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Budget Law 2022 modifies tax rules for Italian companies

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This article provides an overview of the modified tax rules that have become effective under the 2022 Budget Law.

Step-up option on taxpayer assets

The 2022 Budget Law has modified the limits on the deductibility⁽¹⁾ of the stepped-up tax value of intangible assets (eg, the revaluation or realignment of any difference between statutory and tax evaluation). These limits established that deductions of up to one-fiftieth can be made on such assets for each tax period (for more information please see "New step-up option on taxpayer assets introduced").

The new amortisation limit will not apply if the taxpayer pays a substitute tax that is net of the 3% substitute tax, which was provided for in Decree Law 104/2020. The new limits are:

- 12% on stepped-up value up to €5 million;
- 14% on stepped-up value from €5 million to €10 million; and
- 16% on stepped-up value over €10 million.

The payment of the additional substitutive tax is generally due by the corporate income tax payment deadline for financial year 2021 or – if the taxpayer chooses – it can be split into two installments of the same amount, which are due by the corporate income tax payment deadline for financial year 2021 and 2022, respectively.

The new rules, regardless of general domestic principles that establish the non-retroactivity of the tax provisions, take effect from the year after the tax revaluation and realignment has been carried out. However, companies that elected for the former 3% substitutive tax are entitled to revoke their choice.

Incentives for business combinations

The incentives for business combinations provided by the 2021 Budget Law have been extended to 30 June 2022. These incentives facilitate transactions carried out through mergers, demergers or transfers of a company among independent parties and allow the entity deriving from the aggregation to convert the deferred taxes assets related to tax losses that were carried forward, in addition to notional interest deduction surpluses, into a tax credit (for further details please see "Budget Law 2021: tax incentive for business combinations"). Moreover, the incentive, which has also introduced certain caps, allows the book values of

goodwill and tangible and intangible assets to be stepped up for tax purposes, without the payment of any tax on the first €5 million of the increase.

Tax credit for high-tech investment

The tax credit for high-tech investments in new assets has been postponed until 2025. For material goods functional to the technological and digital transformation of companies, the bonus will be equal to:

- 20% of the purchase cost for investments of up to €2.5 million;
- 10% of the purchase cost for investment from €2.5 million to €10 million euros; and
- 5% of the purchase cost for investments from €10 million to the maximum limit of eligible costs – €20 million.

Intangible assets (eg, software, systems and system integration, platforms and applications) that are connected to high-tech tangible assets will entitle taxpayers to a tax credit of 20% for 2023 for the relevant investment, which will decrease to 15% in 2024 and to 10% in 2025.

Tax credits for research and development, technological innovation and design

Tax credit for investments in research and development, ecological transition, technological innovation and other innovative activities have been extended to 2022 and related tax benefits have been updated.

Tax credit for small and medium enterprises

The 50% tax credit associated with advisory costs that are incurred by small and medium enterprises for initial public offerings has been extended to 31 December 2022. The maximum amount has been reduced from €500,000 to €200,000.

Temporary suspension of depreciation

Due to the covid-19 pandemic, rules on electing to suspend depreciation (for accounting as well as tax purposes) have been extended to financial year 2021.

From a tax perspective, deduction of the "suspended" depreciation is allowed on the same conditions and within the usual time limits that are set out by the Income Tax Code, irrespective of its charge to the relevant financial statement. This approach will trigger deferred income taxes.

The Tax Administration clarified that depreciation for tax purposes is applicable only if elected by the taxpayer.

Annual limit on offsetting of VAT credits

From 2022, the amount of value-added tax (VAT) credits that can be offset against other taxes and social security contributions, or claimed as a refund through the "fast-track" procedure, is capped at €2 million (this was originally €700,000; it was capped at €2 million for financial year 2021 and €1 million for financial year 2020).

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Endnotes

(1) Introduced by Decree Law 104/2020.