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To all
clients

Circular No. 05/2025

Bolzano, 8 January 2025

**Subject: New developments for businesses at the turn of the year 2025**

In recent years, hardly ever have so many new developments in business taxation entered into force at the turn of the year as this year. At the end of 2024 not only was the Budget Law (Law No. 207/2024) for 2025 approved, but shortly before Christmas the implementing provisions for the reform of IRES and IRPEF (Legislative Decree No. 192/2024) were also enacted, and at the end of the year there was still the usual New Year's Eve decree „Milleproroghe“ (Law Decree No. 202/2024). At the same time it must be acknowledged that not only selective amendments have been made, but that overall a structured reform has been produced. This year, however, the Budget Law as such is once again barely readable because, as usual on account of the vote of confidence, all the essential provisions have been squeezed into a single article which, without any structure whatsoever, consists of 908 confusing paragraphs.
Nevertheless, here is an attempt to provide a first overview of the new developments.

## 1. New developments, repeals and amendments concerning various tax reliefs

As befits the new year, we begin once again with the good news on various tax reliefs:

**New developments**

**Investment incentive for Industry 4.0 restricted: We already informed you of this**



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**concerning Industry 4.0 (Art. 1 paras. 445-448 Budget Law)**

**before Christmas: as early as the Budget Law for 2023, the investment incentive for tangible fixed assets for the years 2023, 2024 and 2025 had been restricted as follows:**

- 20% for investments of up to 2,5 million Euro,
- 10% for investments of more than 2,5 and up to ten million Euro, and
- 5% for investments of more than ten and up to a maximum of 20 million Euro.

Although the wording of the law is different, the Italian Revenue Agency clarified in Circular No. 14 of 17 May 2022 (which for a long time nobody was willing to believe, but which is now generally accepted) that the above thresholds for tangible fixed assets may be calculated separately for each of the three years 2023, 2024 and 2025, and that this is not a single threshold for the three-year period, as the wording of the law would actually suggest. For investments in intangible assets under "Industry 4.0", by contrast, an incentive of most recently 15% was granted.

And all businesses will certainly have counted and planned on these incentive mechanisms for 2025 as well. In the parliamentary debate before Christmas, however, an amendment tabled by the Government at short notice was adopted, and this largely calls into question the incentives in the "Industry 4.0" area as from 2025.

Accordingly, the "Industry 4.0" tax credits are abolished entirely in 2025 in the area of intangible assets, and for investments in tangible fixed assets up to 31.12.2025 a spending cap of 2.200 million Euro has been introduced in the State budget; as soon as the funding pot is exhausted the support will cease, and that will certainly not take long. The above restrictions do not, however, apply to investments in "Industry 4.0" tangible fixed assets in the first half of 2025, i.e. by 30 June 2025, provided that a binding order was placed for them by the date of publication of the Budget Law for 2025 (i.e. by 31 December 2024) and that, in addition, a down payment of at least 20% was made. Under the same conditions (binding order and down payment of at least 20% by 31.12.2024), the extension also applies to investments in intangible assets of the Industry 4.0 category (as a rule software) with delivery by 30 June 2025.

For investments in 2025 which do not fall under the aforementioned extension, a separate notification must also be submitted in advance to the "Ministero delle imprese e del made in Italy", stating the planned expenditure and the tax credits due; pursuant to para. 447, the notification procedure is to be adapted to the new provisions by way of a separate implementing decree.

<u>Note: Since the funds in the 2025 budget are evidently committed in chronological order of the reservations, we can only recommend that the prescribed notification be sent as</u>

soon as possible for planned investments in the Industry 4.0 area. We will inform you immediately as soon as the revised rules for the notifications are available.

Further recommendation: It should be added that advance notifications were in fact already required for Industry 4.0 investments as from 30 March 2024; in this respect, however, the Agency clarified in reply No. 260/2024 before Christmas that no fixed deadline applied to these notifications and that the delay may therefore not lead to forfeiture of the credit. Should you now have to make up a notification, e.g. for a down payment and order in December 2024, it is in any event advisable to state the investment period as beginning in 2024, in order to achieve a clear distinction from the investments of 2025, which fall under the new spending freeze.

**Industry 5.0 Transition (Art. 1 paras. 427-448 Budget Law)**

A number of simplifications are provided for the investment incentives under the Transition Plan 5.0. They concern, among other things, the calculation of the energy saving and the granting of the subsidies through the ESCo energy service providers.

For investment volumes between 2,5 and 10 million Euro, the tiered subsidies are increased to 45% retroactively for 2024 (!). Higher subsidies are also provided for photovoltaic modules. The incentives themselves are degressive according to the amount of the investment and depend on the degree of energy saving, whereby the previous three thresholds are replaced by 2 and the threshold of 2,5 million Euro is deleted. Here are the new incentive brackets:

| *Klasse Energieeinsparung* | *Bis zu 10 Mio. Euro* | *Von 10 Mio. bis 50 Mio. Euro* |
|---|---|---|
| Klasse I | 35% | 5% |
| Klasse II | 40% | 10% |
| Klasse III | 45% | 15% |

The 3 energy-saving classes differ according to the amount of energy saved and according to whether the entire establishment or only individual production processes benefit from the investment:

| | Klasse I | Klasse II | Klasse III |
|---|---|---|---|
| Höhe Energieeinsparung in gesamter Niederlassung | > 3% | > 6% | > 10% |

| | | | |
|---|---|---|---|
| Höhe Energieeinsparung in Produktionsprozessen | > 5% | > 10% | > 15% |

The tax credits may be offset exclusively via form F24 in 5 annual instalments.

Note: As shown above, the increased subsidy rates apply retroactively to investments as from 1 January 2024. Where the investments were already notified to the GSE last year, a new notification is accordingly required.

Several prohibitions on cumulation with other EU incentives are also lifted. It should be added that a FAQ published last year already confirmed that Industry 5.0 and the Sabatini incentive may be combined.

**R&D tax bonus (Art. 1 paras. 458-460 Budget Law)**

Anyone who complied with the request in the last Budget Law and repaid R&D tax credits received which, on account of the unclear rules, may have been claimed in earlier years without entitlement, will now be granted a capital contribution measured on the amount repaid. For this purpose, between 50 and 80 million Euro per year are earmarked in the budget over the coming years; large subsidies are therefore not to be expected.

**Sabatini incentive (Art. 1 para. 461 Budget Law)**

The funds for the interest subsidies under the so-called Sabatini incentive have been increased, namely by 400 million Euro for 2025, 100 million Euro for 2026 and 400 million Euro per year for the period 2027 – 2029.

The incentive has remained unchanged, and the annual interest subsidy amounts to 3,575%, and this not only for assets in the Industry 4.0 area but also for so-called “green investments”, which improve the sustainability of production and of the products.

**Renovation of tourism buildings (Art. 14 Law Decree 202/2024)**

The deadline for the completion of works for which the relevant tax credit is granted has been extended to 31 October 2025. The tax credit generally amounts to up to 80%.

**Tax credit for the film industry (Art. 1 para. 869 Budget Law)**

The cap for the incentives is set at 40%, and the previous caps for the remuneration of the director, the actors and similar persons involved are to be newly regulated by a separate implementing decree. We would be pleased to provide you with further details.

**Carry-forward of the ACE restricted (Art. 1 para. 18 Budget Law)**

The tax reliefs connected with the increase of net equity (the so-called ACE) have, as is known, already been abolished since last year. Now the carry-forward of any credits from previous years is also being restricted, namely for 2025 to 54% of any increase in taxable income in 2025. The only recommendation can be to offset the credit as far as possible already in the tax return for 2024.

**Sports bonus (Art. 1 para. 246 Budget Law)**

The so-called sports bonus is extended to the year 2025. It concerns donations made by businesses for the construction and maintenance of public sports facilities, with a maximum amount of 10 million Euro.

**Incentive for the retention of profits (Art. 1 paras. 436-444 Budget Law)**

For the time being limited to the year 2025, a reduced taxation of retained and reinvested profits is provided for.
Corporations which do not distribute their profits but reinvest them are taxed at a reduced rate, namely the IRES rate is reduced from 24% to 20%.
Restrictive conditions are laid down for claiming the relief, all of which must be satisfied at the same time:
- 80% of the profit for the 2024 financial year must be allocated to a dedicated reserve, and these profits may not be distributed at least until the end of 2026;
- by 31 October 2026, investments in tangible fixed assets meeting the requirements of Industry 4.0 or of Transition 5.0 must be carried out, namely to an extent of at least 30% of the profit retained in 2024 and, in addition, in an amount corresponding to at least 24% of the profit for 2023. Under no circumstances may the said investments be less than 20.000 Euro. Moreover, the assets may not be disposed of within the following 5 years;
- the average headcount for the year 2025 (measured on the basis of the "ULA") may not decrease compared with the 2022-2024 average, and the absolute number of employees, with reference to employees on open-ended employment contracts, must increase by at least 1% (with a lower limit of 1 additional employee) compared with the headcount as at 31.12.2024. Apart from a few specific exceptions, no recourse may moreover have been had to the wage supplementation fund in the years 2024 and 2025.

Assessment: the scale of the incentive on the one hand and the requirements on the other will certainly not lead to additional investments and to an improvement in equity capitalisation; rather, this will be a relief that is simply "taken along" where it happens to apply.

**Assignment of assets not used for business purposes and conversion into**

For partnerships and corporations, the possibility is once again provided of assigning real estate and other assets not directly used for business purposes to the shareholders, or of transferring them against consideration, on preferential terms. The capital gains are subject to a substitute tax of 8% (10,5% in the case of shell companies). Instead of the

**a simple partnership (Art. 1 paras. 31-36 Budget Law)**

market value, the cadastral value may be applied. The assignment must take place by 30 September 2025 at the latest. If reserves that have not been released are used for the assignment, an additional substitute tax of 13% must be paid in this respect. Where the assignment is subject to registration tax, the latter is reduced by half. The substitute tax must be paid by 30 September 2025 (60%) and 30 November 2025 (40%).
Incidentally, it is also possible, on the same conditions as in the past, to convert commercial companies into simple partnerships.

**Privatisation of business assets by sole traders (Art. 1 para. 37 Budget Law)**

The deadline for the privatisation of real estate used for business purposes (!) by sole traders has also been newly opened: such property may be privatised by 31 May 2025 by reference to its cadastral value, and the substitute tax amounts, as in the past, to 8% of the capital gain. The tax is to be paid in 2 instalments by 30.11.2025 (60%) and 30.06.2026 (40%). As in recent years, no special rule has been provided for VAT.

<u>Notes: The two reliefs concerning assignments and privatisations were last available on the same conditions in autumn 2023. It is worth examining, in the course of the forthcoming financial statement discussions, whether any such additional measures should be taken.</u>

**Supervisory body and subsidies (Art. 1 paras. 857 – 858 Budget Law)**

In future, the supervisory body of companies, entities and foundations is required to carry out its own checks on the use of public subsidies for their intended purpose and to report annually to the Ministry of Economy and Finance specifically on these checks. So-called “significant” subsidies are concerned; what is to be understood by this is to be clarified by a separate implementing decree by March 2025.
Although the wording of the law is not unambiguous, the specialist press currently assumes that the obligation concerns subsidies received as from 1 January 2025.

**New obligation to appoint a supervisory body (Art. 1 para. 858 Budget Law)**

Irrespective of whether the other thresholds (balance sheet total, revenues, employees) are exceeded, companies, entities and foundations which receive “significant” public subsidies at the expense of the State, even if only indirectly, are obliged to appoint a supervisory body. Here, too, the aforementioned implementing decree will have to be awaited in order to have a definition of “significant” subsidies.

**Spending freeze in the case of significant**

For the sake of completeness, reference should be made to the following provision, which in this form is likely to be entirely unconstitutional and therefore inapplicable:

**subsidies (Art. 1 paras. 857-858 Budget Law)**

according to the wording of the Budget Law, companies which have received "significant" subsidies may not, as from 1 January 2025, incur any expenses exceeding the average expenses of the years 2021, 2022 and 2023. We are convinced that this is an error attributable solely to the stress and haste involved in drafting the Budget Law and that it will not take effect in this form.

**Subsidies for new hirings (Art. 1 paras. 399-400 Budget Law)**

The special deduction of 20% of the labour costs for new hirings is extended by a further three years, provided that an increase in the number of employees results. In practice, 120 per cent of the corresponding labour costs may be deducted (130 per cent in the case of particularly protected employees).

**Support for internationalisation (Art. 1 paras 463-473 Budget Law)**

A dedicated support fund is established for businesses which are active in Central and South America or which intend to invest there.

## 2. Amendments concerning the determination of profit

Below is a series of in part substantial amendments concerning the determination of profit of businesses, most of which arise from Legislative Decree No. 192/2024 and are already to be taken into account for the financial statements as at 31.12.2024:

**Valuation of work in progress (Legislative Decree 192, Art. 9 and Art. 13)**

As a reminder: for the valuation of work in progress, the rule applicable to date was that, for tax purposes, work with a performance period of more than one year had to be valued at accrued revenues and work with a performance period of less than one year at production cost, irrespective of whether, in the statutory financial statements, all such work was possibly recognised at production cost or, in accordance with the principles laid down in OIC No. 23, at pro rata revenues under the percentage-of-completion (POC) method.

As from the financial statements for the financial year beginning after 31 December 2023, i.e. as a rule with the balance sheet as at 31.12.2024, this dual-track approach comes to an end: if work in progress is measured at revenues for accounting purposes, it must also be recognised at revenues for tax purposes, irrespective of the performance period; if it is measured at cost, this applies for tax purposes as well, irrespective of the performance period.

Transitional rule: In order to mitigate the effects of this change somewhat, the "old" rule may continue to be applied for tax purposes to work already shown in the previous financial statements (as a rule as at 31.12.2023).

**Taxation of capital contributions (Legislative Decree 192, Art. 9 and Art. 13)**

Public subsidies granted in the form of so-called capital contributions are, as is known, taxable on a cash basis in the year of collection, and until now taxation could be spread in equal parts over the year of collection and the 4 following years. This comes to an end already in the 2024 financial year. As from the financial year beginning after 31.12.2023, capital contributions are taxable in full in the year of collection. For subsidies of this nature received in earlier years, however, any instalment taxation elected remains in place unchanged.

**Taxation of exchange gains and losses (Art. 9 and 13 Law 192/2024)**

Exchange gains and losses resulting from the adjustment, for accounting purposes, of in particular non-monetary receivables and payables to the exchange rate at year-end were until now not relevant for tax purposes and led to corresponding adjustments in the tax reconciliation (increases and decreases), combined with the recognition of deferred tax assets or liabilities. This dual-track approach, too, ceases to apply as from the financial statements for the financial year beginning after 31.12.2023, following the repeal of Art. 110 para. 3 of the Income Tax Code (TUIR). Exchange gains and losses are now, in so far as they are recorded in accordance with OIC No. 26, fully recognised for tax purposes as well, not only for liquid assets (cash and bank accounts) but also for other asset and liability items of the financial statements.

The new rule also concerns exchange differences which were already recorded in the financial statements as at 31.12.2023 and which have not yet materialised in the meantime. As a result of this reform, no deferred tax assets or liabilities for exchange gains or losses not recognised for tax purposes should any longer appear in the financial statements as at 31.12.2024.

For the sake of completeness, it should be pointed out that this amendment has no effect on the obligation under company law (Art. 2426 para. 1 no. 8-bis of the Civil Code) to allocate unrealised exchange gains to a dedicated non-distributable reserve.

**Differences arising from a change of accounting principles (Art. 10, 11 and 13 Law 192/2024)**

The value adjustments resulting from a change of accounting principles are also rationalised and simplified; the rule mainly concerns businesses which switch from Italian statutory accounts to IFRS or vice versa. The provisions in this regard are extensive, and should you require more detailed information, please do not hesitate to contact us.

**Reimbursement of travel expenses of employees (Art. 1 paras. 81-83 Budget Law)**

**Reimbursement of expenses to employees and directors: The reimbursement to employees of expenses for accommodation and meals as well as of transport costs charged by third parties (this essentially concerns taxi expenses and invoices from car rental companies, since scheduled bus and rail services are excluded) incurred on business trips outside the municipality is deductible only if the corresponding expenses were paid by cashless means, i.e. with the employee's own debit or credit card, by bank transfer or by payment with credit or prepaid cards made available by the business.**

Note: For details we refer to our Circular No. 50/2024.

**Reimbursement of travel expenses of self-employed professionals (Art. 1 paras. 81-83 Budget Law)**

**Reimbursement of expenses to self-employed professionals: The analytical travel expense statements (accommodation, meals and taxi expenses as well as car rental operators, as above) submitted by self-employed professionals to businesses are deductible only if the corresponding expenses were paid by cashless means by the self-employed professional claiming the reimbursement.**

Note: For details we refer to our Circular No. 3/2025.

**No cash payment of restaurant expenses (Art. 1 paras. 81-83 Budget Law)**

But that is not all: the business itself may likewise no longer pay in cash for accommodation expenses and expenses for the supply of food and beverages, nor for transport costs incurred with public means of transport (with the exception of scheduled bus and rail services; taxi rides and invoices from chauffeur-driven car rental companies are therefore affected), failing which deductibility is lost.

Note: Still with reference to the aforementioned travel expenses, it should be clarified that, in our view, motorway tolls and also parking fees are not affected by the restrictions.

**Entertainment expenses (Art. 1 paras. 81-83 Budget Law)**

Entertainment expenses and gifts may only be deducted for tax purposes if they have been paid by cashless means. It follows that a business meal with customers or suppliers may no longer be paid in cash, failing which the costs are not deductible, and in future this will also apply, for example, to Christmas gifts. It should be added that, even where payment is traceable, the existing caps on the deductibility of entertainment expenses remain unchanged.

Note: Sponsorship and advertising expenses are not directly affected by the restrictions on payment.

**Passenger cars with mixed use (Art. 1 para. 48 Budget Law)**

We already informed you in our Circular No. 1/2025 about the new rules for calculating the benefit in kind in the case of mixed use of company vehicles and refer to the explanations set out therein. The benefit in kind for company cars also made available to employees for private use is substantially increased. The reference is no longer to pollutant emissions but to the type of propulsion (electric motor or combustion engine) (para. 48). The new ACI tables for 2025 were recently published in this connection. The new rules apply to vehicles registered and made available to the employee as from 1 January 2025; for these there are sharp increases in the case of combustion engines, whereas with electric propulsion private use becomes virtually irrelevant.

Note: For vehicles registered before 01.01.2025 and made available for mixed use, in view of the development of the ACI rates and of the new rules outlined, cost reductions may be assumed for combustion-engine vehicles, whereas conversely they will rise slightly for electric vehicles.

As a reminder: as a result of private use, 70% of the acquisition and operating costs (instead of 20%) may be deducted as business expenses and, in addition, the threshold of 18.076 Euro for acquisition costs does not have to be observed.

**Non-monetary remuneration of employees**

For the years 2025, 2026 and 2027 a tax-free threshold applies to non-monetary benefits granted to employees: 1.000 Euro as a rule and 2.000 Euro for employees with dependent children. This relief continues to cover expenses reimbursed by the employer for, e.g., household utility costs, rent for the main residence and interest on loans for the purchase/construction of the main residence.

**Flat-rate taxation (Art. 1 para. 12 Budget Law)**

In 2025, flat-rate taxation of business income is also available to persons who in 2024 received employment income of up to 35.000 Euro. The previous threshold of 30.000 Euro has thus been raised accordingly.

**Deferred tax assets and goodwill (Art. 1 para. 16 Budget Law)**

As a reminder: the Finance Act for 2019 introduced new rules for the depreciation of goodwill (18 years), whereby a complicated transitional rule was laid down for expenses of earlier years. Under that rule, 13% of these residual costs could have been depreciated in 2025. This depreciation is now spread in equal parts over the tax periods up to 2029.

**Losses on receivables under IFRS (Art. 1 para.**

A special rule is introduced for taxpayers who prepare their financial statements under IFRS for the first time and who, in this connection, have to record losses on receivables

**17 Budget Law)**

or write-downs of trade receivables. We would be pleased to inform you of the details of this somewhat complex rule.

**Extraordinary release of reserves (Art. 14 Legislative Decree 192/2024)**

The next amendment has long been eagerly awaited: an extraordinary release is provided for in respect of reserves in tax suspension existing as at 31 December 2023 (and still in place as at 31.12.2024); this concerns above all revaluation reserves that have not been released. The substitute tax due in this respect amounts to 10% and may be paid in up to four annual instalments.

It is to be noted positively that even only individual types of reserves, and these only in part, may be released, so that a tailor-made solution can be sought with a view to future distributions. It is not possible to remedy reserves already distributed in the 2024 financial year.

The release must be effected in the tax return for 2024.

For the details of this provision, the enactment of a separate implementing decree is envisaged within 60 days of the entry into force of Legislative Decree 192/2024.

**Reliefs for shell companies (Art. 20 Legislative Decree 192/2024)**

Another piece of good news: the previous provisions on the classification and taxation of shell companies are substantially relaxed:

As a reminder, the following restrictions currently apply in essence to non-operating companies: a company classified as dormant must pay tax on a minimum income determined by table, the IRES rate is increased by 10,5 points from 24 to 34,5 per cent, any tax losses are forfeited and may not be carried forward; for VAT purposes there are restrictions on the input VAT credits, which may only be carried forward and are forfeited after three years. According to the European Court of Justice, the latter restriction is contrary to the principles of the VAT System Directive, but it has still not been repealed by the tax authorities.

For the qualification as a “dormant company”, a test must be carried out on the basis of profitability coefficients, by which certain minimum revenues are determined on the basis of the individual assets. If these minimum revenues are not achieved, the company is deemed to be non-operating, with the consequence that it must pay tax on a certain minimum income at the increased IRES rate. The calculations are always made by reference to three-year average values, both for the assets and for the revenues.

And now for the good news. The coefficients both for the test and for the calculation of the minimum income have been reduced retroactively for 2024:

| **Änderung der Koeffizienten:** | **Erlöse für Tätigkeitstest** | | |
|---|---|---|---|
| **Gegenstände** | **bis 2023** | **ab 2024** | |

| | | |
|---|---|---|
| Beteiligungen, Finanzinstrumente, Wertpapiere | 2% | 1% |
| Liegenschaften im Allgemeinen | 6% | 3% |
| Immobilien Kat. A/10 (Büros) | 5% | 2,50% |
| Wohnungen, aufgewertet oder erworben in 2 Vorjahren | 4% | 2% |
| Immobilein in Gemeinden < 1.000 Einwohner | 1% | 0,50% |
| Schiffe | 6% | 6% |
| andere materielle u. immaterielle Anlagen und mj. Spesen | 15% | 15% |

As can be seen, the new rule applies retroactively as from the 2024 tax period; for companies whose financial year differs from the calendar year, as from the first financial year beginning after 31 December 2023.

It must be noted critically that various problem cases, in particular for real estate companies with vacant premises as a result of the economic crisis, remain unresolved even after this undoubtedly commendable reform.

## 3. Restructuring of businesses

The new developments in the area of extraordinary transactions and restructurings are complex. They concern, among other things, the recognition and carry-forward of tax losses, whereby the details in this respect are still to be laid down by separate implementing decrees. The tax regime is established for the demerger by contribution newly introduced in company law (Art. 2506.1 of the Civil Code). Adjustments and a number of additions are made with regard to contributions and share exchanges (Art. 177 of the Income Tax Code (TUIR)). These concern, among other things, contributions in which an existing majority is supplemented and impairments are disclosed, as well as cross-border transactions, also in connection with permanent establishments. Finally, the provisions on the ordinary liquidation of businesses are also simplified. The taxable result is now determined definitively on an annual basis (and no longer provisionally), and a carry back of losses over three years is made possible. Below is a first overview of the new developments introduced:

**Alignment of values in the case of restructurings (Art. 12 and 13 Legislative Decree 192/2024)**

Unfortunately we have to begin with bad news: the provisions on the alignment of values for tax purposes in the case of restructurings have changed for the worse. For the release of the differences between the (higher) accounting value and the (lower) tax value arising from extraordinary transactions such as mergers, demergers or contributions, substitute taxes of 12%, 14% and 16% were payable to date. These are now increased to 18% for IRES purposes and 3% for IRAP purposes.

On the positive side, however, it should be noted that the alignment of values may now also be carried out for individual assets and that it is no longer mandatory to adjust all assets of a homogeneous category.

**Carry-forward of losses in the case of transfers, mergers and demergers (Art. 15 Legislative Decree 192/2024)**

The provisions on the carry-forward of losses following transfers of the majority of the shares or of the voting rights with a simultaneous change of the main activity are amended. First, an adjustment is made in order to take account of the new company law rules on voting rights ("diritto plurimo"). Rules are then provided for transfers occurring in the first or in the second half of the year. Additional payments and contributions made in the preceding 24 months are newly regulated.

**Carry-forward of losses in the case of intra-group restructurings (Art. 15 Legislative Decree 192/2024)**

The new rule resulting from the insertion of Art. 177-ter of the Income Tax Code (TUIR) is absolutely to be welcomed: the use of losses of companies is not adversely affected by restructurings if the company concerned was already part of the group beforehand. Reference is made here to the point in time at which the losses arose. If the company was already part of the group in the relevant financial year, the internal restructuring does not give rise to any disadvantages for the use of the losses.

On the negative side, it should be noted that this new rule is to apply only to tax losses arising after 31 December 2023.

**Tax aspects of the demerger by contribution (Art. 16 Legislative Decree 192/2024)**

The tax aspects of the demerger are regulated more clearly, although in particular "Assonime" criticises the fact that the newly introduced demerger by contribution within the meaning of Art. 2506.1 of the Civil Code is not sufficiently clarified.

**Contributions to a family holding company (Art. 17 Legislative Decree 192/2024)**

As a reminder: contributions of shareholdings to other companies are, pursuant to Art. 177 of the Income Tax Code (TUIR), in principle tax-neutral ("controlled realisation of capital gains") if, among other things, the receiving company thereby acquires a controlling position. A derogation from this applies under certain conditions where the receiving company is a so-called single-member company of the contributor. This requirement of a single-member company has been widely criticised, but the tax authorities have not departed from it to date.

Now, however, there is a relaxation: by way of a reform of Art. 177 para. 2-bis of the Income Tax Code (TUIR), a derogation from this strict requirement is now made at least in the case of so-called family holding companies: tax-neutral contributions of shareholdings to a company which does not acquire control over the contributed company are accordingly in principle also possible where the receiving company no longer meets the characteristics of a "single-member company" but is a multi-member company of the contributor and his family members (spouse and relatives up to the 3rd degree or relatives by marriage up to the 2nd degree).

Note: The reform opens up entirely new structuring options for family holding companies.

**Contribution of shareholdings with a capital loss (Art. 17 Legislative Decree 192/2024)**

The share exchange by way of contributions under Art. 177 para. 2 of the Income Tax Code (TUIR) is newly regulated in so far as the so-called "controlled realisation of capital gains" (essentially achieved by recognising the allotted shareholdings at the same value) also applies in the case of capital losses. An equivalent rule has also been achieved for the contribution of controlled and affiliated shareholdings by way of an amendment to Art. 175 of the Income Tax Code (TUIR). Specifically, this concerns the case where, possibly as a result of valuations, the recognition in the receiving company takes place at a value which is lower than the value recognised for tax purposes at the level of the contributor. The resulting losses are deductible for tax purposes on condition that not only the carrying amount in the receiving company is lower than the value recognised for tax purposes at the level of the contributor, but that the normal value within the meaning of Art. 9 of the Income Tax Code (TUIR) is also lower.

**Contribution of businesses (Art. 17 Legislative Decree 192/2024)**

Here Art. 176 of the Income Tax Code (TUIR) finally clarifies that, in the case of the contribution of a business, any goodwill recognised in the assets of the contributed business also passes to the receiving business unchanged at the value recognised for tax purposes. Until now the Italian Revenue Agency had taken the view that the goodwill remained with the contributor.

**Share exchange (Art. 17 Legislative Decree 192/2024)**

Art. 177 para. 1 of the Income Tax Code (TUIR) clarifies that a share exchange may also be tax-neutral where the exchanging undertaking thereby increases its control over an undertaking which it already controlled beforehand. Until now, such an increase was conditional on a statutory obligation or on a restriction on the transfer of shares contained in the articles of association.

Art. 177 para. 2 of the Income Tax Code (TUIR) is then replaced, with the consequence that the tax-neutral share exchange (or "realizzo controllato") is also permissible with shareholdings in corporations not resident in Italy; the previous restrictive interpretation of the Italian Revenue Agency on this matter has thus been overridden.

**Amendments concerning liquidation (Art. 18**

The previous rule, according to which the financial statements of sole traders, partnerships and corporations in the liquidation phase had only a provisional character

**Legislative Decree 192/2024)**

for tax purposes and the entire liquidation period was in fact to be regarded as a single tax period, is finally repealed, especially since it was hardly applicable in practice. The individual periods thus have a definitive character, without all of them having to be reopened again in the closing liquidation balance sheet.

The taxpayer may, however, expressly opt to maintain in essence the previous economic effects.

In particular, sole traders and partnerships may opt for a carry back of losses where the liquidation phase lasts up to 3 years. It is also possible to opt for separate taxation.

In this sense, corporations may opt for a carry back of losses where the liquidation phase lasts up to 5 years. Where the option for group taxation is exercised, such a carry back remains excluded.

The new rules on liquidation apply to liquidations opened after 31.12.2024.

**Sale of a business and separate taxation (Art. 18 Legislative Decree 192/2024)**

The rate for separate taxation on the sale of a business which had been held by the seller for at least 5 years is determined by reference to half of the income of the two years preceding the sale of the business.

## 4. Other amendments for businesses:

**Reform of the ATECO codes**

As a result of EU Regulation No. 2023/137 of 10 October 2022, the ATECO codes for the classification of economic activities are fundamentally amended with effect from 1 January 2025. The reform will, however, only become effective on 1 April 2025.

<u>Note: The new rules should in principle not entail any obligations for the entrepreneur, since the reclassifications are carried out ex officio by the authorities. We will, however, inform you in good time of any checks that may be necessary.</u>

**PEC address for all directors of partnerships and corporations (Art. 1 para. 860 Budget Law)**

The directors of partnerships and corporations are obliged to open a certified e-mail address (PEC) of their own and to file it with the Companies Register. According to the wording of the provision, the obligation applies irrespective of whether the director is entitled to represent the company or not. Although it is not laid down in the law, it is to be assumed that the details of this new obligation will be established by way of a separate implementing decree.

<u>Note: The Chamber of Commerce of Milan has announced on its website that, in the case of the appointment of directors in the course of new incorporations, it will require the</u>

filing of a PEC address for the directors as early as 1 January 2025, failing which registration will be suspended. It is to be assumed that other chambers of commerce will also adopt this approach.
And further: there is no reason to welcome this new rule, since the immediate consequence will be that the Chamber of Commerce will promptly serve any administrative penalties for late notifications etc. on all directors via the new PEC address.

**Sugar tax and plastic tax**

The two taxes introduced by the 2020 Budget Law and repeatedly postponed will not enter into force for the time being. Under the law as it currently stands, the so-called sugar tax is to be levied as from 1 July 2025; the plastic tax, by contrast, was already postponed last year to 1 July 2026.

**Compulsory insurance against catastrophic weather damage (Art. 13 Law Decree 202/2024)**

By way of the New Year's Eve decree, the obligation imposed on businesses by the Budget Law for 2024 to take out dedicated insurance against catastrophic weather damage by the end of 2024 has for the time being been postponed to 31 March 2025 - necessarily so, since throughout the entire year the Government was unable to enact the necessary implementing provisions. Since these provisions are still not available today, a further extension is likely to be expected at the end of March.

**Web tax (Art.- 1 paras. 21-22 Budget Law)**

The so-called web tax is now to be introduced after all, but it concerns only businesses with a turnover of at least 750 million Euro,

**Insurance scheme for craftspeople and traders (Art: 1 para. 186 Budget Law)**

Entrepreneurs who register for the first time in 2025 with the craftspeople's or traders' insurance scheme are entitled to a 50% reduction in contributions; this also applies to family members working in the business. The reduction applies for 36 months from the commencement of the activity. The de minimis ceiling applies to the corresponding reliefs.

**ISAC indicators**

Your payroll adviser will certainly inform you about this in detail: as from 2026, so-called ISAC indicators are also to be applied to businesses and self-employed professionals; by means of parameters, and similarly to the ISA indices, these are intended to ensure the correct payment of contributions and to combat undeclared work.

**Advance tax**

Shortly before Christmas, the decree accompanying the 2025 Budget Law (Law Decree

**arrangement 2024-2025 (Law Decree 155/2024)**

155/2024) was finally converted into law. And in this connection it was subsequently established that a change in the shareholder structure in the years 2024 and 2025 does not entail exclusion from the so-called advance tax arrangement, provided that the change does not result in an increase in the number of shareholders or of members of an association of self-employed professionals. In plain language: the shareholder structure may be changed, and in the end there may be fewer or the same number of shareholders; the number of shareholders must simply not increase. Only in the case of inheritance, where several heirs of one shareholder join the company or the association, is even an increase in the number of shareholders/members declared to be permissible.

At this point it must unfortunately also be noted that the scope and effects of the new developments outlined will in some cases certainly only become fully apparent in the course of the year and cannot be assessed at present. We must therefore ask for your understanding as regards any incompleteness or inaccuracy.

Yours sincerely
*Josef Vieider*