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Circular No. 04/2024

Bolzano, 12 January 2024

Subject: Changes 2024 for real estate and construction

Below are the most important changes in the area of real estate and construction, as introduced by the Budget Law for 2024 and various other laws (see the introduction to Circular No. 3/2024), all of them in force from 1 January 2024.

1. Tax deductions and grants for real estate:

Below is a brief overview of the tax deductions for various renovation works that can still be claimed in 2024, 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 expenses of up to 96.000 euro (instead of 36% on a maximum of 48.000 euro) pursuant to Art. 16-bis of the Income Tax Code (TUIR) still applies to expenses incurred up to 31 December 2024.
As a reminder: this relief is essentially available only for dwellings and appurtenant units and may be claimed only for IRPEF purposes. The deductions are deductible in equal parts over 10 years.

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Tax deduction for the purchase of renovated dwellings

The extension to 31.12.2024 outlined 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. Up to 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 tax deduction may not exceed 48.000 euro per dwelling. Here too, this extension finally provides legal and planning certainty for several years. The deductions are deductible in equal parts over 10 years.

65% tax bonus for energy-efficiency refurbishment

Likewise until 31 December 2024, the increased tax deduction of 65% on expenses for energy-efficiency refurbishment applies (paras. 344-349 Art. 1 Law 296/2006). The tax deduction is as a rule 65%, with the exception of windows (50%), solar shading (50%), heating (50%) and air conditioning (50%). For works on common parts, on the other hand, the increased deductions of 75% and 70% respectively apply until the end of 2024, provided the relevant requirements are met.

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

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

<u>Important: under a decree of 6 August 2020, since October 2020, for construction works for energy-efficiency refurbishment, in addition to the other well-known technical certifications (keyword ENEA notification), expert appraisals must also be obtained certifying the appropriateness of the costs incurred (in South Tyrol by reference to the provincial schedule of standard prices); a so-called price check is therefore required, unless the works are minor works with amounts of up to 10.000 euro or works for which no building permit is required.</u>

Increased withholding tax (Art. 1 para. 88 Budget Law)

To the detriment of craftsmen and other businesses in the construction sector which carry out renovation works, the previous withholding tax of 8% is raised to 11%. This is the withholding tax introduced in 2010, which the banks must withhold directly on payments for renovation works made by private individuals and pay over to the tax authorities; for payments by businesses the relevant transfer rules (keyword „scontrino parlante“) do not apply, as is known, and accordingly no withholding tax applies here either.

The increase applies, moreover, only to payments made from 1 March 2024, and for payments in the months of January and February the old rate of 8% remains in place. One further note: the withholding tax is to be calculated on the taxable base before VAT. Since the banks as a rule do not see the invoices, the taxable base is determined, for reasons of simplification, retrogradely by the flat-rate deduction of 22% (even if the invoice is issued with VAT of 10%).

Safeguard clause for assignment of the credit and discount on the invoice 110% (Law Decree 212/2023)

Limited to renovation works with the tax bonus of 110% (or 90% in 2023) for which the assignment of the relief or the discount on the invoice is claimed on the basis of a progress report on the works properly drawn up by 31 December 2023, the following safeguard clause is provided for: the tax bonus and the deductions will not be reclaimed and will not lapse, even if, because the works have not been completed, the required improvement by two energy classes is not achieved. It follows that the bonus granted on the basis of the approved progress reports remains in place even if the works are not completed and the energy targets are not met.

So far so good: it follows from the wording of the present clause, however, that in all cases not covered by the safeguard clause the tax bonus may indeed be reclaimed by the tax authorities. In concrete terms, all those who have not achieved the aforementioned targets and who claim the Superbonus through their tax return are penalised.

Extension of the Superbonus 110% for low incomes (Art. 1 Law Decree 212/2023)

The Superbonus at its original level of 110% is not extended beyond 31 December 2023. However, for individuals the Superbonus is granted, for works on individual dwellings, single-family houses and in condominiums, in the period from 1 January 2024 to 31 October 2024 at a reduced level of 70%, provided that at least 60% of the works had been carried out as at 31 December 2023. Following the first political announcements around the turn of the year, the daily press initially assumed that this was a general extension. That is absolutely not the case! The extension applies only to taxpayers with an adjusted income of up to 15.000 euro, so that this extension of the deadline is likely to find very limited application. The rules on the calculation of this adjusted income are extremely complex, and should this affect you, we ask you to contact our office where appropriate. In addition, the extension outlined is tied to the funds available in the budget, and it is granted in accordance with an implementing provision still to be issued.

Conclusion: unless further amendments are issued, it is better not to rely on this relief.

Architectural barriers (Art. 3 Law Decree 212/2023)

The tax bonus for the removal of architectural barriers, which provides for a deduction of 75%, has hitherto had a broad scope in substantive terms. The 2022 Budget Law increased the tax deduction and extended its period of application until 31 December 2025. As is known, the deduction is to be spread over five equal annual instalments. The eligible measures, for which certain ceilings are provided, must meet certain substantive requirements relating to accessibility for the disabled (Ministerial Decree 14.6.1989). In practice, however, the replacement of windows and sanitary fittings and investments in home automation or domotics could also be taken into account until now. With Law Decree 212/2023 the measures are now restricted, from 30 December 2023, to the following areas: stairs, ramps, lifts, stairlifts, platform lifts and the like.

The following transitional rule is to be noted positively: for works for which the building permit was applied for before 30 December 2023, the previous provisions remain in place. For works which do not require a building permit, in order to benefit from the transitional rule it is necessary that the works had already begun as at the said cut-off date or that binding contracts had already been concluded as at that date. In addition to Art. 119-ter of Law Decree No. 34/2020, it is furthermore required that a specific certification (keyword „asseverazione“) also be provided for architectural barriers, and it is also required that all costs eligible for the tax deductions for the removal of architectural barriers be settled in accordance with the relevant transfer rules (keyword „bonifico parlante“); it has not been clarified whether this last requirement also concerns businesses. In line with the provisions in the area of energy-efficiency refurbishment, we rather assume that this should not be the case.

Assignment of the credit and discount on the invoice also blocked for the removal of architectural barriers (Art. 2 Law Decree 212/2023)

The restrictions introduced last year on the assignment of the tax credit to third parties and on the discount on the invoice are extended, with effect from 1 January 2024, also to the removal of architectural barriers. Above all, however, they do not apply to works falling under the transitional provisions described in the preceding paragraph with reference to 30 December 2023; here the old provisions remain in place.

Furthermore, the option of assignment and the discount on the invoice continue to exist for newly commenced works on common parts of condominiums, and finally also for works on individual dwellings and buildings commenced from 30 December 2023, in the latter case however only where the adjusted income (family quotient) does not exceed 15.000 euro and where the client is the owner or holder of a right of use of the dwelling and uses it as their main residence.

Works on common parts of condominiums (Law Decree 212/2023)

For construction measures on common parts of jointly owned buildings (so-called condominiums), for which extensions of the Superbonus were granted last year under various provisions, it must be clarified: to the extent that the Superbonus is still available at all in 2024 (building permits by 16 February 2023), it now amounts to only 70%; for 2025 a reduction of the incentive to 65% is provided for. The ceiling for eligible costs is 40.000 euro.

Deduc-tions for furniture and appliances (para. 137 Budget Law 2022)

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

- 2022 ceiling of 10.000 euro
- 2023 ceiling 8.000 euro and
- **2024 ceiling 5.000 euro.**

As already communicated, the ENEA notification is also required for the purchase of electrical appliances. In addition, the deduction for 2023 may only be claimed by those who commenced renovation works on the relevant building unit (dwelling) after 1 January 2023; it is not necessary that these works have already been paid for (Italian Revenue Agency ruling No. 62/2019). For the following years the reference year will shift accordingly. The deduction is also available for the furnishing of purchased dwellings renovated by construction companies, provided the purchase took place after 1 January 2023. 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 has likewise been extended until 31.12.2024. As a reminder: individuals are granted a tax deduction of 36% with a ceiling on eligible expenses of 5.000 euro (i.e. a tax credit of a maximum of 1.800 euro) per residential unit for such expenses. The credit is likewise to be offset over 10 years in equal parts. A precondition is that payment is made by traceable means. Unlike the „furniture bonus“, there is no requirement here that any renovation works be carried out on the residential unit at the same time. The deduction may be claimed by holders of rights in rem over the dwellings or also by tenants and borrowers, if they bear the corresponding costs.

Bonus for earthquake-safe

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 euro per building unit, is still available until the end of 2024. The deduction is offset in

construction („Sismabonus“) (para. 37 Budget Law 2022)	equal instalments over 5 years. Note: the reliefs for earthquake-safe construction apply, as is known, to the areas of Italy classified in zones 1-3 (South Tyrol is less exposed and is in zone 4).

2. Other changes concerning real estate and construction:

Taxation of the creation of rights of use over real estate (Art. 1 para 92 Budget Law)	Income from the creation for consideration of rights in rem of use over real estate by the owner of the property itself is, from 1 January 2024, generally treated as other income (and not only income from usufruct) and is taxable, irrespective of the holding period of the property concerned. In concrete terms this means that the creation of surface rights, rights of use, usufruct, rights of habitation, emphyteusis or easements over real estate, irrespective of whether it is building land or not, and also over buildings, gives rise to taxable other income which is subject to progressive taxation, since the application of the flat-rate substitute tax of 26% is not permitted. A new taxable event is thus created here. It should be added that the sale of such rights of use not by the owner of the property but by the holder of the rights concerned is subject to the general rules; it follows that a sale after expiry of the speculation period is as a rule no longer taxable and that in the case of an earlier sale the substitute tax of 26% may also be applied.
Higher cadastral values (Art. 1 paras. 86-87 Budget Law)	In respect of taxpayers who have claimed for building units the tax deductions for energy-efficiency refurbishment, the earthquake bonus, photovoltaic systems and charging stations, audit measures are provided for in order to identify any unreported improvements to the property in the building register which, as a result of the renovation works, could have led to an increase in the cadastral values. Where applicable, a reminder letter is sent to the owners in order to give them the opportunity to make a voluntary correction.
Flat-rate tax on short-term rentals (Art. 1 para. 63 Budget Law)	The flat-rate substitute tax on short-term rentals is raised from the previous 21% to 26%, where the option for the flat-rate substitute tax is exercised. Short-term rentals are those of up to 30 days. The option for the flat-rate substitute tax is moreover only permissible if no more than 4 dwellings are used for short-term letting in the tax period. And for anyone letting only 1 single dwelling on a short-term basis, the previous rate of 21% remains in place. The intermediaries and internet portals for such dwellings must withhold a creditable withholding tax from the rents collected on behalf of the owner. This remains

unchanged at 21% and constitutes an advance payment of tax (and not a final flat-rate tax!). The taxpayer then has the option of crediting the withholding tax either against the flat-rate substitute tax of 26% or against ordinary taxation.

The rules on this withholding obligation for non-resident intermediaries (e.g. Airbnb) are set out in more detail and are also extended to their permanent establishments in Italy or in other EU Member States. Having regard to judgment No. C-83/21 of the Court of Justice of the EU, those undertakings established in another EU country but without a permanent establishment in Italy are granted the option either of appointing a tax representative in Italy or of paying over the withholding tax directly. For intermediaries not established in the EU, the obligation to appoint a tax representative in Italy remains unchanged.

It should be recalled that the short-term letting of more than 4 dwellings constitutes a business activity (with the opening of a separate VAT position). In summary, therefore, the following applies:

Anzahl der Wohnungen	Besteuerung
1 Wohnung	Abgeltungssteuer 21%
von 2 - 4 Wohnungen	Abgeltungssteuer 26%
mehr als 4 Wohnungen	gewerbliche Tätigkeit

Identification of short-term rental dwellings (Art. 13-ter Law Decree 145/2023)

Moreover, the so-called accompanying decree to the Budget Law for 2024 already introduced a strict obligation to identify dwellings intended for short-term letting: a nationally uniform identification number for dwellings intended for short-term letting is introduced (CIN). For South Tyrol and Trentino, the identification numbers already assigned are to be converted automatically into the national format by the competent authorities. Considerable administrative penalties are provided for in the event of non-compliance.

Speculation period for dwellings renovated with the Superbonus (Art. 1 paras. 64-66 Budget Law)

For private individuals selling a renovated dwelling, a new speculative taxable event is provided for in respect of disposals from 1 January 2024. It applies to the sale of dwellings on which renovation works with the tax bonus of 110% (the so-called „Superbonus“) have been carried out.

Important: the various other tax credits (renovation 50%, energy-efficiency refurbishment 65%, façade bonus, removal of architectural barriers, etc.) are not affected here. Also excluded are dwellings used as their main residence by the owner or by their family members for the greater part of the holding period (caution: not to be confused with the observation period starting from completion of the renovation works) or acquired by inheritance.

For the dwellings concerned, a speculation period of ten years is introduced, this period being calculated from the date of completion of the renovation works. If the dwelling is sold before expiry of the speculation period, the capital gain is subject to a flat-rate substitute tax of 26%. Where the bonus was claimed by way of assignment of the credit or the discount on the invoice, the renovation costs may not be taken into account in determining the capital gain (the difference between the sale price and the acquisition and renovation costs) during the first five years of the speculation period; from the sixth year onwards, by contrast, they may be deducted to the extent of 50%. The acquisition and renovation costs may be revalued in line with the Istat index. Where, by contrast, the tax bonus was claimed through the tax return, it must be assumed, by converse implication, that the renovation expenses may be deducted when calculating the capital gain.

The new rule applies to sales carried out from 1 January 2024.

This special taxation moreover replaces, in the cases concerned, the general taxation of capital gains on sales within 5 years of acquisition.

Land and ownership income of farmers

Unlike in previous years, in 2024 direct farmers and agricultural entrepreneurs will no longer be exempt from IRPEF on the ownership and agricultural income of their land. The corresponding relief, which was extended year after year in the past, was included neither in the Budget Law nor in the New Year's Eve decree.

IMU (Art. 1 para. 71 Budget Law)

By way of statutory interpretation, the exemption from IMU for real estate held and used by non-commercial entities is extended.

We remain at your disposal for any further information.

Yours sincerely

Josef Vieider