209 of 13-7-2020).
- The recharging of costs for the shared use of properties, including in the case of partly private use, and of the costs for services connected with the property (heating, cleaning, etc.) does not constitute taxable income.

- Social security contributions charged on the invoice (with the exception of those of the special pension fund of NISF/INPS) do not constitute taxable income.
- The rules on multi-year extraordinary maintenance costs, in particular for real estate, are simplified. These are now to be spread evenly over six years, with effect already from 2024. According to the explanatory report, the distinction between ordinary and extraordinary maintenance is to be based on the provisions of building law.
- The restrictions with regard to depreciation and running costs for passenger cars, as well as those for entertainment expenses and expenses for accommodation, meals and professional training, remain essentially unchanged.

These changes also apply retroactively for tax period 2024.

Analytical recharging of expenses to the client (Art. 5 Legislative Decree 192/2024):

The following change, by contrast, only applies as from 1 January 2025, but it will present new challenges not only to self-employed professionals but also to businesses acting as their clients: **As from 2025, analytical recharges of expenses to the client do not constitute taxable income for the self-employed professional; until now this applied only to expenses advanced in the name and on behalf of the client, whereas, for example, the recharging of travel, accommodation and meal expenses was undoubtedly taxable. As a consequence of this change, the analytical recharging of travel expenses, hotel bills, etc. is also no longer subject to withholding tax at the client's level. And further: the expenses recharged in this way are no longer deductible as an expense for the self-employed professional. Should the client fail to make payment, however, the expenses may be claimed subsequently. For the purposes of proving non-reimbursement, rules similar to those for bad debts of businesses apply: deductibility is granted where insolvency proceedings have been opened against the client, where enforcement proceedings have been unsuccessful or where the receivable has become time-barred. For amounts of up to 2.500 Euro (fee including recharged expenses), incidentally, uncollectibility is assumed on a simplified basis after one year, with corresponding deductibility of the recharged and unreimbursed expenses.**

By way of a transitional rule, these expenses remain deductible for the year 2024 to the extent that they were recharged in 2024 as taxable income (subject to withholding tax). As regards the transitional rule, more precise clarifications are unfortunately still lacking. A rule would be desirable under which the expenses of the year 2024 remain deductible, provided that they are received as taxable income in the subsequent years in which they are collected.

<u>Note: We will inform you promptly as soon as a clear clarification is available.</u>

Incidentally, flat-rate recharges of expenses do not fall under this change, such as office expenses amounting to 10% of the fee or travel and accommodation expenses amounting to 5% of the agreed remuneration. These mark-ups continue to constitute taxable income for the self-employed professional and are subject to withholding tax at the client's level; conversely, the corresponding expenses remain deductible under the general principles.

It should also be added that expenses paid directly by the client (e.g. hotel accommodation invoiced to the client) do not constitute remuneration in kind for the self-employed professional under the new rules in Art. 54 TUIR either.

No changes have been made to the thresholds for deductible expenses for restaurant costs (75%) with an upper limit of 2% of income. In this connection, the following observation: analytically recharged expenses are not to be taken into account for the aforementioned threshold.
Note: Accordingly, it may be assumed that the new rules will, as a rule, result in a more favourable position for self-employed professionals, at least in the area of restaurant expenses.
A further recommendation for bookkeeping: the expenses and income concerned in connection with analytically recharged expenses should preferably be recorded through a suspense account and not through the profit and loss account.
And one more note regarding VAT: the new rules do not affect VAT, which remains deductible on incoming invoices under the previous rules, and the analytical recharge is likewise to be subjected to VAT in accordance with the applicable provisions.

Restructuring of self-employed professionals (Art. 5 Legislative Decree 192/2024):
Through the insertion of the new Art. 177-bis TUIR, a tax-neutral restructuring of self-employed professional activity, similar to mergers, demergers and contributions, is introduced, as is already the case for businesses. With reference to these restructurings, the VAT Act was also amended in order to avoid the corresponding transactions being subject to VAT. This legislative amendment gives rise to new possibilities for restructuring self-employed professional activities. Should you require more detailed information on this subject, we would be pleased to provide it.

Restriction on cash payments by self-employed professionals (Art. 1 paras. 82-83 Law 207/2024):

As from 1 January 2025, self-employed professionals may no longer pay expenses for entertainment, for field work, for the supply of food and beverages and for travel (essentially affected is the transport of persons by third parties, with the exception of scheduled services) in cash, but only by traceable means of payment (bank transfer, debit card, credit card, etc.); otherwise the expenses are no longer tax deductible. As already communicated in Circular No. 50/2024, traceable payment is also necessary where the expenses are analytically recharged to the client, since otherwise the expenses are no longer deductible for the client. As regards the reimbursement of the aforementioned expenses to employees and to other self-employed professionals, we refer to our explanations in the aforementioned Circular No. 50/2024.

Flat-rate taxation (Law 207/2024, Art. 1 para. 12):

Self-employed professionals who apply the flat-rate determination of income for 2025 may have received income from employment of up to 35.000 Euro in 2024. The previous threshold of 30.000 Euro has been raised accordingly.

We remain at your disposal for any further information.

Yours sincerely
Josef Vieider