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Circular No. 07/2023

Bolzano, 10 January 2023

Subject: Statutory interest rate raised to 5% as from 1 January 2023

By decree of the Ministry of Economy and Finance of 13 December 2022, the statutory interest rate was raised, with effect from 1 January 2023, from the previous 1,25% to 5%. This is probably the largest change of recent years. By decree of 20 December 2022, published in Official Gazette No. 304 of 30 December 2022, the coefficients for recalculating usufruct and bare ownership were subsequently also redetermined in line with the increased interest rate. The change has direct effects on a number of civil-law, commercial-law and tax-law matters as well as on social security contributions. Examples that may be mentioned are the calculation of interest for the so-called voluntary correction, the accrual of interest on receivables arising from damages and other disputes, as well as the accrual of interest on the security deposit paid by the tenant to the landlord.

1. Obligations:

Unless a different interest rate is laid down by contract or by law, the statutory interest rate of 5% applies to obligations as from 1 January 2023. This applies, for example, to the interest payable by the landlord on the security deposit lodged by the tenant.

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2. Valuation of the lifetime right of usufruct

Lifetime usufruct is calculated as follows: depending on the age of the usufructuary, certain coefficients are established; multiplied by the statutory interest rate, they give the respective value of the usufruct. We enclose the new table with this circular as Annex A). In order, for example, to determine the taxable base of the registration tax on the transfer of the bare ownership of a property, the full value must be multiplied by the statutory interest rate (5% as from 1 January 2023) and by the coefficient according to the age of the usufructuary.

Assuming a value of the full ownership of a property of, for example, 300.000 euro and a usufructuary aged 77, the calculation is as follows:

- Value of the full ownership: 300.000 euro
- Statutory interest rate: 5%
- Usufruct coefficient at age 77: 6

Accordingly, the value of the usufruct amounts to 90.000 euro (=300.000x5%x6), while the value of the bare ownership amounts to 210.000 euro (300.000 less the value of the usufruct). Ultimately, the coefficients were amended in such a way that, despite the changed interest rates, the usufruct again has the same values as before.

3. Effects in the tax field:

The change in the statutory interest rate has a direct effect on the voluntary corrections for omitted, late or insufficient tax payments (so-called „ravvedimento operoso“), for which interest of 5% is owed as from 1 January 2023. In the case of corrections relating to the previous year, the interest must now be determined on the basis of different interest rates. If, for example, the VAT payment of 16 December 2022 was too low and an additional payment is to be made in January 2023, the interest on it must be determined at 1,25% up to 31 December 2022 and at the interest rate of 5% as from 1 January 2023. For instalment payments agreed in the course of settlements of disputes, on the other hand, pursuant to Circular No. 28 of 21 June 2011 the interest rate applicable at the time of the settlement with the tax office continues to apply, i.e. instalments agreed in the previous year do not have to be recalculated. Instalment payments for settlements to be concluded as from 1 January 2023 will, on the other hand, be calculated using the new interest rate of 5%, unless a different interest rate is expressly provided for. The increase in the interest rate has no effect on the instalment payments of the substitute taxes on the revaluation of participations and land, since here the interest rate for the instalment payments (3%) has been laid down separately.

In the field of income taxes, a presumed interest income equal to the statutory interest rate applies to loans granted, unless a different rate of interest is provided for in writing; this presumption of interest applies both in the field of investment income (Art. 45 para. 2 Income Tax Code (TUIR)) and to business income (Art. 89 para. 5 Income Tax Code (TUIR)). If a different rate of interest is to apply, an agreement with a certain date (registered letter without envelope, notification via certified e-mail address) is required for this purpose. If no derogating agreement exists, the statutory interest of 5% applies as from 1 January 2023.

4. Effects on social security contributions:

The statutory interest rate increased to 5% also has effects on the administrative penalties for omitted or late payments of social security contributions, since in this area the penalties may be increased to the statutory interest rate of 5% (see Art. 106 Law 388/2000), insofar as the infringements are attributable to objective uncertainties, to the culpable conduct of third parties or to extraordinary restructurings in crisis situations.

We are of course at your disposal for any further information and documentation.

Yours sincerely

Josef Vieider

Annex A:

Usufruct table pursuant to the Ministerial Decree of 20.12.2022

Alter	Koeffizient	Anteil Fruchtgenuss	Anteil nacktes Eigentum
von 0 bis 20	19,00	95,00	5,00
von 21 bis 30	18,00	90,00	10,00
von 31 bis 40	17,00	85,00	15,00
von 41 bis 45	16,00	80,00	20,00
von 46 bis 50	15,00	75,00	25,00
von 51 bis 53	14,00	70,00	30,00
von 54 bis 56	13,00	65,00	35,00
von 57 bis 60	12,00	60,00	40,00
von 61 bis 63	11,00	55,00	45,00
von 64 bis 66	10,00	50,00	50,00
von 67 bis 69	9,00	45,00	55,00
von 70 bis 72	8,00	40,00	60,00

von 73 bis 75	7,00	35,00	65,00
von 76 bis 78	6,00	30,00	70,00
von 79 bis 82	5,00	25,00	75,00
von 83 bis 86	4,00	20,00	80,00
von 87 bis 92	3,00	15,00	85,00
von 93 bis 99	2,00	10,00	90,00