

2021 ACE TAX CREDIT

NEWSLETTER NO. 10/2021



Article 19 of DL 73/2021 (so-called “Support II Decree”), converted into law with amendments by Law No. 106 of 23 July 2021, introduced certain new provisions concerning application of the “ACE” tax benefit (Aiuto alla Crescita Economica – Economic Growth Aid) for the fiscal year following the one in progress on 31.12.2020 (FY 2021).

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First, it raised the percentage rate to calculate the notional return of new equity, setting out the application of a 15% rate instead of the standard 1.3% rate. The new rate applies to increases of equity made in fiscal year 2021 up to a maximum amount of € 5 million, regardless of the amount of shareholders' equity stated in the financial statements. If the € 5 million cap is exceeded, the standard rules will apply to the excess amount (i.e., the 1.3% rate will apply).

Equity increases are taken into consideration if made from the first day of the tax period.

The Decree also set out the possibility, alternatively to deduction, to benefit from the new Ace 2021 through the acknowledgement of a tax credit calculated by applying IRPEF/IRES income tax rates in force in the tax period in progress on 31 December 2020 to the notional return (determined with the new 15% rate, with the restriction of increases being capped at € 5 million).

APPLICATION OF THE "SUPER ACE"

The "Super ACE" may be applied, alternatively:

- As untaxed income that decreases the IRES or IRPEF taxable basis;
- As tax credit calculated by applying IRPEF or IRES income tax rates to the 2021 notional return.



Using the tax credit is conditional on filing a specific notice to the Revenue Agency. By regulatory measure dated 17 September 2021 no. 238235/2021, the Revenue Agency defined procedures, filing deadlines and contents of the notice required to benefit from this tax credit, and the procedure to (possibly) assign it to a different party.

The following table presents major new provisions in the Regulatory measure on the “ACE Notice”.

FILING THE NOTICE

- Taxpayers meeting the requirements for eligibility for the tax credit need to notify the Revenue Agency of the increase in equity in the tax period following the one in progress on 31 December 2020 compared with equity at the end of the previous tax period, notional return being calculated with the 15% rate, and the tax credit.
- The ACE Notice may be filed (online) from 20 November 2021 and up to the standard deadline for filing the income tax return for the tax period following the one in progress on 31 December 2020 (in the event of taxpayers whose fiscal year matches the calendar year, by 30 November 2022).
- Filing may refer to one or more equity increases. In the event of increases after filing, additional separate ACE notices need to be filed (without indicating any increases included in any ACE Notice that the taxpayer already filed).
- By the deadlines referred to above, taxpayers may:
 - Adjust an already filed ACE Notice, by filing a new Notice;
 - File a full waiver of the previously reported tax credit.

BENEFITING FROM THE TAX CREDIT

- In the 30 days following the filing date of each Notice, the Revenue Agency notifies filers if the tax credit is granted or rejected.
- The tax credit may be used, after notification that the credit was granted, from the day after the date when cash was contributed or the day after waiver or offsetting of receivables, or from the day after the shareholders’ resolution allocating profits for the fiscal year, fully or in part, to reserve.
- The tax credit may be:
 - Used to offset tax liabilities in the F24 tax settlement form, filed on the online IT services of the Revenue Agency;
 - Be claimed for refund in the income tax return where it is disclosed;
 - Assigned to third parties, with the right to further assign the credit to other taxpayers.

ASSIGNMENT OF THE CREDIT

- The notice of assignment of the tax credit is made only by the assignor through the online IT tools available on the website of the Revenue Agency, effective the date the tax credit may be used.
- The assignee is required to notify acceptance of the assigned credit with the IT tools available on the website of the Revenue Agency. The assignee may use the tax credit in the same manners applicable to the assignor. Alternatively to indirect use, assignees may further assign tax credits to other taxpayers.
- Assignees are liable only for using the tax credits incorrectly or to a higher extent than the credits they were assigned. Accordingly, in performing standard audit operations, the tax authorities checks: a) if the original beneficiary meets the conditions and requirements in the Decree and is actually eligible for the benefit, if it correctly determined the amount of the credit and if it used it correctly. If they determine that conditions and requirements are not met, the credit is recovered from the original beneficiary; b) if assignees used the tax credit irregularly or to an extent in excess of the amount received upon assignment.

The new regulations also introduced mechanisms to recapture the tax benefit, if in the two years following the tax period 2021, equity decreases for causes other than losses. These mechanisms vary depending on whether the benefit was implemented by conversion into a tax credit or deduction from aggregate income.

If the Ace 2021 benefit was implemented by conversion into tax credit, if the increase in equity in the 2021 tax period from the 2020 tax period is lower than increases on which the tax credit was already benefitted from, the tax credit needs to be paid back proportionally to such lower amount.



CONTACT US

We invite you to speak with your contact professional within the Firm for any further explanation

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