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Aid to Economic Growth rate will increase to 15%

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Decree-Law 73/2021, which was published on 25 May 2021, has introduced a one-off enhancement to the Aid to Economic Growth (ACE) benefit for the fiscal year starting after 31 December 2020.

Facts

Under the ACE regime, Italian-resident companies and permanent establishments of non-resident companies may deduct notional interest from their corporate income taxable base for the relevant fiscal year.⁽¹⁾

The ACE rate will rise from 1.3% to 15% for equity increases of up to €5 million for the fiscal year 2021. Known as the Super ACE, this rate can be deducted from the IRES tax basis or converted into a tax credit calculated by applying the IRES or IRPEF rates. This can either be offset with other taxes without limitation, claimed for refunds or transferred to third parties. In order to determine the incremental ACE basis for 2021, taxpayers electing to convert the Super ACE into a tax credit must inform the tax authorities.

Calculating the benefit

According to the ACE decree of 3 August 2017 (the Decree), the net equity increase is calculated as the difference between any equity increase (equity contributions or retained earnings) and items resulting in the reduction of the company's ACE base (eg, dividend distribution, contributions to controlled companies and increases in securities) in the relevant tax year.

While the wording of the new provision needs clarifying by the tax authorities, it suggests that the existing calculations for determining the ACE also apply to the Super ACE:

- The incremental ACE base, which is potentially eligible for the benefit, should be calculated as an increase of the gross ACE base in the 2021 fiscal year, compared to the previous tax period.
- The increased rate benefit will be granted within the limits of the net ACE base, based on the application of the special anti-avoidance provisions of Article 10 of the ACE decree (see below).

Comment

Consider the following example to understand the practicality of these calculations for groups of companies that require additional clarification from the tax authorities:

Company A receives a cash contribution of €1 million in 2021 and makes a cash contribution of the same amount to its subsidiary (Subsidiary B). If the 2021 incremental ACE base is determined with reference to the gross base, ie, without taking into account the negative elements outlined in Article 10 of the Decree, then Company A would be entitled to the Super ACE benefit and thus an incremental ACE base of €1 million in 2021, within the limits of the net ACE base for the tax period.

On the other hand, if the 2021 incremental ACE base is determined with reference to the increase of the net ACE base, Company A would have no equity increase in 2021 because of its contribution to Subsidiary B. Instead, Subsidiary B would be entitled to the Super ACE benefit.

A specific mechanism has been introduced to recapture the tax benefit if the equity of the eligible entity decreases in the two years following 2021 (for example, due to dividend distributions). However, the recapture will not be applicable if the reduction of the net equity derives from such losses.

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Endnotes

(1) For further details please see "Budget law 2020 – a corporate tax overview"