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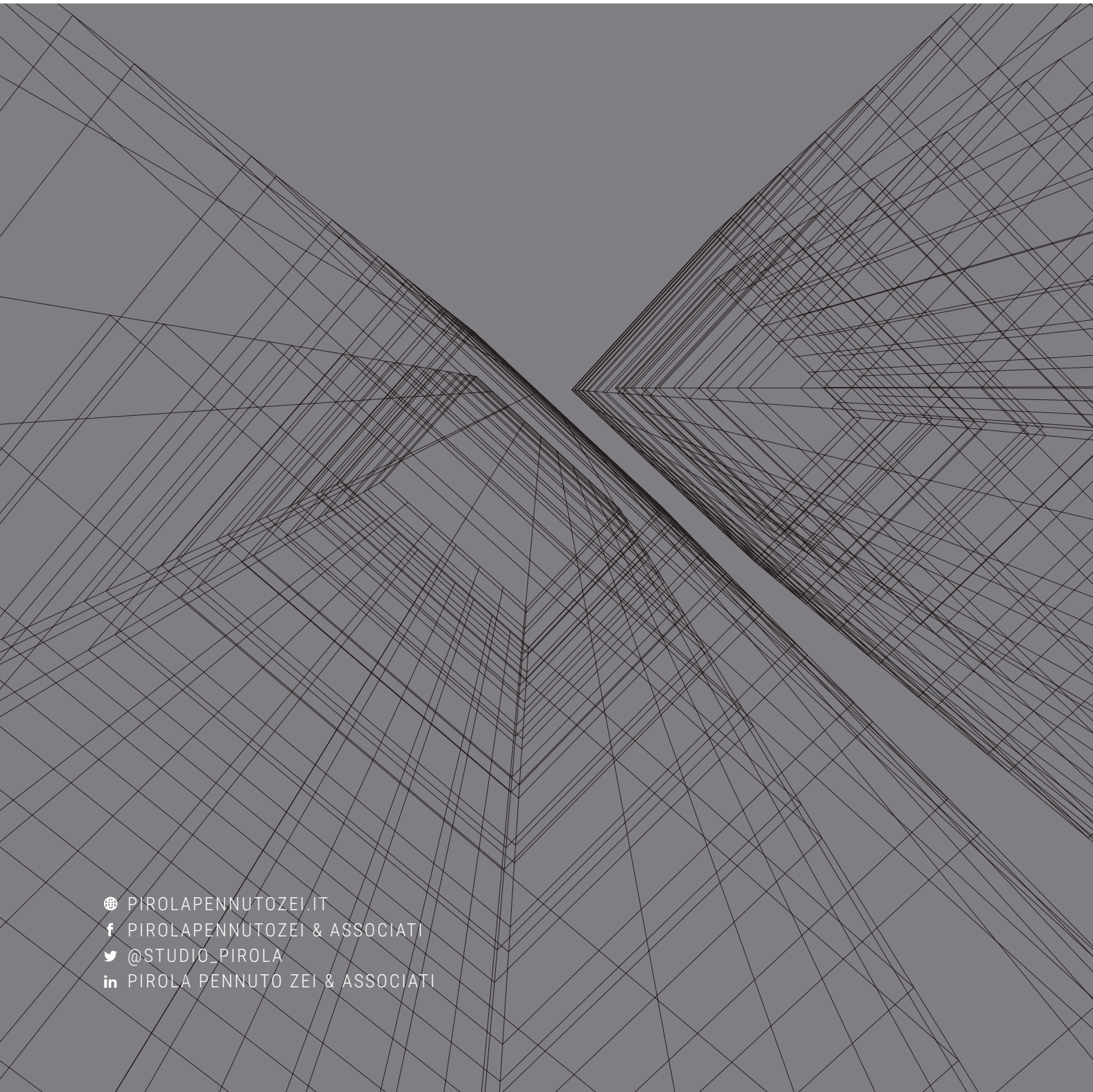

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LEGISLATION

1.1

Law No 55 of 14 June 2019 containing urgent provisions for relaunching public works and accelerating infrastructure projects, urban regeneration and after-earthquake reconstruction (Italian Official Journal No 140 of 17 June 2019)

Law No 55 of 14 June 2019 converted, with amendments, Decree Law No 32 of 18 April 2019.
One of the changes introduced by the law is the amendment to article 2477 of the Italian civil code (*second and third paragraphs*), to the effect that there is an obligation to appoint a Board of Statutory Auditor/Sole Auditor or Audit Company if the company:

a) is required to prepared consolidated financial statements;
b) controls a company subject to audit;
c) Exceeded any of the following limits for two consecutive fiscal years: 1) Total assets in the balance sheet: *4 million euro;* 2) Revenue from sales and services: *4 million euro;* 3) Average number of employees during the year: 20.

The obligation ceases when none of the above limits is exceeded for three consecutive fiscal years.

1.2

Law No 58 of 28 June 2019 containing urgent measures for growth and for the resolution of crises (Italian Official Journal No 151 of 29 June 2019). Conversion into Law of Decree Law No 34 of 30 April 2019

Law No 58 of 28 June 2019 containing urgent measures for growth and for the resolution of crises (published in the Italian Official Journal No 151 of 29 June 2019, ordinary supplement No 26), converted Decree Law No 34 of 30 April 2019.

We summarize below the main changes introduced by the law, with particular regard to those affecting IRES taxable persons.

Increased depreciation for new capital assets. Article 1

Holders of business income and holders of income from arts or professions who invest in new capital

assets, not including vehicles and the other means of transport referred to in article 164(1) of the Italian Income Tax Code, between 1 April 2019 and 31 December 2019 (or 30 June 2020 provided that the order was accepted by the seller not later than 31 December 2019 and at least 20 per cent of the purchase price was paid by the same date, are eligible for a 30 per cent increase in the purchase cost of such assets, solely for the purpose of determining the depreciation charges and the finance lease payments deductible for tax purposes.
The increase does not apply on the portion of the aggregate investment exceeding 2.5 million euro.
The new rules are without prejudice to the provisions of article 1(93) and (97) of law No 208 of 28 December 2015.

Revision of mini-IRES rules. Article 2

With effect from the fiscal year subsequent to that in progress at 31 December 2022, the IRES rate on the portion of business income reported by companies and the other entities referred to in article 73(1) of the Italian Income Tax Code, up to the amount corresponding to profits allocated to reserves other than reserves of non-distributable profits, within the limit of the increase in shareholders' equity, will be reduced by a maximum of 4 per cent. In the fiscal year subsequent to that in progress at 31 December 2018 and for the three subsequent FYs, the rate will be reduced respectively by 1.5, 2.5, 3 and 3.5 percentage points.

Non-distributable profit reserves are reserves consisting of profits other than realized profits pursuant to article 2433 of the Italian civil code, which derive from valuation processes. The relevant profits are those realized as of the fiscal year in progress at 31 December 2018.

The shareholders' equity increase is the difference between:

- The shareholders' equity shown in the financial statements for the year, not including the financial result, after deduction of retained earnings taken into account for the purposes of the incentive in prior years, and
- The shareholders' equity shown in the financial statements for the year in progress at 31 December 2018, not including the financial result.

For each fiscal year, the portion of retained earnings qualifying for the incentive in excess of the aggregate net reported income shall increase the qualifying retained earnings for the subsequent year.

The rule contains specific provisions in respect of companies which have opted for domestic or worldwide group taxation and for fiscally transparent companies. In particular, with regard to the companies and entities referred to in article 73(1)(a), (b) and (d) of the Italian Income Tax Code who have elected for domestic or worldwide group taxation – articles 117 ff and articles 130 ff of the Italian Income Tax Code – the amount qualifying for the reduced tax rate, to be determined by each member of the tax group, shall be used by the controlling company or entity to determine the tax due up to the amount corresponding to the income in excess of any deductible losses.

For fiscally transparent companies (pursuant to article 115 of the Italian Income Tax Code), the amount qualifying for reduced taxation determined by the subsidiary shall be allocated to each shareholder proportionally to their respective percentage of ownership. The amount allocated to a shareholder but not used shall be added to the qualifying amount for the subsequent year.

The incentive can be combined with other tax advantages, except those providing for the lump-sum determination of income and those provided by article 6 of Presidential Decree No 601 of 29 September 1973[1]. Furthermore, these provisions apply also for personal income tax purposes (IRPEF) to business income reported by sole proprietors and Italian partnerships (*società in nome collettivo and società in accomandita semplice*) under the ordinary accounting regime.

The relevant implementation rules will be introduced by a Ministerial Decree (to be enacted within ninety days of the entry into force of the law).

Increased deductibility of the municipal property tax (IMU) from taxable income. Article 3

Following the amendment of article 14(1) first period, of legislative decree No 23 of 14 March 2011, the municipal property tax (IMU) on buildings used in the conduct of business will be deductible from business income and income from arts and professions, with effect from the fiscal year subsequent to that in progress at 31 December 2022.

Before then the municipal property tax will be deductible from taxable income as follows:

- 50% in the fiscal year subsequent to that in progress at 31 December 2018;
- 60% in the fiscal years subsequent to that in progress at 31 December 2019 and 31 December 2020;

1 E.g., the beneficial regimes applicable to social assistance institutions, mutual aid societies and charities.

- 70% in the fiscal year subsequent to that in progress at 31 December 2021.

Deadline for filing the municipal property tax (IMU) return and the TASI return (tributo per i servizi indivisibili). Article 3-ter

The deadline for filing the municipal property tax (IMU) return and the TASI return has been postponed to 31 December.

Changes to the Patent Box regime. Article 4

With effect from the fiscal year in progress at the date of the entry into force of Decree Law No 34 of 30 April 2019 (i.e., effective 2019), holders of business income who have opted for the beneficial Patent Box regime may choose – as an alternative to the procedure under article 31-*ter* of Presidential Decree No 600 of 29 September 1973, if applicable – to determine and report the income qualifying for the beneficial regime by providing the relevant information in the special-purpose documentation provided in accordance with an Enactment to be issued within ninety days from the date of the entry into force of Decree Law No 34 of 30 April 2019, which shall also establish the relevant implementation rules.

Taxpayers shall notify the Italian Tax Administration of the availability of said documentation in the tax return for the fiscal year in which the relief is sought.

Eligible taxpayers shall allocate the reduction in taxable income under the patent box regime in three equal annual instalments, to be reported in the IRES and IRAP tax returns for the year in which the option for the regime is elected and the two subsequent fiscal years.

The rules also apply if the procedure under article 31-*ter* was implemented, unless the relevant agreement with the Revenue Agency is entered into and subject to the Revenue Agency's express waiver of the procedure.

Pursuant to article 4(2), in the event of adjustment of income not included in taxable business income, directly determined by the entities which exercise the option, resulting in additional tax or a lower tax credit, the penalty set forth by article 1(2) of legislative decree No 471 of 18 December 1997 does not

apply if, during inspections, audits or similar investigative activities, the taxpayer delivers to the tax authorities the documentation stated in the Enactment "*to allow verification of the correct determination of the excluded income, both with regard to the amount of income, including the implicit income from the direct use of the assets, and to the identification of the costs related to said income*". The above is without prejudice for anyone wishing to take advantage of the incentive for the possibility to apply the provision contained in article 4(2) by filing a supplementary return specifying that the documentation referred to under paragraph 1 is available for each fiscal year covered by the supplementary return "*provided that this is filed before becoming formally aware of the start of audit activities in respect of the regime provided for by article 1(37) to (45) of law No 190 dated 23 December 2014*" (i.e., the *Patent Box* incentive).

Lacking notification of availability of the required documentation, any income adjustment shall be liable to the penalty referred to in article 1(2) of Legislative Decree No 471/1997.

Simplification of formal checks of income tax returns and deadline for filing the online income tax return. Article 4-*bis*

Paragraph 3-*bis* was introduced (after paragraph 3 of article 36-*ter* of Presidential Decree No 600/1973) "*providing that for the purposes of the check referred to in paragraph 1, the offices – in accordance with article 6(4) of law No 212 of 27 July 2000 - do not ask taxpayers for documents available in the "anagrafe tributaria" (Italian central tax records office) or data transmitted by third parties pursuant to disclosure, certification or reporting obligations, unless the request concerns the verification of satisfaction of subjective conditions that do not emerge from information contained in the central tax records office or information available to the tax authorities inconsistent with that reported by the taxpayer. Any requests for documents made by the tax authorities in respect of data already available to them shall be considered ineffective*".

Paragraph 4-*bis* also amended article 2 of the Regulation provided by Presidential Decree No 322 of 22 July 1998, by stipulating that:

- Private individuals and the companies or associations referred to in article 6 of Presidential Decree No 600/1973 file their return between 1 May and 30 June, or electronically by 30 November of the year subsequent to their fiscal year-end;
- IRES taxable persons file their return electronically by the last day of the eleventh month subsequent to their fiscal year-end.

Obligation to summon taxpayers to a negotiation meeting. Article 4-octies

Except in the cases where a copy of the tax audit report on conclusion of the tax audit process is issued, the Tax office, before issuing a Notice of Deficiency, must serve on the taxpayer a summon to appear – pursuant to article 5 of Legislative Decree No 218 dated 19 June 1997 – to start the tax assessment process (*Invito obbligatorio* - obligatory summon).

If no agreement is reached, the notice of deficiency will expressly be based on the clarification provided and documents produced by the taxpayer during the negotiations.

In urgent cases, to be expressly justified, or if there is founded risk of non-collection, the Tax Office may directly serve a notice of deficiency without sending a summon to appear first. In all other cases, the failure to start prior negotiations shall result in invalidity of the notice of deficiency if, as a result of an appeal, the taxpayer were able to demonstrate the reasons it would have brought forth had negotiations been initiated.

Exemption from the TASI tax for property constructed and earmarked for sale by the building company. Art. 7-bis

Effective 1 January 2022, property constructed and earmarked for sale by the building company will be exempt from the *TASI* tax, as long as it has not been leased.

Tax treatment of convertible financial instruments. Article 9

The additional or lower values deriving from the implementation of specific contractual provisions regulating financial instruments, other than shares and similar securities, having specific characteristics, are not included in the taxable income (for IRES and IRAP purposes) of their issuers. This provision applies on condition that they report the issue of such financial instruments in the income tax return for the year in which it took place and provide separate evidence of the additional or lower values that are not included in taxable income in order to make it possible to ascertain that the transaction is consistent with the provisions on abuse of law (article 10-*bis* of law No 212 of 27 July 2000).

For the purposes of this provision, the financial instruments must meet specific characteristics, listed in article 9(2), including for instance the following:

- The financial instruments must have been issued and the relevant consideration fully paid-in;
- The financial instruments must not have been subscribed or purchased either by the issuer or by a company controlled by it or in which the issuer holds at least 20% of the voting rights or the share capital;
- The purchase of the instruments must not have been directly or indirectly funded by the issuer.

Aggregations of enterprises. Article 11

The entities referred to in article 73(1)(a) of the Italian Income Tax Code[2] resulting from a business aggregation in the form of a merger or demerger implemented with effect from the date of entry into force of Decree Law No 34 of 30 April 2019 (i.e., 1 May 2019) until 31 December 2022, may calculate tax depreciation on the value of goodwill and of the tangible and intangible assets resulting from the allocation to such assets of the share exchange difference (*disavanzo da concambio*) for a total amount not exceeding 5 million Euro.

In the event of business contributions (article 176 of the Italian Income Tax Code) implemented as of the date of entry into force of Decree Law No 34 of 30 April 2019, (i.e., 1 May 2019) until 31 December 2022, the additional values recorded by the transferee as goodwill or as a step-up of tangible and intangible assets shall be relevant for tax purposes for an aggregate amount not exceeding 5 million Euro.

These provisions apply if the companies involved in the business aggregation have been doing business for at least two years. Instead, they do not apply if the companies are part of the same group of companies.

The additional asset value is relevant for IRES and IRAP with effect from the fiscal year subsequent to that in which the business aggregation took place.

The provisions apply if the companies involved in the business aggregation meet, or in the two years prior to the transactions met, the relevant conditions.

2 Italian-resident Joint-stock companies (SpAs) and limited partnerships (SapAs), limited liability companies (Srls), cooperative companies and mutual assurance companies, the Societas Europea pursuant to Regulation (EC) 2157/2001 and the European cooperative companies pursuant to Regulation (EC) 1435/2003.

The company resulting from the aggregation which in the first four tax periods from the implementation of the transaction carries out additional corporate reorganization transactions or sells the assets recorded or stepped-up, shall lose the benefit, without prejudice for the possibility to file a special-purpose tax ruling request (pursuant to article 11(2) of law No 212 of 27 July 2000). In this case, in the year in which the benefit is lost the company shall determine and pay the IRES and IRAP due on the additional income, also in respect of prior fiscal years, without considering the stepped-up bases for tax purposes. No penalties and interest are due on the additional tax liability.

Amendment to article 177 of the Italian Income tax code on the exchange of shareholdings. Article 11-bis

Article 177(2-*bis*) of the Italian Income tax code provides that when the company receiving the contribution does not acquire control of a company (pursuant to article 2359(1)(1) of the Italian Civil Code), or increase the percentage of control pursuant to a legal obligation or an obligation provided for by the articles of association, the provision referred to in article 177(2) (on "controlled realization") applies if the following conditions are jointly met:

- The shareholdings transferred account as a whole for a percentage of voting rights in ordinary shareholders' meetings exceeding 2 or 20% (or a percentage of ownership in the share capital or shareholders' equity exceeding 5 or 25%), respectively for securities traded in regulated markets or other securities;
- The shareholdings are transferred into existing or newly incorporated companies wholly owned by the transferor.

The period provided by article 87(1)(a) of the Italian Income Tax Code concerning exempt capital gains, (i.e., uninterrupted ownership of the shareholding since the first day of the twelfth month prior to that in which the sale occurred, considering the last purchased shares – or non-share investments – to have been sold first) is extended back to the sixtieth month prior to the month of sale of the shareholdings contributed as above.

Simplification concerning the invoicing deadline. Article 12-ter

The invoice must be issued within twelve days from the day of the transaction, established in accordance with article 6 of the VAT Decree (article 21 of Presidential Decree No 633/1972).

Notifications of data of periodical VAT settlements. Article 12-quater

By the last day of the second month after the end of each quarter, VAT taxable persons must electronically transmit to the Revenue Agency a notification of the summary accounting data of the periodical VAT settlements made.

The notification of the data for the IIQ must be made by 16 September. The notification for the IVQ data may as an alternative be made jointly with the Annual VAT return which, in any case, must be filed by the month of February of the year subsequent to the fiscal year-end.

The deadlines for the VAT payments pursuant to the periodical settlements have remained unchanged.

Amendment to article 2 of Legislative Decree No 127 dated 5 August 2015, on the electronic transmission of cash receipt information. Article 12-quinquies

Pursuant to the new wording of article 2(6-*ter*) of Legislative Decree No 127 dated 5 August 2015, the daily cash receipt information must be electronically submitted to the Revenue Agency within 12 days, without prejudice to the relevant daily data storage obligation and to the deadlines for the periodical VAT settlements.

During the first six months in which this obligation is in place, effective 1 July 2019 for entities with a turnover exceeding Euro 400,000 and 1 January 2020 for all other entities, no penalties apply in the event that the daily cash receipt information is transmitted within the month subsequent to that in which the underlying transaction took place, subject to satisfaction of the deadlines for the periodical VAT settlements.

Furthermore, entities engaged in activities in respect of which the tax reliability indices (*indici sintetici di affidabilità,* ISA) have been approved and which declare revenue or compensation not exceeding the limit established for each index by the relevant decree, the deadline for the payments under the IRES, IRAP and VAT returns falling due between 30 June and 30 September have been extended to 30 September 2019 (Ministerial Resolution No 64/E/2019).

We list below the tax rulings on the matter:

- No 209 of 26 June 2019 ("*Ruling request pursuant to article 11(1)(a) of law No 212 dated 27 July 2000 – storage and electronic transmission of cash receipt information – calculation of turnover*" (also, Resolution No 47/E/2019);
- No 201 of 21 June 2019;
- No 198 of 19 June 2019, on the matter of cash receipts from e-commerce.

Clarification on the matter was also provided by Ministerial Circular No 15 of 29 June 2019 ("*Storage and electronic transmission of cash receipt information*").

Assignability of quarterly VATA credits. Article 12-sexies

The rule stipulates the possibility to assign quarterly VAT credits – starting from those claimed for refund as of 1 January 2020.

Law No 58 has also introduced simplifications/amendments concerning:

- The "*dichiarazioni di intento*", i.e., a special-purpose declarations to suppliers or to the Customs Office, to the effect that one intends to exercise the right to purchase or import goods and services without VAT (article 12 *septies*);
- Virtual stamp duty on e-invoices (art. 12 *novies*);
- Sales of goods through digital platforms (article 13);
- Provisions on the payment of or deposit for customs duties (article 13 *ter*);
- Law No 130 dated 30 April 1999 on securitization (article 23). It has been provided that one or more vehicles (in the form of corporations) may be incorporated, having as their sole object "*the purchase, management and valuation – in the exclusive interest of the securitization transaction, directly or through other vehicles – of the immovable property and registered movable property as well as the other assets and rights, granted or created, in any form, constituting a guarantee to the accounts payable being securitized, including the assets under finance lease agreements, including agreements that have been terminated, possibly together with the arrangements under such agreements";*
- Simple investment companies (*società di investimento semplice,* SIS) (article 27)";
- the rules on new zero-rated companies, *Smart & Start* and *Digital Transformation* (article 29).

There are two more provisions deserving mention.
One is article 16 *bis* ("*New deadlines for the reduced payment of the tax liabilities to be collected by the Tax Collector's office*"). This provision stipulates that – except for any tax liabilities covered by the application for *definizione agevolata* (forgiveness of penalties and interest on outstanding taxes due, subject to full payment of tax amount and to relinquishing the right to appeal) pursuant to article 3 of Decree Law No 119 dated 23 October 2018 (converted with amendments by law No 136 dated 17 December 2018,) filed by 30 April 2019 – taxpayers can choose to apply the beneficial regime under *definizione agevolata* in respect of the tax liabilities to be collected by the Tax Collector's office by filing the relevant application (pursuant to article 3(5)) by 31 July 2019.

The amounts due may be payable:
- in a single amount by 30 November 2019;
- in a maximum of seventeen consecutive instalments, the first of which, corresponding to 20% of the amounts due under the procedure, falls due on 30 November 2019, while the remaining instalments of an equal amount shall fall due on 28 February, 31 May, 31 July and 30 November of each year starting from 2020.

The Tax Collector's office shall state the aggregate amount due by 31 October 2019.

The second one concerns the "*brain repatriation program*" (*rientro dei cervelli*) (article 5): employment income, quasi-employment income and income from self-employment generated in Italy by workers who have transferred their residence to Italy ("*inpatriate workers*") is taxable as to 30% of the relevant amount if particular conditions are satisfied (the workers were not resident in Italy in the two fiscal years prior to their "*inpatriation*" and undertake to stay in Italy for at least two years; furthermore, they must carry out their work mainly in Italy). On the matter, the following tax rulings have been issued by the Italian authorities:
- No 204 of 25 June ("*Special regime for inpatriate workers – Article 16(2) of Legislative Decree No 147 dated 14 September 2015 – Registration with the register of Italians resident abroad - "AIRE" - Article 16(3) of decree law No 22 dated 25 March 2019, article 5(1) of decree law No 34 dated 30 April 2019. Tax ruling request pursuant to article 11(1)(a) of law No 212 dated 27 July 2000,*";
- No 207 of 25 June, concerning the beneficial tax treatment for inpatriate professors/researchers;

- No 216 of 28 June, on the minimum period of residence abroad for workers registered with *AIRE* (also, tax ruling request No 217 of 28 June);
- No 220 of 28 June ("*beneficial tax treatment for individuals who transfer their tax residence to Italy - Article 44 of Decree law No 78 dated 31 May 2010. Article 11(1)(a)of law No 212 dated 27 July 2000,*".

GUIDANCE

2.1

Ministerial Circular No 14 dated 17 June 2019. Clarification on the documentary evidence of transactions relevant for VAT in light of recent e-invoicing legislation

The Circular provided clarification on the documentation of transactions relevant for VAT, in light of the recent legislation on e-invoicing (per the 2019 and the 2019 Italian budget acts - *Legge di Bilancio*). Starting from 1 January 2019 (i.e., with respect to invoices, including upward/downward adjustments of the VATG) "*in order to rationalize the invoicing and recording operations only e-invoices shall be issued using the Sistema di Interscambio (interchange system - SdI) in respect of sales of goods and supplies of services between persons resident or established in the territory of Italy and the relevant adjustments […]*".

The Circular covered *inter alia* the following points:

Objective exceptions

Objective exceptions consist of circumstances where "*there is no obligation to document a transaction with the issue of an invoice*", since the transaction is, for instance, excluded from the scope of VAT or may be otherwise documented. Objective exceptions include all cases where the seller/service provider need not issue an invoice, since the relevant obligation falls upon the purchaser/principal.

Exceptions for specific entities

As stated in point 1.2 of Ministerial Circular No 13/E/2018, Italy has been authorized to accept as invoices, documents or e-messages, issued by taxable persons *established* in the territory of Italy for small companies - and to provide that the use of e-invoices by such persons is not conditional on the agreement of the recipient, if the latter is established in Italy. This authorization has been incorporated into Italian legislation by removing from article 1(3) of legislative decree No 127/2015 the reference to such persons who are not required to issue e-invoices. The Circular specifies that "*for transactions carried out with (or by) these entities, in respect of which there is an invoicing obligation, an e-invoice through the SdI may be issued with the parties' agreement or at the seller/service provider's choice provided that,*

in the latter case (seller/service provider's unilateral choice) the non-resident entity registered in Italy is provided a copy of the e-invoice or hard-copy invoice".

Issue and entry of invoices issued

The following example has been provided with regard to the issue of the invoice:

[…] for a sale made on 28 September 2019, the invoicing documenting it may be alternatively:

- issued (i.e., generated and sent to the SdI) on the date of the transaction, so that the transaction date and issue date coincide and the same date (28 September 2019) is reported in the date field in the general detail section ("*Dati Generali*");
- generated on the date of the transaction and sent to the SdI within the 10 subsequent days (in the example, 8 October 2019), completing the date field with the date of the transaction (28 September 2019 in our example);
- generated and sent to the SdI on any of the days between the date of the transaction (28 September 2019) and the deadline for issue (8 October 2019), completing the date field with the date of the transaction (again, 28 September 2019).

In our example, an invoice issued on 8 October for a transaction carried out on 28 September may be entered in the ledger by 15 October and be included in the September VAT settlement (for example, for taxpayers subject to monthly VAT settlement, by 16 October in respect of September).

Recording of purchases

Article 13 of Decree Law No 119/2018 abolished the obligation to progressively number invoices and customs bills for goods and services purchased or imported in the course of a business or the exercise of an art or profession.

Deduction of VAT

As a result of the changes introduced by article 14 of Decree Law No 119/2018, in our example "*for a transaction carried out on 28 September 2019, documented by an invoice issued on 8 October, received*

on 10 October and entered by 15 October, the right to deduction may be exercised with regard to the month of September 2019". It has been specified that the above amendment concerns all invoices issued, whether or not they are e-invoices issued through the SdI, and applies also to taxpayers subject to quarterly VAT settlement.

With regard to the coordination and harmonization rules concerning e-invoicing, (articles 15 and 15-*bis* of Decree Law No 119/2018) the Circular also dealt with the following issues:

- penalties (article 10(1) of Decree Law No 119/2018, amending article 1(6) of Legislative Decree No 127/2015, established specific penalties for e-invoices);
- sending of invoice details ("*esterometro*");
- stamp duty (Ministerial Decree dated 28 December 2018 amending, with effect 1 January 2019, article 6(2) of Ministerial Decree dated 17 June 2014, on the stamp duty on tax relevant IT documents);
- reverse charge and reverse-charge invoices (*autofatture*) (including in respect of VAT warehouses);
- invoices in the name and on behalf of other parties;
- keeping and viewing e-invoices. As a result of the changes introduced by Decree Law No 119/2018, article 1(6-*bis*) of Legislative Decree No 127/2015 provides that "*the storage obligations provided by article 3 of the Finance Ministry Decree of 17 June 2014, published in Italian official journal No 146 of 26 June 2014, are considered met for all e-invoices and other IT documents sent through the SdI referred to in article 1(211) of law No 244 dated 24 December 2007, and stored by the Italian Revenue Agency. The technological partner, Sogei S.p.a., cannot engage third parties to provide the service of free-of-charge storage of e-invoices made available by the Revenue Agency to VATable persons. […]*".

The Circular also provides clarification on e-invoicing and healthcare services, with particular regard to the invoicing of transactions carried out by persons providing medical services to private individuals.

2.2

Ministerial Resolution No 61 dated 26 June 2019. Application of the transitional regime to resolutions concerning foreign-source profits – Article 1(1006) of law No 205 dated 27 December 2017, and article 27(4) of Presidential Decree No 600 dated 29 September 1973

The Resolution deals with the application of the transitional regime to resolutions concerning foreign-source profits (Article 1(1006) of law No 205 dated 27 December 2017, and article 27(4) of Presidential Decree No 600 dated 29 September 1973), with particular regard to the taxation of financial income

realized by private individuals other than in the course of business, deriving from the ownership and sale of qualifying shareholdings. The income from capital deriving from such shareholdings is subject to the same rate (26%) and to the same taxation (withholding tax as final liability or substitute tax) as income from capital deriving from non-qualifying shareholdings. As stated in article 1(1005) of the 2018 Budget Act, this provision applies to income from capital received as of 1 January 2018; however, in paragraph 1006, the law introduced a derogation from the general principle, i.e. a transitional regime aimed at not penalizing shareholders who own qualifying shareholdings in companies with earnings reserves allocated up to 31 December 2017. Consequently, profit distributions in connection with qualifying shareholdings in companies and entities subject to corporate income tax (IRES), made out of profits earned until the fiscal year in progress at 31 December 2017 and resolved between 1 January 2018 and 31 December 2022, will continue to be subject to the provisions of Ministerial Decree dated 26 May 2017.

2.3

Summary list of tax rulings for the period (16 June - 30 June 2019)

We list below some rulings issued during the period 16-30 June:

Ruling No 196 of 18 June, concerning a contribution of business followed by sale of the shareholdings in the receiving company, and abuse of law issues, inter alia for registration tax purposes. Article 20 of the Italian Registration Tax Code requires that the tax must be determined on the basis of the nature and of the legal effects of the registered deed, having regard solely to the elements derived from the deed, regardless of its connection with other deeds.

On the matter of corporate reorganizations, Ministerial Resolution No 63 of 28 June 2019 was issued, concerning the transformation of a recognized association into a Foundation.

In Ruling No 197 of 18 June, The Revenue Agency dealt with the deductibility of losses on receivables (article 101(5) of the Italian Income Tax Code), providing clarification on the "*sure and precise elements*": as a general rule, article 101(5) provides that losses on receivables are deductible if they can be proved by "*sure and precise elements*" (as clarified also in Ministerial Circular No 39/E/2002).

On the matter of VAT, we point out the following rulings:

- No 194 of 17 June ("*Ruling pursuant to article 11(1)(a) of law No 212 dated 27 July 2000 – creation of a VAT Group – existence of financial constraints –controlling person is a private individual and a non-vatable person*");
- No 199 of 20 June, concerning VAT credit notes in a mutual fund (the tax rules on real estate investment funds are contained in articles 6 ff of Decree Law No 351/2001 – and article 8 in particular).

To provide a complete picture, we mention also Ruling No 205 of 25 June, concerning the reduced taxation of performance bonuses and ruling No 212 of 27 June on the conversion of performance bonuses into corporate welfare benefits (article 1(182) to (190) of the 2016 Italian Finance Act and article 51 of the Italian Income Tax Code).

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TAX NEWSLETTER | 16-30 JUNE 2019

LEGISLATION, MINISTERIAL GUIDANCE AND CASE LAW AT 30 JUNE 2019.
THIS NEWSLETTER IS INTENDED AS A SUMMARY OF KEY TAX DEVELOPMENTS AND HIGHLIGHTS MATTERS OF GENERAL INTEREST, AND THEREFORE SHOULD NOT BE USED AS A BASIS FOR DECISION-MAKING.
FOR FURTHER DETAILS AND INFORMATION, PLEASE CONTACT YOUR RELATED PARTNER OR SEND AN EMAIL TO UFFICIOSTUDI@STUDIOPIROLA.COM