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To all
clients

Circular No. 20/2024

Bolzano, 4 May 2024

Subject: Changes for businesses and self-employed professionals March – April 2024

Set out below in brief form is some information on relevant developments of recent weeks in the area of business income and income from self-employed professional activity:

1. Investments 5.0

We begin with some good news: at the end of April, Parliament gave final approval to Law Decree No. 19/2024, which introduced the tax reliefs for "Investments 5.0" (see our Circular No. 15/2024); the conversion law No. 56/2024 was published in the Official Gazette on 30 April 2024 and entered into force immediately. No substantial changes were made in the course of the conversion. It was, however, confirmed that, in order to obtain the relief, a notification on the situation as it stands before the start of the investment must be sent to the GSE body. And the implementing provisions required for this purpose are, to this day, still outstanding.
Note: We must once again ask you to await publication of the implementing provisions before making any investments in this area.

2. Use of Industry 4.0 and R&D tax credits suspended

And now for a genuinely sad piece of news: once again, the taxpayer pays for the tax authorities' delays. At the end of March, Art. 6 of Law Decree 39 introduced a rule under which – in order to

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prevent possible abuse – tax credits in the area of Industry 4.0 from 2023 onwards and those relating to research and development from 2024 onwards may, as from 30 March 2024, only be used after a specific statistical notification on the type of investment has been sent to the energy body GSE. There is really nothing to object to in this reporting obligation. Only, the Italian Revenue Agency succeeded in producing the necessary forms and portals for the notifications just a few days ago. Nevertheless, in order to prevent anyone from continuing to use the credits before submitting the new statistical notifications, the relevant tax codes on Form F24 were blocked, with the result that payments involving the corresponding offsets were initially suspended as early as 16 April 2024 and, in recent days, have been cancelled retroactively. Here are the details:

By Ruling No. 19/E of 12 April 2024, the Italian Revenue Agency blocked the offsetting of the following credits in Form F24:

- payment codes “6936” (investment bonus for tangible fixed assets) and “6937” (tax bonus for new intangible investments) for the reference years 2023 or 2024, and
- payment codes “6938”, “6939” and “6940” for the reference year 2024.

This is a temporary block, which can be lifted either by correcting the F24 payment form or by making specific notifications to the GSE body, as shown below.

Note: Please check immediately whether your payment orders of 16 April 2024 were accepted by the Agency, suspended or have perhaps in the meantime been rejected!

As regards Industry 4.0 investments made in the previous year, the current block (unintentionally) also affects investments that were made in earlier years but were only interconnected in 2023. Owing to imprecise wording in the above-mentioned ruling, the block also covers those investments which are in fact still governed by the 2022 rules because they were booked by 31 December 2022 (order and down payment of 20 per cent) and were carried out or completed by 30 November 2023 at the latest (even if the interconnection only took place in 2023 or 2024). The Italian Revenue Agency has in the meantime clarified by way of a so-called FAQ that these pre-2023 investments are not affected and that, in order to have the block in Form F24 lifted, the reference year to be stated in the payment form is, exceptionally, no longer the year of interconnection (e.g. 2023) but the year in which the investment began (2021 or 2022), i.e. the year that determines the rules governing the relief.

As explained below, it has been possible since 29 April 2024 to send the required notifications. In order to lift the block and to be able to continue using the credits, the following steps are necessary:

- For investments started in the years before 2023 (i.e. 2021 or 2022) and interconnected in 2023, it is sufficient to state 2021 or 2022 as the reference year in Form F24, as explained above.

Blocked payments of 16 April can likewise be "remedied" in this way.
- For investments made in the period from 1 January 2023 to 29 March 2024, subsequent submission of the notification to the GSE is necessary in order for them to be used further, and
- for investments made from 30 March 2024 onwards, a notification to the GSE is required in advance and a second one after completion of the investment.
Following such correction or notifications, the Revenue Agency should immediately lift the block imposed.

3. New statistical notifications for tax credits on Industry 4.0 investments from 2023 and on R&D investments from 2024

In order to continue to be able to claim the tax credits provided for new investments in tangible and intangible fixed assets in the area of Industry 4.0 from 2023 onwards and for those in research and development from 2024 onwards, specific statistical notifications to the energy authority GSE are required, as shown above. By Decree of 24 April 2024, the notification forms required for this purpose were published, together with sparse instructions, and since 29 April 2024, 12:00 noon, businesses have now also been able to send the notifications in electronic form. The notification forms can be downloaded at the following address:
https://www.gse.it/servizi-per-te/news/transizione-4-0-al-via-la-procedura-per-compensare-i-crediti-d-imposta https://www.gse.it/servizi-per-te/news/transizione-4-0-al-via-la-procedura-per-compensare-i-crediti-d-imposta
As can be seen, two notification forms are attached to the decree:
The first form (Annex 1) concerns smart investments in tangible fixed assets and in software under Industry 4.0 carried out in 2023 and up to 29 March 2024, as well as those carried out from 30 March 2024 onwards.
The second form (Annex 2), by contrast, concerns investments in research, development and technological innovation from 1 January 2024 onwards.
Contrary to the initial announcements, which envisaged the provision of a dedicated internet platform for the notifications, the communications must now be transmitted, separately for each individual investment, by means of a digitally signed PDF file (i.e. bearing a digital signature!) to the following internet address of the GSE: transizione4@pec.gse.ittransizione4@pec.gse.it
Only very sparse instructions are available for the forms: listing and classification of the individual 4.0 investments in tangible fixed assets in accordance with Annexes A (tangible fixed assets) and B (software) (Law No. 232/2016) and the breakdown contained therein. The notification must therefore state, on the basis of this classification, which specific investment is involved. This requires more detailed knowledge, for which it will probably be necessary to

consult the manufacturer or an expert, who will subsequently also issue the certificate on the implementation and interconnection of the asset. The investment amounts for the individual areas, the total amount and the total amount of the tax credit due must be stated. Finally, the claiming of the credit and its expected allocation over the various years must be indicated.
In principle, the tax credits must be divided into three equal annual instalments. The offsetting may take place immediately after interconnection. In practice, however, the calculation of the credit due is in many cases only made in the following year when the tax return is prepared. If the credit available for offsetting exceeds the taxes owed, the excess amount may also be carried forward to subsequent years. This allocation must now be stated in the notification.
As regards the notifications themselves, the following cases must be distinguished:
- For Industry 4.0 investments made in the period between 1 January 2023 and 29 March 2024, the notification is submitted after the event, upon completion of the investment.
- For Industry 4.0 investments made from 30 March 2024 onwards, by contrast, an initial advance notification on the planned investments must be submitted and, following completion of the investment, a second notification on the completion of the investments must be filed according to the interpretation currently prevailing. It is assumed that the first notification must be submitted as soon as binding orders are placed.
- For investments in research and development as well, a notification after the event is required for those made in the period between 1 January 2024 and 29 March 2024, while for investments made from 30 March 2024 onwards an advance notification is required first, when the order is placed, and a subsequent notification after completion.

The implementing provisions do not set out precise deadlines for the notifications. It should, however, be in the taxpayer’s interest to send the notifications as early as possible in each case, especially since they are a precondition for using the credits!
And one further note: even if a tax credit falling under the new restrictions was still accepted in Form F24 in April 2024, it is advisable to correct the F24 form where appropriate or to make the necessary notifications, so as not to face a disallowance of the offset in the future.

4. Grants for charging stations:

Now back to more pleasing news: businesses and self-employed professionals may still apply electronically until 20 June 2024, 5.00 p.m., for a grant for investments in electric charging stations. By a press release of 8 March 2024, the Ministry of the Environment and Energy Security (Mase) reopened the deadlines for the grants that had been introduced in 2020 (Law Decree No. 104/2020) in favour of businesses and self-employed professionals. In theory the

grant amounts to 40% of the acquisition and installation costs, although in the end it is likely to be lower given the scarce budgetary resources. Various ceilings are provided for, depending on the type of charging station (direct current or alternating current), its output (including above 100 kW) and the number of charging points. They must have a rated output of at least 7.4 kW. The grant is administered by the agency “Invitalia”, to which the relevant applications must also be addressed. The forms and instructions can be consulted at the following address:
https://www.invitalia.it/cosa-facciamo/rafforziamo-le-imprese/bonus-colonninehttps://www.invitalia.it/cosa-facciamo/rafforziamo-le-imprese/bonus-colonnine
In practical terms, registration on the above-mentioned website is required. Only costs documented by electronic invoices are eligible.

5. PEX and non-resident companies
Pursuant to Art. 1 para. 59 of Law 213/2023, foreign companies and entities have also been entitled since this year to claim the partial tax exemption (95%) on dividends and capital gains from Italian shareholdings. The umbrella association of joint-stock companies “Assonime” has published initial guidance on this new relief in its Circular No. 10/2024.
Please contact us for further details.

6. Restrictions on the Ace equity allowance
As is known, the Ace equity allowance has been abolished with effect from 2024. It applies for the last time for the 2023 tax period, whereby surpluses from unused Ace allowances of previous years may continue to be carried forward.
The restrictions provided for here concern the use of the Ace credit. This credit may either be converted into a credit for IRAP purposes and used by way of offsetting over five years, or – in particular in the case of the credit arising from the so-called Super-Ace – it may be assigned to third parties (with the possibility of further assignments). These further assignments are now excluded. The possibility of offsetting and the application for a refund remain in place.
Further restrictions concern the prevention of abuse. Joint and several liability is provided for the seller and the acquirer of the credits. The Revenue Agency will carry out an automatic check of the F24 payment forms, here too with the possibility of suspending the offset for up to five days.

7. Gift tax on a majority interest in a company
This development must be taken into account when planning business succession, as the tax

authorities have made an about-turn on gifts of shareholdings: as is known, gifts of majority shareholdings in companies to descendants are exempt from gift tax provided certain requirements are met. Departing from earlier interpretations, this exemption is no longer granted for supplementary gifts to a descendant who already holds a controlling interest. Example: if a 51% interest is first transferred to a child by way of gift, that gift is tax-free within the framework of the relevant provisions; a second gift of an interest of, say, 30% would, by contrast, be taxable. If, on the other hand, an interest of 81% is transferred in a single gift, the exemption applies. The Italian Revenue Agency takes this not necessarily comprehensible position in Ruling No. 72 of 18 March 2024.

8. Release of reserves under tax deferral?

Finally, a note on a development that is for the time being only planned, but which may in some cases be of importance for forthcoming decisions on profit distributions: on 30 April 2024 the Council of Ministers resolved to introduce a substitute tax of 10% for the release of balance sheet reserves held under tax deferral (this concerns above all the many revaluation reserves). We will keep you informed of further developments.

We remain at your disposal for any further information and documentation.

Yours sincerely

Josef Vieider