

2022 BUDGET ACT

NEWSLETTER NO. 02/2022



Law No. 234 of 30 December 2021 (hereinafter “2022 Budget Act”) was published in Italian Official Journal no. 310 of 31 December 2021 and became effective on 1 January 2022. Major new tax provisions are recapped below.

14 JANUARY 2022

PERSONAL INCOME TAX (PARAS. 2-7)

To reduce the burden of taxation on personal income tax (IRPEF), the 2022 Budget Act redetermined IRPEF tax brackets which, effective 2022, are :

- 1) from €0 to €15.000,00: 23%;
- 2) from €15.000,01 to €28.000,00: 25%;
- 3) from €28.000,01 to €50.000,00: 35%;
- 4) from €50.000,01 upwards: 43%.

Consequently, tax credits allowed for the different types of income earned (income from subordinate employment, pension income, income from self-employment) were adjusted in an attempt to harmonise income thresholds applicable in the different cases, even if these do not coincide yet.

To ensure consistency in regulations on local IRPEF surtaxes with the new tax brackets, the deadline for Regions to publish any increase in regional IRPEF surtaxes for the tax year 2022 was postponed to 31 March 2022. Autonomous regions and the autonomous provinces of Trento and Bolzano are required to transmit data for determining the IRPEF regional surtax by 13 May 2022.

In addition, by 31 March 2022 or, in the event of a later deadline, by the time limit for approving the budget, municipalities are required to adjust tax brackets and municipal IRPEF surtax rates, in order to be in line with the new definition of the national IRPEF tax brackets.

IRAP EXCLUSION (PARAS. 8-9)

Effective the tax period in progress on 1 January 2022, individuals exercising a business, art or profession are no longer liable to pay IRAP (Regional Tax on Productive Activities).



PATENT BOX REGULATIONS (PARAS. 10-11)

Paragraph 10 introduced a set of changes to art. 6 of DL 146/2021, which had recently repealed “Patent box” regulations and replaced them with a new “super deduction” tax benefit applicable to research and development costs for certain intangible assets. The new benefit consists in a 110% increase, for the purposes of income taxes and IRAP, *of research and development costs incurred in connection with software protected by copyright, industrial patents, and designs used directly or indirectly in performing the company’s business.*

This benefit does not apply to trademarks, processes, formulas and know-how. The new benefit is an option, applies for 5 tax years, and is irrevocable. Beneficiaries are earners of business income, including entities that are residents of countries with which Italy entered into a double tax treaty and with which exchange of information is effectively implemented. The benefit applies on condition that the beneficiaries carry out research and development (including through research contracts entered into with companies other than the ones that directly or indirectly control them, are controlled by them or are controlled by the same controlling, or with universities or research entities and equivalent entities) aimed to create and develop assets. The above provisions apply to options exercised with reference to the tax period in progress on their effective date and for the following tax periods, so to options exercised in the tax period 2021 (and no longer from the effective date of DL 146/2021, i.e., 22 October 2021).

The paragraph in DL 146/2021 which established incompatibility between the new Patent box benefit and the tax credit for research and development was repealed. Accordingly, for the entire duration of the option, taxpayers may benefit from the new Patent box and the R&D tax credit. Implementing procedures of the new mechanism will be defined in a future measure of the Director of the Revenue Agency. Starting from the tax year in progress on the effective date of DL 146/2021, the options in art. 1, paras. from 37 to 45, of Law no. 190/2014 (so-called “Patent Box”), and art. 4 of DL 34/2019 (so-called “Patent Box” by “selfdetermination”) may no longer be exercised. Taxpayers that already exercised the options in art. 1, para. from 37 to 45, of Law no. 190/2014 (so-called “Patent Box”), for tax periods prior to the one in which DL 146/2021 became effective may choose, as alternative to the optioned mechanism, to apply the benefit described above, after sending a notice in the manner provided for in a measure of the Director of the Revenue Agency. The above provisions do not apply to taxpayers that filed an application for renewal and entered into an advance agreement with the Revenue Agency upon conclusion of such procedure, and taxpayers that opted for the mechanism in art. 4 of DL no. 34/2019. Lastly, under the new provisions if, in one or more of the tax periods, costs eligible for the new Patent Box were incurred with a view to creating one or more intangible assets included in software, patents, designs, then the taxpayer may benefit from a 110% increase of such costs effective the tax period in which the intangible asset is granted industrial property protection. The 110% increase does not apply to costs that were incurred earlier than eight tax years before the one in which the intangible asset is granted industrial property protection.

PLASTIC TAX AND SUGAR TAX (PARA. 12)

The effective date of the tax on the consumption of plastic products (so-called “plastic tax”) and of the tax on soft drinks containing sweeteners (so-called “sugar tax”) introduced by the 2020 Budget Act (Law no. 160/2019) was postponed to 1 January 2023.

SUPERBONUS (PARA. 28)

The 2022 Budget Act amended so-called “Superbonus” regulations under art. 119 of DL 34/2020.

- The split of the tax credit in four annual fractions of equal amount concerns costs incurred starting from 1 January 2022;
- The 110% tax credit for costs supported by documents borne by the taxpayer for the installation of:
 - Solar photovoltaic plants connected to the electric grid; or
 - Solar photovoltaic plants on buildings’ appurtenant facilities, made simultaneously with one of the enabling works is granted in the year when costs are incurred. No specific time limit is now set for the application of the tax benefit; previously, such time limit was defined (costs incurred from 1 July to 31 December 2021);
- The 110% tax credit applies in the event of costs supported by documents and borne by the taxpayer for works to install facilities to recharge electric vehicles in buildings (so-called electric recharge stations), made simultaneously with one of the enabling works to improve energy efficiency, and no specific time limit is now set for eligibility for the benefit; previously, such time limit was defined (costs incurred from 1 July 2020 to 30 June 2022).
- Works completed by apartment buildings under joint ownership, natural persons outside the performance of a business, art or profession, with reference to buildings comprising from two to four real estate units registered separately in the land registry, including where owned by a single owner or jointly by several natural persons, including works on demolished and reconstructed buildings, non-profit organizations, charities or social promotion associations, are eligible for the tax credit with the following rates:
 - 110% for costs incurred by 31 December 2023;
 - 70% for costs incurred in the year 2024;
 - 65% for costs incurred in 2025;



- Natural persons that, outside the performance of a business, art or profession, carry out works eligible for the tax benefit on “independent and autonomous” real estate units, or in any case real estate units not located in buildings in whose jointly-held areas superbonus “enabling” works are being completed, are also eligible for the 110% tax credit for costs incurred by 31 December 2022 on condition that by 30 June 2022 at least 30% of total works are completed.

The compliance endorsement is required, including when the tax credit is claimed in the income tax return, except when the return is filed directly by the taxpayer, through the pre-drafted tax return prepared by the Revenue Agency or through the withholding agent which renders tax services.

ASSIGNMENT OF THE TAX CREDIT OR DISCOUNT IN THE INVOICE (PARAS. 29-30)

The 2022 Budget Act expands the right to exercise the options in art. 121 of DL 34/2020, or to opt for a discount in the invoice or assign the tax credit, instead of applying the tax credit in the tax return, to costs incurred in 2022, 2023, 2024 for the following construction works:

- Renovation of the building heritage;
- Works to improve energy efficiency;
- Adoption of anti-seismic measures;
- Renovation or restoration of façades of existing buildings;
- Installation of photovoltaic plants;
- Installation of electric recharge stations for vehicles;
- Renovation of the building heritage aimed to develop appurtenant parking garages or parking lots, including if owned jointly;
- Overcoming and removing architectural barriers.

With reference only to costs that are eligible for the 110% super bonus (enabling and enabled works), the option for the discount in the invoice or for assigning the relevant tax credit is extended to costs incurred in 2025. The requirement of the compliance endorsement also applies if the taxpayer opts for the assignment of the tax credit or for the discount in the invoice in connection with the tax credit for construction works other than the ones that are eligible for the 110% superbonus. A further requirement applies: certification of the fair market value of prices by qualified experts. This requirement does not apply to so-called “unrestricted building works” (edilizia libera) and works whose total value does not exceed €10.000, carried out on single real estate unit or on the jointly-owned areas of buildings, except for works related to the façade bonus. Costs eligible for the tax credit also include costs incurred to obtain compliance endorsement, and any certifications or certificates.



ECOBONUS, RENOVATION BONUS, EARTHQUAKE BONUS, FURNITURE BONUS (PARA. 37)

The following tax credits are extended to 31 December 2024:

- Works to improve energy efficiency (so-called standard 50% or 65% “eco bonus”, based on the type of works, and so-called “ecobonus on jointly-owned areas” at a rate of 70-75% or 80-85% in the case of works to reduce seismic risks);
- Works to renovate the building heritage (“renovation bonus” of 50% capped at €98.000 per real estate unit);
- Works for the adoption of anti-seismic measures and for the completion of works to bring buildings to static safety (“earthquake bonus” in all its different rates, 50%, 70-80%, 75-85%, including the benefit for the purchasers of real estate property in areas classified under seismic risk 1, 2 and 3, by demolishing and reconstructing the entire building);
- Works for the purchase of furniture and large appliances destined to the internal design of renovated buildings on which works started on or after 1 January of the year prior to the purchase of the furniture (so-called “furniture bonus” at a rate of 50% with a cap of €10.000 for costs incurred in 2022 and if € 5.000 for costs incurred in the years 2023 and 2024).

GREEN BONUS (PARA. 38)

The 36% tax credit for costs incurred, up to an annual cap of €5.000 per apartment, for the “green improvement” of uncovered areas of private residential real estate property, their appurtenant areas, fencing, irrigation systems and pits, as well as for roof gardens and green roofs was extended to 2024. The tax credit is also granted for works on jointly-owned external areas of multi-owner buildings, with a cap of €5.000 per housing unit.

FAÇADE BONUS (PARA. 39)

The tax credit for costs for works, including simple cleaning or painting, aimed to renovate or restore the external façade of existing buildings located in town-planning zones A or B was extended to 2022. The tax credit was reduced to 60% of costs incurred, instead of 90% which applied to costs incurred up to 31 December 2021.



CAPITAL EQUIPMENT TAX CREDIT (PARA. 44)

The tax credit for investments in new capital equipment established for all 2022 was extended by three years, until 2025, and reshaped. In the event of tangible assets functional to the technological and digital transformation of businesses according to the Industry 4.0 model, purchased from 1 January 2023 and up to 31 December 2025, or 30 June 2026 on condition that the purchase order is officially accepted by the seller and at least 20% of the purchase cost is paid by 31 December 2025, the tax credit is equal to:

- 20% of the cost, for the part of the investment from 0 to €2,5 million;
- 10% of the part of costs in excess of €2,5 million and up to €10 million;
- 5% of the part in excess of €10 million up to a cap of eligible costs set at €20 million.

Instead, in case of intangible capital equipment 4.0 (software, system integration, platforms and application), the tax credit percentage was confirmed at 20% for the share of investments up to €1 million for purchases made from 16 November 2020 and up to 31 December 2023, or by 30 June 2024 on condition that the purchase order is officially accepted by the seller and at least 20% of the purchase cost is paid by 31 December 2023. A tax credit of 15% of the cost is granted for purchases made from 1 January 2024 and up to 31 December 2024, or by 30 June 2025 on condition that the purchase order is officially accepted by the seller and at least 20% of the purchase cost is paid by 31 December 2024. A tax credit of 10% is granted for the share of investments of up to €1 million made from 1 January 2025 and up to 31 December 2025, or 30 June 2026 on condition that the purchase order is officially accepted by the seller and at least 20% of the purchase cost is paid by 31 December 2025.



R&D BONUS (PARA. 45)

The following tax credits were extended and reshaped, with different time limits, percentages and caps depending on the type of investment:

- Tax credit for R&D investments: extended up to the tax period in progress on 31 December 2022; percentage: 20%; annual cap €4 million;
- Tax credit for R&D investments for the tax periods following the one in progress on 31 December 2022 and up to 2031: percentage: 10%; annual cap €5 million;
- Tax credit for technological innovation, design and appearance conception extended for the tax periods 2022 and 2023: percentage 10%; annual cap €2 million;
- Tax credit for technological innovation, design and appearance conception extended for the tax periods 2024 and 2025: percentage 5%; annual cap €2 million;
- Tax credit for technological innovation aimed to develop new or substantially improved products or manufacturing processes to achieve environmental transition or 4.0 digital innovation targets extended for the tax year 2022; percentage 15%; annual cap €2 million;
- Tax credit for technological innovation aimed to develop new or substantially improved products or manufacturing processes to achieve environmental transition or 4.0 digital innovation targets extended for the tax year 2023; percentage 10%; annual cap €4 million;
- Tax credit for technological innovation aimed to develop new or substantially improved products or manufacturing processes to achieve environmental transition or 4.0 digital innovation targets extended for the tax year 2024-2025; percentage 5%; annual cap €4 million.

SMES IPO BONUS (PARA. 46)

The 50% tax credit, introduced by the 2018 Budget Act, for consultancy costs incurred by small- and medium-sized enterprises for initial public listing on regulated markets or European multilateral negotiation systems was extended to 31 December 2022. The tax credit cap was reduced from €500k to €200k.

NEW SABATINI BENEFIT (PARAS. 47-48)

The “new Sabatini” benefit was refinanced for the years 2022 and 2023 in the amount of €240 million per year, for the years from 2024 to 2026 in the amount of €120 million per year, and for the year 2027 in the amount of €60 million. An amendment to para. 4, of Article 2, of DL n. 69 of 2013, established that the contribution is granted in several fractions and, in the event of loans equal to or lower than €200k, the contribution may be granted in a single occurrence.



SMES GUARANTEE FUND (PARAS. 53-58)

Exceptional regulations on the operation of the SMEs Guarantee Fund (Fondo garanzia PMI) were extended to 30 June 2022.

In addition:

- The guarantee is granted against no consideration but effective 1 April 2022 guarantees are granted after paying a commission to the Fund;
- Effective 1 January 2022 the coverage of the Fund on loans of up to €30k changes to 80%. To receive the guarantee, effective 1 April 2022 a commission needs to be paid to the Fund.

The exceptional regulations for the intervention of the Fund under art. 13 of DL 23/2020 will no longer apply to applications for the Fund's guarantee submitted starting from 1 July 2022.

Effective 1 July 2022 and up to 31 December 2022, the maximum amount guaranteed by the Fund for each enterprise will be equal to € 5 million and the guarantee will be delivered by applying the assessment form, without prejudice to the admissibility of entities included in bracket 5 of the same assessment form.

INCENTIVES FOR BUSINESS COMBINATIONS (PARAS. 70-71)

Amendments to the 2021 Budget Act (Law 178/2020, paras. 233-243), introduced changes to incentives for business combinations. In the event of business combinations implemented through merger, demerger or contribution of business approved from 1 January 2021 to 30 June 2022, the entity resulting from the merger, the beneficiary or the contributee is entitled to convert into a tax credit any deferred tax assets (DTA) that refer to tax losses and ACE surpluses accrued in the tax year prior to the one in progress on the statutory effective date of the deal which have not been deducted or converted into a tax credit on such date. DTAs referred to the above elements may be converted into a tax credit even if they are not disclosed in the financial statements.

Conversion into a tax credit occurs, as to one quarter, on the statutory effective date the above deals and, as to the residual three quarters, on the first day of the fiscal year following the one in progress on the statutory effective date of the deal referred to above with an aggregate cap equal to the lower of (a) €500 million and (b) 2% of the sum of the assets of the entities involved in the merger or demerger, as stated in the financial statements, without taking into consideration the entity that has the higher amount of assets, or 2% of the sum of contributed assets. Moreover, if group parent companies required to draft consolidated annual accounts take part in the deals, assets as disclosed in the latest available consolidated annual accounts are considered to calculate the cap of DTAs that may be converted into tax credit. In the event of option for group taxation, for the purposes of conversion, any excess in the notional return of the participating entity and its tax losses in the fiscal year prior to group taxation are taken into account, followed by aggregate losses retained by the controlling entity under art. 118 TUIR.

Lastly, termination of the "combination bonus" under art. 11 of DL 34/2019 ("Growth Decree") was anticipated from 31 December 2022 to 31 December 2021. This article provided for eligibility (on certain conditions) for the free tax recognition of the share swap difference resulting from mergers and demergers, and of higher values entered by the contributee in the event of contribution of business.

HIGHER ANNUAL OFFSETTING OR REFUND CAP (PARA. 72)

Effective 1 January 2022, the cap applicable to tax credits and contributions that may be offset against liabilities or that may be claimed for refund for holders of a tax account is set at € 2 million per calendar year.

TAX CREDIT FOR INVESTMENTS IN THE SOUTH OF ITALY (PARA. 175)

The geographical scope of application of the tax credit for the purchase of capital equipment in the South of Italy, pursuant to art. 1, para. 98 of Law 208/2015, was adjusted to the provisions of the 2022-2027 Regional Aid Map approved by the European Commission.

REEVALUATION OF ASSETS AND ALIGNMENT OF TAX VALUES (PARAS. 622-624)

The 2022 Budget Act amended regulations on the step-up and realignment of tax values, as set out in art. 110 of DL 104/2020 “August Decree”. The corporate income tax and IRAP deduction of the higher value attributed to intangible assets whose amortization allowances, under art. 103 of TUIR, are deductible to an extent equal to or lower than 1/18 of the cost or value (goodwill and trademarks), applies in any event to an extent not exceeding 1/50 of such higher value, for each tax period.

In the event of transfer against a consideration, assignment to shareholders or destination to purposes unrelated to the business or to personal or family use of the entrepreneur, or in the event of disposal of the production site, any loss is deductible - up to the residual amount of the higher value - on a straight line basis for the residual amortization period as determined above. The share of costs referable to the residual amortizable value of the higher value, after any losses deducted by the assignor, may be deducted by the assignee on a straight line basis for the residual amortization period as determined above.



Notwithstanding the provisions of the previous paragraph, the higher attributed value may be deducted to an extent not exceeding, in each tax year, 1/18 of such amount, by paying a substitute tax in lieu of income taxes and IRAP and any additional taxes in the amount as set by art. 176, para. 2-ter, TUIR, net of a 3% substitute tax, settled in two payments of equal amount at the most, falling due by the deadline for paying the tax balance of income taxes for the tax period following the one with reference to which the revaluation is applied and by the deadline for paying the tax balance for the subsequent tax period. Tax rates in Art. 176, para. 2-ter referred to above are:

- 12% on higher values up to €5 million;
- 14% on the part of higher values exceeding € 5 million and up to € 10 - 9 - million;
- 16% on the part of higher values exceeding € 10 million.

Notwithstanding the Taxpayer Statute, these changes are effective the year following the one with reference to which revaluation and alignment are implemented, i.e., starting from fiscal year 2021. However, taxpayers that on the effective date of the 2022 Budget Act paid substitute taxes are entitled to cancel, fully or in part, the application of the tax regulations in art. 110 on terms and conditions that will be defined by the Director of the Revenue Agency. Cancellation is lawful ground for refund or for the right to use any amounts paid as substitute tax to offset any tax liabilities.

CHANGES TO VAT REGULATIONS APPLICABLE TO NONPROFIT ENTITIES (PARA. 683)

The effective date of VAT regulations provided for by art. 5, paras. 15- quater, 15-quinquies and 15-sexies of DL 146/2021 “Tax-Employment Decree” applicable to entities of the non-profit sector is postponed to 1 January 2024.



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TEMPORARY FREEZE OF AMORTIZATION / DEPRECIATION (PARA. 711)

Taxpayers that do not adopt international accounting standards are entitled to refrain from applying a percentage of the annual depreciation / amortization of the cost of tangible and intangible assets also in the fiscal year following the one in progress on 15 August 2020 (effective date of DL 104/2020 which introduced the tax benefit for 2020), retaining their book value as disclosed in the last regularly approved financial statements. The depreciation/amortization allowance that is not applied is entered in the income statement related to the following fiscal year and on the same basis subsequent allowances are deferred, thus extending for such allowance the original amortization/depreciation plan by one year. This new provision applies only to taxpayers that in 2020 did not amortize/depreciate 100% of the cost of such assets.

EXTENSION OF THE TIME LIMIT TO SETTLE TAX BILLS (PARA. 913)

The time limit to perform the obligations stated in the tax bills served from 1 January to 31 March 2022 was extended from 60 to 180 days.



CONTACT US

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