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To all
clients

Circular No. 21/2024

Bolzano, 4 May 2024

Subject: Changes for real estate and the construction sector, months of March – April 2024

Please find below some notes on developments of recent weeks concerning real estate and the construction sector. Particular attention should be paid to the restrictions on claiming the various tax credits for renovation works.

1. Further restrictions on assignments of tax credits and on discounts in invoices in exchange for tax credits

On account of alleged abuses (how these are even possible in the face of the excessive control mechanisms remains a mystery to me!), the use of tax credits arising from renovation works is being further restricted: Law Decree No. 39 of 29 March 2024 (in force since 30 March 2024) introduced additional limitations on the assignment of tax credits to third parties and on the granting of discounts in outgoing invoices, precisely in respect of such credits, after the scope of application had already been massively reduced in the previous year. The restrictions therefore concern those cases for which loopholes were still left open in the previous year (Law Decree 11/2023 – see our relevant circulars), namely

- construction works for which a building permit was issued or a sworn notice of commencement of works (Cilas) was submitted before 17 February 2023, and

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- construction works carried out by public housing institutes, by housing cooperatives with undivided ownership, by non-profit organisations (Onlus) and by third-sector entities.

Now these two loopholes are also being closed, with the exception of works already commenced in accordance with the building permit or the notice of commencement of works, in respect of which expenses were incurred by 29 March 2024 on the basis of invoices issued.

These must be invoices for works actually carried out, and not advance invoicing or mere down payments.

2. Assignments as at 4 April 2024 – no remedy possible!

As most recently communicated in our Circular No. 17/2024, taxpayers who last year were still entitled, in respect of the various renovation works, to a corresponding discount in the supplier's invoice, or who were allowed to assign the credit to third parties, had until 4 April 2024 to notify these assignments to the Italian Revenue Agency using dedicated forms. Anyone who made a mistake in doing so is in a poor position.

This is because Law Decree 39/2024 abolished the previously available subsequent reinstatement of the deadline (remissione in bonis) until 15 October (the filing deadline for the tax return), under which corrections or late notifications could still have been made within that deadline. The possibility of replacing or cancelling the notifications by the 5th day of the following month was likewise abolished. Notifications for the month of March could, by way of exception, still be corrected until 4 April 2024.

In the meantime, numerous interest groups, including the Chamber of Chartered Accountants, have spoken out against this restrictive rule. It remains to be seen whether the door will be opened a crack once again.

3. Special notification for the Superbonus

Taxpayers who, by virtue of various transitional provisions, are still entitled to the so-called "Superbonus" in the years 2024 and 2025 are required to report, by means of a dedicated notification to be sent to the ENEA body in the case of energy-efficiency refurbishments and to the portal for seismic classifications in the case of earthquake-proof construction,

- the costs incurred up to 30 March 2024 and
- the costs still expected for the years 2024 and, where applicable, 2025.

The implementing provisions required for this purpose should be issued by 29 May 2024.

We will inform you by way of a separate circular as soon as the necessary implementing provisions are available.

4. Assignment block also for the removal of architectural barriers

We have informed you on several occasions about the calculation and the use of the 75% tax credits available since 1 January 2022 for the removal of architectural barriers. However, both the scope of application and the use of the credits have recently been increasingly restricted. In the meantime, three different periods, each with different reliefs, can be identified for these 75% benefits:

- virtually unrestricted access and assignment options up to 31 December 2023;
- initial restrictions under Law Decree 212/2023 for the period between after 31 December 2023 and 29 March 2024, and
- limited scope of application since 30 March 2023.

The three periods can be summarised as follows:

1. For construction works commenced in the period between 1 January 2022 and 30 December 2023, a tax credit of 75% is available, which may be assigned to third parties or claimed by way of a discount in the invoice. The material scope of application is still very broad. These benefits currently continue to apply until 31 December 2025.
2. Where the above requirements are not met, for expenses incurred in the period between 1 January 2024 and 30 March 2024 the tax deduction is available only for certain construction works within the meaning of Law Decree No. 212/2023: stairs, ramps, lifts, stairlifts, platform lifts and similar. No longer eligible are, among other things, windows or home automation. In addition, the works carried out must be certified by a sworn declaration of a qualified technician. During this period, the assignment of the tax credit or a corresponding discount in the supplier's invoice is restricted to the following cases:

a) it must be the owner's main residence, and the income (family quotient) must not exceed the threshold of 15.000 Euro (calculated in accordance with the rules under Art. 119 para. 8-bis1 of Law Decree No. 34/2020), or

b) construction works on the common parts of condominiums predominantly used for residential purposes.

3. From 31 March 2024 onwards, by contrast, Law Decree 39/2024 brings a further restriction: the assignment of the credit or a discount in the invoice by the supplier is excluded as a matter of principle. A transitional rule allows offsetting and invoice discounts only in the following cases: there is a building permit or notice of commencement of works issued by 30 March 2024, or a demonstrable commitment or a contract with the supplier has been concluded and a corresponding down payment for works carried out has been made.

Unless the exceptions under points 2) or 3) apply, the credit for the removal of architectural barriers may no longer be assigned from 30 March 2024 onwards, nor may it be claimed by way of a discount in the invoice. The tax deductions may then only be claimed as a deduction in the tax return, spread over four years; and this presupposes that the beneficiary has a corresponding tax liability!

5. Restricted offsetting in the case of overdue tax debts

Pursuant to Art. 4 of Law Decree 39/2024, the offsetting via the F24 payment form of tax deductions for renovation works, energy-efficiency measures and the various other construction-related benefits (including the Superbonus and the removal of architectural barriers) is blocked if the beneficiary has overdue tax debts arising from payment notices exceeding 10.000 Euro.

This is a temporary suspension, lasting until the debt has been settled. Critical situations may arise where the arrears are not paid promptly and the tax deductions lapse in the meantime.

6. Revocation of assignments:

By Circular No. 6/2024, the Italian Revenue Agency issued a series of instructions on how to proceed where assigned tax credits or notified invoice discounts have been accepted in error or where their transfer is to be reversed after the event. Should this matter concern you, please contact us, as precise requirements must be observed.

7. Purchase of a first home "under 36"

As a reminder: the reliefs introduced by Law Decree 73/2021 for the purchase of dwellings by taxpayers under 36 years of age were extended and amended for 2023 by the Budget Law for 2023. Despite vehement protests from the construction industry, the relief then expired on 31 December 2023.

Now, however, in the course of the conversion of Law Decree 215/2013 of the end of the year, at least a back door has been opened: where a preliminary purchase agreement was concluded and registered by 31 December 2023, the reliefs may still be claimed for notarial purchase agreements concluded by 31 December 2024. And: anyone who concluded a purchase agreement in the first 2 months of this year and would have been entitled to the relief that was only introduced subsequently will receive a tax credit that may be offset from 2025 onwards.

Here once again are the reliefs in key points:

Anyone purchasing a first home who has not reached the age of 36 in the year of purchase (!) is granted full relief on the purchase from value added tax (4%) or registration tax (2%) as well as from mortgage and cadastral tax. This is, however, subject to the condition that annual income for the purposes of the so-called "ISEE" (national indicator of income and asset position) does not exceed the threshold of 40.000 Euro. Whereas in the case of registration tax a full exemption

is granted, in the case of VAT the purchaser receives a corresponding tax credit which may then be offset. The relief applies not only to purchase agreements for full ownership, but also to the transfer of other rights in rem. In addition to the aforementioned requirements as to age and income, all the relevant conditions required for the tax reliefs on the purchase of a first home must also be met. But that is not all: loans taken out for the purchase, construction or conversion of the first home are also exempt from the general substitute tax, again provided that the above requirements are met. Agreements relating to luxury dwellings (categories A/1, A/8 and A/9) are excluded. Appurtenances (e.g. cellars and garages) are not expressly mentioned in the law, but the Italian Revenue Agency clarified in Circular No. 12/2021 that the reliefs are also available for one appurtenance each in categories C/2, C/6 and C/7 (always within the framework of the benefits for the purchase of a first home).
According to the interpretation prevailing in the specialist press, the relief applies to purchasers born after 1 January 1989.

8. Tax credits and ENEA notification:

And now for some good news: by Judgment No. 7657 of 21 March 2024 (filed at the beginning of April), the Court of Cassation clearly confirmed that late submission or failure to submit the notification to the ENEA body for construction works relating to energy-efficiency refurbishment may not lead to the disallowance of the corresponding tax credit of 65% or 50%. This reverses an earlier decision from 2022 (No. 34151/2022 of 21 November 2022). The judgment does, however, confirm a number of decisions to the same effect handed down by regional and provincial tax commissions in recent years. As is known, the notification must be sent in electronic form to the energy and environment agency Enea within 90 days. According to the judgment referred to, it serves mainly statistical purposes and may therefore, according to the Supreme Court, not be a precondition for the granting of a tax credit, not least because this is not provided for in the law as a ground for forfeiture. Until now, the Revenue Agency has challenged the application of the tax deduction in cases of omission (see Circulars No. 28/2022 and No. 17/2023).

9. Water concessions and registration tax

By Ruling No. 77 of 22 March 2024, the Italian Revenue Agency issued an interesting decision concerning registration tax on the various water concessions (for irrigation or also for power plants). The registration tax is to be calculated on the sum of the concession fee and all ancillary consideration for the entire term of the agreement, and where this consideration is not known in detail at the time the concession is concluded, subsequent balancing payments are due within the meaning of Art. 35 of the Registration Tax Act.

The decision relates to a South Tyrolean ruling request concerning a water abstraction for the production of mineral water, but it is likely to have far-reaching effects above all on the many abstraction concessions for hydroelectric power plants.

10. New IMU forms

By Decree of 24 April 2024, the Ministry of Economy published new forms for IMU returns. These are already to be used for any necessary filings for the year 2023, which must be submitted by 1 July 2024.

It has not yet been clarified whether new forms will also be issued for South Tyrol, where, as is known, GIS is payable instead of IMU.

11. Reliefs for young farmers

Law No. 36/2024 introduced a series of reliefs for young farmers (under 41 years of age):

- Where the relevant income is taxed as business income, it is subject to a flat-rate tax of 12,5%.
- Registration, mortgage and cadastral taxes on the purchase of real estate are reduced by 40%.
- Young farmers are granted a priority right in the context of the agricultural pre-emption right.
- In addition, a tax credit is granted for further-training activities amounting to 80% of the costs incurred in 2024.

The relief also applies to agricultural partnerships and corporations, provided that they are controlled by “young” farmers. Please contact us for details of the new rules.

12. Transfer of buildings during renovation

Buildings under construction that are transferred with the application of value added tax are subject to registration, mortgage and cadastral tax at a fixed amount. Until now it had been assumed, also on the basis of the notaries’ study No. 88-2009/T, that the same treatment applies to buildings transferred during a renovation phase with an option for VAT, that is to say that in such a case the mortgage and cadastral tax totalling 4% is not due. Accordingly, in many cases conversion works were undertaken before the transfer in order to avoid this additional burden on the transfer. That is now likely to be at an end. By Judgment No. 9800 of 11 April 2024, the Supreme Court clarified that a building once completed and entered in the land register which is subsequently converted can no longer benefit from the reduced mortgage and cadastral taxes during that conversion phase.

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

Yours sincerely
Josef Vieider