

Tax | Budget Law 2024

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MAIN NEWS IN THE TAX FIELD

On 30 December 2023, Law No. 213 of 30 December 2023, "State forecast budget for the financial year 2024 and multiannual budget for the three-year period 2024-2026", the so-called "*Budget Law 2024*", was published in the Official Journal. The main news in the tax field are summarized below.

✓ **Partial exemption from social security contributions (Art. 1, par.15)**

For the 2024 pay period, for employment relationships, with the exclusion of domestic work relationships, an exemption is granted, with no effect on the 13th month bonus, on the employee's share of social security contributions for invalidity, old age and survivors by 6 percentage points, provided that the taxable salary, measured on a monthly basis for thirteen months, does not exceed the monthly amount of euro 2.692, net of the 13th month's salary (plus an additional percentage point if the taxable salary, calculated on a monthly basis for thirteen months, does not exceed euro 1,923 per month).

✓ **Temporary non-taxable threshold of fringe benefits and taxation of productivity bonuses for 2024 (Art. 1, paragraphs 16 - 17 and 18)**

Only for the tax year 2024, the Budget Law 2024 provides for the non-competition in the formation of the employee's income, within the limit of euro 1,000 (euro 2,000 for employees with children for tax purposes - subject to a special declaration) of the value of the goods sold and services rendered to the employee himself, of the sums paid or reimbursed by the employer for the payment of domestic utilities (integrated water service, electricity and gas), as well as the expenses for renting the first home or the interest on the mortgage for the first home.

Paragraph 18 confirms, also for 2024, a reduction from 10% to 5% of the preferential taxation for productivity bonuses.

✓ **Plastic tax and Sugar Tax (Art. 1, par. 44)**

The effectiveness of the so-called *plastic tax* and *sugar tax* established by the 2020 Budget Law is postponed to 1 July 2024.

✓ **Deferral of deductible excess allowances from Bank and Insurance losses on receivables (Art. 1, paragraphs 49-51)**

The Budget Law 2024 provides for the deferral of the deduction of the relevant quotas for banks' write-downs and losses on receivables (Art. 16, Law Decree No. 83/2015). Specifically, the provision defers a portion of the deduction, for IRES and IRAP purposes, of surpluses arising from loan losses, for credit and financial institutions and insurance companies as follows:

- a) deferment of the deduction of the 1% quota of the amount of the negative items, provided for the tax period in progress on 31 December 2024, to the tax period in progress on 31 December 2027 and thereafter;

- b) deferment of the deduction of the 3% quota, which was provided for the tax period in progress on 31 December 2026, to the tax period in progress on 31 December 2027 and thereafter.

In determining the advance payments due for the tax periods in progress on 31 December 2024 and 31 December 2026, the following applies:

- tax period in progress on 31 December 2024: the tax for the preceding period shall be assumed to be that which would have been determined had Art. 16 not been applied, limited to the 1% quota of the amount of the negative items provided for therein;
- tax period in progress on 31 December 2026: the tax for the preceding period is assumed to be that which would have been determined had Art. 16 not been applied, limited to the 3% quota of the amount of the negative items provided for therein.

✓ **Revaluation of land and shareholdings held as at 1 January 2024 (Art. 1, paragraphs 52 and 53)**

The extension for 2024 of the option to carry out a revaluation of the purchase value of shareholdings traded and not traded on regulated markets or multilateral trading systems and of building land and land for agricultural use, held as of 1 January 2024, through the payment of a substitute tax at a rate of 16%, is confirmed.

The substitute tax may be payable in instalments up to a maximum of three equal annual instalments, commencing on 30 June 2024; interest at the rate of 3% per annum is payable on the amount of the instalments following the first instalment, to be paid at the same time.

The drafting and swearing in of the expert report must be carried out by 30 June 2024. The Budget Law 2024 also provides that for the purposes of determining capital gains and losses for securities, units or rights traded on regulated markets or multilateral trading systems, held as of 1 January 2024, the normal value with reference to December 2023 may be taken instead of the cost or purchase value.

✓ **Extension of the “PEX” regime to capital gains from qualified shareholdings realized by non-resident companies and entities (Art. 1, par. 59)**

Following the amendment of Art. 68 of the Consolidated Income Tax Law (TUIR), the possibility to take advantage of the exempt capital gains rules governed by Art. 87 TUIR (“PEX”) is extended to the disposal of qualified shareholdings made by companies or commercial entities resident in an EU or EEA Member State that allows an adequate exchange of information if they are subject to corporate income tax there.

Capital gains realized through the sale in exchange for a price of qualified shareholdings, other than those deriving from participation in partnerships and those realized in specific cases, among which those realized through the sale of contracts entered into with non-resident partners, to the extent of 5% of their amount, are added algebraically to the corresponding share of the capital losses; if the capital losses are greater than the capital gains, the excess is carried forward and deducted up to 5% of the amount of the capital gains of the following periods, but not beyond the fourth one, provided it is indicated in the tax return for the tax period in which the capital losses are realized.

✓ **Lump sum levy “Cedolare secca” on short leases (Art. 1, par. 63)**

The Budget Law 2024 provides for an increase in the substitute tax rate of the “cedolare secca” (from 21% to 26%) applicable to income from short-term rental contracts entered by individuals. However, there is the possibility of applying the reduced rate of 21% for a single property intended for short-term rental, provided the same is indicated in the tax return.

It is also provided that for persons exercising real estate intermediation activities, or managing telematic portals, if they receive or intervene in the payment of rents relating to the contracts here at issue, the withholding tax is made as an advance payment.

Finally, changes have been made to the way in which the obligations arising from the tax discipline on short-term leases are fulfilled, distinguishing between resident outside the EU, depending on whether or not they have a permanent establishment in a Member State, and parties resident in the EU who do not have a permanent establishment in Italy.

✓ **Taxation of capital gains realised through the sale of real estate with subsidies measures under the so-called Superbonus (Art. 1, paragraphs 64-66)**

Capital gains realized through the transfer for consideration of real estate on which works facilitated by the so-called Superbonus have been carried out are included among miscellaneous income within the meaning of Articles 67 and 68 TUIR, in the case of a transfer that takes place before ten years from the execution of the works. Real estate acquired by inheritance or used as a principal residence for the greater part of the ten-year period preceding the transfer is excluded.

Paragraphs 65 and 66 provide that a substitute tax of 26% may be applied to such capital gains arising from disposals realized on or after 1 January 2024.

✓ **Clarifications on the application of the IMU exemption to buildings with social purposes and introduction of a third IMU adjustment instalment (Art. 1, paragraphs 71-73)**

An interpretative rule is laid down concerning the IMU exemption for real estate intended exclusively for the non-commercial performance of welfare, social security, health, scientific research, educational, accommodation, cultural, recreational, and sports activities, as well as religious or worship activities.

Paragraph 72 establishes that, limited to the year 2023, regulatory resolutions and resolutions approving rates and tariffs concerning certain municipal taxes (including the IMU) are timely if entered in the fiscal federalism portal by 30 November 2023.

Any positive difference between the IMU calculated and the IMU paid is due without penalty and interest by 29 February 2024. If a negative difference arises, the refund is due according to the ordinary rules.

✓ **Adjustment of opening inventories of goods (Art. 1, paragraphs 78-84)**

The possibility of adjusting the opening inventories of goods referred to in Art. 92 of the TUIR is envisaged for entities engaged in business activities that do not adopt the

international accounting standards, with respect to the tax period in progress as of 30 September 2023 only.

The adjustment may be made by the elimination of opening balances of higher quantities or values than actual balances, as well as by the entry of previously omitted opening balances.

In case of elimination of values, the adjustment entails:

a) the payment of VAT, determined by applying the average rate referable to the year 2023 to the amount obtained by multiplying the eliminated value by the mark-up coefficient established, for the various activities, by special executive decree. The average rate, taking into account the existence of transactions not subject to tax or subject to special regimes, is that resulting from the ratio between the tax relating to the transactions, less the tax relating to the supply of depreciable goods, and the declared turnover;

(b) the payment of a substitute tax (of IRES, IRPEF and IRAP) at a rate of 18% to be applied to the difference between the amount calculated in the manner set forth in subparagraph a) and the value eliminated.

In the case of value entries, on the other hand, a substitute tax of 18% must be paid and applied to the value entered.

The adjustment must be requested in the income tax return and the taxes due shall be paid in two equal instalments, the first of which shall be due by the deadline for payment of the balance of income taxes relating to the tax period in progress on 30 September 2023 and the second by the deadline for payment of the second or single instalment of the advance payment of income taxes relating to the following tax period. The values resulting from the changes are recognized for statutory and tax purposes starting from the tax period in progress on 30 September 2023.

Failure to pay within the time limit results in the definitive registration of the unpaid amounts and the interest thereon as well as the penalties resulting from the adjustment made.

The substitute tax is not deductible for the purposes of income tax and related surcharges as well as regional tax.

✓ **Increase in withholding taxes for wire transfers related to building works and tax deductions (Art. 1, paragraphs 88 - 90)**

With effect from 1 March 2024, the Budget Law 2024 provides for an increase from 8% to 11% in the withholding tax payable by beneficiaries when payments relating to wire transfers ordered by taxpayers to benefit from deductible expenses or for which a tax deduction is due are credited.

As of 1 April 2024, the withholding tax due on commissions inherent in commission, agency, mediation, sales and business procurement relationships is also extended to insurance agents and insurance brokers.

✓ **Taxation of foreign real estate and financial products held abroad: increase in IVIE and IVAFE (Art. 1, par.91)**

The Budget Law 2024 provides for a general increase in the ordinary rate of IVIE - Tax on the value of real estate located abroad - from 0,76% to 1,06% on all real estate falling within the scope of the tax. For financial assets held in States or territories with a

privileged tax regime, the rate of the IVAFE - Tax on the value of financial assets located abroad - is increased from 2 to 4 per thousand per annum.

✓ **Restrictions on the use of tax offsets via F24 payment Form (Art. 1, paragraphs 94-98)**

Some restrictions are introduced on the use of tax offsets through the F24 payment Form (under Art. 17 of Legislative Decree No. 241 of 1997), in order to prevent unlawful conduct, such as, for example, the obligation to exclusively use the telematic services made available by the Italian Tax Authorities in accordance with the technical modalities to be defined by a specific provision, also in the case of the use of offsets, through the F24 payment Form, of credits accrued for contributions and premiums due from INPS and INAIL respectively.

The right to make use of offsetting by means of F24 payment Form is excluded for those taxpayers with registrations for taxes and related accessories or enforceable tax assessments entrusted to the collection agents for amounts in excess of euro 100,000, for which the payment terms have expired, and payments are still due or suspension measures are not in place. The provision ceases to apply following the complete removal of the contested breaches.

✓ **Enhanced data exchange for collection (Art. 1, paragraphs 99-100)**

The same preclusive effects provided for persons already addressees of the order to cease another VAT registration (presentation of a guarantee, possibly in proportion to the tax violations detected) are also provided for in cases where the taxpayer has autonomously communicated the cessation of activity in the preceding 12 months.

Finally, it is recognized that the collection agent, before initiating the enforcement recovery action, may make use of telematic methods of applicative cooperation and of IT tools for the acquisition of the necessary information, held by anyone, for the collection activity. This activity must in any case guarantee the protection of personal data.

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