

ENERGY TAX CREDIT

NEWSLETTER NO. 8/2022



A tax credit was introduced to mitigate the effects of higher costs incurred by businesses to purchase electric power and natural gas .

29 APRIL 2022

Support III Decree (D.L. 4/2022), Energy Decree (D.L. 17/2022), and Ukraine II Decree (D.L. 21/2022) introduced exceptional relief, in the form of a **tax credit**, to provide for a partial compensation of additional costs incurred both by companies that are significantly impacted by cost for the purchase of electric power and natural gas (“*energy/gas-intensive businesses*”) and companies other than the foregoing (“*non-energy intensive businesses*”).

In all cases listed below, the **tax credit**:

- May be used only to **offset tax liabilities** under art. 17, Leg. Dec. No. 241/1997. The restrictions in article 1, para. 53, of Law No. 244/2007 (€250k), and article 34 of Law No. 388/2000 (€2 million) do not apply;
- Is **not included** in the calculation of **the CIT or the IRAP taxable bases**;
- Is disregarded when determining the percentage of deduction of interest charges, under article 61 of the Income Tax Act, and when determining the criteria of inherence of other costs, under article 109, para. 5, of the Income Tax Act;
- May be **in addition to other reliefs** involving the same costs on condition that the sum - including because of exclusion from the income tax and IRAP taxable bases - does not exceed the cost incurred;
- **Must be used to offset tax liabilities by 31 December 2022**;
- May be **assigned** only in its full amount by beneficiaries to other entities, including banks and other financial intermediaries, with no right to further assignment, without prejudice to the possibility of two additional assignments provided that these are to the benefit of banks and financial intermediaries, companies belonging to a banking group and insurance companies. In the event of assignment of the tax credit, beneficiaries have to request qualified professionals for endorsement of compliance of data related to documents that prove that conditions entitling to the tax credit are met. **Implementing procedures** of regulations on assignment and traceability of the tax credit are going to be defined by a **regulatory provisions of the Director of the Revenue Agency**.



D.L. 4/2022, ART. 15 – TAX CREDIT FOR ENERGY-INTENSIVE BUSINESSES: Q1 2022 COSTS

An exceptional grant, in the form of a **tax credit**, was introduced to partially offset higher charges incurred by “energy-intensive” businesses owing to costs incurred for the electric power component per kWh.

The Decree of the Ministry of Economic Development dated 21 December 2017 identified energy-intensive businesses in the ones that feature **average consumption of electric power**, in the period of reference, **equal to or higher than 1 GWh/year** and that **meet one of the following conditions**:

1. They **operate in the sectors listed in Annex 3 to Guidelines on State aid for environmental protection and energy 2014-2020** (including, but not limited to, mining of ores, manufacture of fruit and vegetable juice, manufacture of oils and fats, preparation and spinning of textile fibres, manufacture of non-wovens and articles made from non-wovens, except apparel, manufacture of leather clothes, sawmilling and planing of wood, manufacture of pulp, manufacture of paper and paperboard, manufacture of refined petroleum products, manufacture of dyes and pigments, manufacture of fertilisers and nitrogen compounds, manufacture of flat glass, manufacture of ceramic sanitary fixtures, manufacture of cement, manufacture of electronic components, etc.);
2. They **operate in the sectors listed in Annex 5 to Guidelines on State aid for environmental protection and energy 2014-2020** (other mining and manufacturing sectors not included on the list of Annex 3) and feature a positive electric power intensity index determined over the “period of reference”[1], in relation to the three-year average of the gross value added in current prices, not lower than 20%;
3. They are not included in the companies listed in items a) and b), but are included in the **lists of energy intensive businesses drafted, for the years 2013 or 2014, by Cassa per i servizi energetici e ambientali (CSEA)** according to Art. 39 of D. L. No. 83/2012.

The **tax credit** is equal to **20% of costs incurred for the electric power component** purchased and used in **Q1 2022** and businesses are eligible if such costs per kWh, calculated on the basis of the average the Q4 2021, increased by more than 30% compared with the same period in 2019.

The **tax code** to use the tax credit to offset tax liabilities in the F24 tax settlement form is “**6960**” and is called “*credito d'imposta a favore delle imprese energivore (primo trimestre 2022) – art. 15 del decreto-legge 27 gennaio 2022, n. 4*” (tax credit for energy intensive businesses (Q1 2022) – art. 15 DL No. 4 of 27 January 2022).

[1] “*Period of reference*” means, for year “N”, when the relief applies, the three-year period “N-4” to “N-2”, except in the event of companies incorporated more recently

**D.L. 17/2022, ART. 4 - TAX CREDIT FOR ENERGY-INTENSIVE BUSINESSES:
Q2 2022 COSTS**

An **additional tax credit** was introduced for **“energy-intensive” businesses** also in connection with costs incurred per kWh of the electric power component in **Q2 2022**. Beneficiaries are again energy-intensive businesses as defined above.

The **tax credit is equal to 25%**^[2] of **costs** incurred for the energy component purchased and actually used in **Q2 2022**. Companies are eligible if such costs per kWh, calculated on the basis of the average of Q1 2022, increased by more than 30% compared with the same period in 2019.

The tax credit is also granted in connection with the cost of electric power **produced by businesses and self-consumed** in Q2 2022. In such event, the increase in the cost per kWh of electric power produced and self-consumed is calculated with reference to the increase in the unit price of fuel purchased and used by the company to produce such electric power, and the credit is determined with reference to the contractual price of electric power equal to the Q2 2022 average of the single national price for electric power (PUN).

The **tax code** to use the tax credit to offset tax liabilities in the F24 tax settlement form is **“6961”** and is called *“credito d'imposta a favore delle imprese energivore (secondo trimestre 2022) – art. 4 del decreto-legge 1° marzo 2022, n. 17”* (tax credit for energy intensive businesses (Q2 2022) – art. 4 DL No. 17 of 1 March 2022).

[2] The Ukraine II Decree (D.L 21/2022), in Art. 5, increased the percentage of the tax credit to 25% (from 20%) for energy consumptions.



**DL 17/2022, ART. 5 - EXCEPTIONAL GRANT IN THE FORM OF A TAX CREDIT FOR GAS-INTENSIVE BUSINESSES
Q2 2022 COSTS**

A **tax credit** was introduced for **“gas-intensive” businesses** that suffered from a material increase in costs incurred to purchase natural gas. Companies with intensive consumption of natural gas are identified by Decree of the **Ministry for Ecologic Transition** dated 21 December 2021, as businesses that:

1. Operate in the **sectors listed in Annex 1 to such decree** (including, but not limited to, mining of ores; processing and preserving of meat, fish, fruit and vegetables; manufacture of oils and fats; manufacture of other products; manufacture of wine and spirits; manufacture of textiles; manufacture of paper and wood; manufacture of chemicals and pharmaceutical products; manufacture of cement and metals; manufacture of electronic components, manufacture of electronic and electric wires; other manufacturing, etc.);
2. Have an **average natural gas consumption**, calculated for the “period of reference”[3], **equal to or higher than 1 GWh/year** (or 94582 Sm³/y, considering a higher calorific value for natural gas of 10.57275 kWh/Sm³); and
3. **In Q1 2022, consumed** a quantity of natural gas for energy uses **equal to or higher than 25% of such volume of natural gas** (as indicated in Article 3, para. 1, of the decree referred to above), less any consumption of natural gas for thermoelectric uses.

Cassa per i servizi energetici e ambientali (CSEA), pursuant to the provisions issued by the Italian Regulatory Authority for Energy (A.R.E.R.A.) is required to compile the List of natural gas intensive businesses for each relevant year.

The **tax credit is equal to 20%[2] of costs** incurred to purchase natural **gas consumed in Q2 2022** for energy uses other than thermoelectric uses. Businesses are eligible when the price of reference of natural gas, calculated as average Q1 2022 Intraday Market prices of reference (MI - GAS) published by Gestore dei Mercati Energetici (GME - the Operator of energy markets), increased by more than 30% with respect to the same quarter in 2019.

The **tax code** to use the tax credit to offset tax liabilities in the F24 tax settlement form is **“6962”** and is called *“credito d'imposta a favore delle imprese a forte consumo gas naturale (secondo trimestre 2022) – art. 5 del decreto-legge 1° marzo 2022, n. 17”* (tax credit for gas intensive businesses (Q2 2022) – art. 5 DL No. 17 of 1 March 2022).

[3] "Period of reference" means, for year “N” when the relief applies, the three-year period “N-4” to “N-2”, except in the event of companies incorporated more recently.

[4] The Ukraine II Decree (D.L 21/2022), in Art. 5, increased the percentage of the tax credit to 20% (from 15%) for gas.

D.L. 21/2022, ART. 3 - TAX CREDIT FOR BUSINESSES TO PURCHASE ELECTRIC POWER Q2 2022 COSTS

A **tax credit** was also introduced for “**non-energy-intensive businesses**” equipped with electric power meters with **available power equal to or higher than 16.5 kW**, to partially compensate higher charges incurred to purchase the energy component. Businesses are eligible for the benefit on condition that the **price of the energy component**, calculated on the average of **Q1 2022** and less any taxes and subsidies, featured an **increase** of the cost per kWh of **more than 30%** compared with the average price of Q1 2019.

The **tax credit** is equal to **12% of the cost** incurred to purchase the energy component actually used in **Q2 2022**.

The **tax code** to use the tax credit to offset tax liabilities in the F24 tax settlement form is “**6963**” and is called “*credito d'imposta a favore delle imprese non energivore (secondo trimestre 2022) – art. 3 del decreto-legge 21 marzo 2022, n. 21*” (tax credit for non-energy-intensive businesses (Q2 2022) – art. 3 DL No. 17 of 21 March 2022).



D.L. 21/2022, ART. 4 - TAX CREDIT FOR BUSINESSES TO PURCHASE NATURAL GAS - Q2 2022 COSTS

A **tax credit** was also introduced for “**non-gas-intensive**” **businesses** to partially compensate higher costs for the purchase of natural gas.

Businesses are eligible for the relief on condition that the **price** of reference of natural gas, calculated as **Q1 2022** average prices of reference on the Intraday Market (MI-GAS) published by the Gestore dei mercati energetici (GME), **increased by more than 30%** with respect to the same price **in Q1 2019**.

The **tax credit** is equal to **20% of the cost incurred for the purchase of gas** consumed (other than for thermoelectric uses) **in Q2 2022**.

The **tax code** to use the tax credit to offset tax liabilities in the F24 tax settlement form is “**6964**” and is called “*credito d'imposta a favore delle imprese diverse da quelle a forte consumo gas naturale (secondo trimestre 2022) – art. 4 del decreto-legge 21 marzo 2022, n. 21*” (tax credit for non-gas-intensive businesses (Q2 2022) – art. 4 DL No. 17 of 21 March 2022).



CONTACT US

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