

# Studio Tributario e Societario



## Tax Flash News Budget Law 2024

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# Budget Law 2024

## Law December 30, 2023, n. 213

Find here below the main provision of the 2024 Italian Budget Law.

### **1. Participation Exemption: Qualified participation disposal by nonresident entities (Art. 1, par. 59)**

In the art. no 68 of the IICT a new provision is introduced providing that capital gain arisen from the disposal of qualified participation by nonresident entities, if taxed in Italy, is subject to the participation exemption under the condition that (i) the nonresident entity is resident in a UE or SEE country (ii) the participation meets the PEX requirements according to the provisions of art. 87, par. 1, letter a), b), c) and d) of the IITC. The taxable capital gain is computed netted by the capital loss suffered and in case the capital loss is higher than capital gain, the excess can be carried forward to offset future capital gain for four subsequent fiscal years.

In other words, since January 1, 2024, only 5% of the above capital gains realized through qualified participation disposals (netted of the relevant capital losses) are subject to a 26% taxation.

### **2. Land and participation fiscal value step-up (art. 1, par. 52 e ss.)**

Participations listed or not and lands owned by individual or non-business entities can be stepped up for the purposes of computing the capital gains pursuant to art. 67 of IITC. The purchase value of share investments and lands held as of January 1, 2024, can be stepped up with the payment of a substitute tax equal to 16%. In order to proceed with the revaluation, a sworn appraisal is required by June 30, 2024. The substitute tax can be paid up to three equal installments since June 30, 2024.

### **3. Real estate capital gain (art. 1, par. 64 e ss.)**

According to the new provision introduced into art. 67 of the IITC, letter b-bis), capital gain deriving by real estate's disposal that enjoyed certain tax incentives (super-bonus-invoice discount-credit transfer) qualify as "other income" and, as such, are taxable by a substitute tax equal to 26%.

The provision applies in case the disposal occurs within 10 years from the end of the real estate restructuring/works that enjoyed the tax incentive. Real estates received by hereditary and real estate's constituting the main home (abitazione principale) for a major part of the time before the disposal deed are out of scope of the new provision.

In addition, for the capital gain computation restructuring costs that enjoyed the tax incentives are not included if the disposal occurs within 5 years from the relevant completion, however, after 5 year such cost are 50% included in the capital gain computation.

### **4. Inventory adjustment (art. 1, par. 78 e ss.)**

Italian entities carrying out business activities, other than IAS/IFRS adopters, can adjust for tax purposes the 2023 inventory value by applying a 18% substitutive tax, plus VAT under certain conditions. The option has to be applied in the tax return referred to the fiscal year running as of September 30, 2023.

### **5. Banks and Insurance companies credit loss deduction: postponement (art. 1, par. 49 e ss.)**

For IRES and IRAP purposes the deduction of the credit loss by banks and insurance companies is postponed as follows: (i) as regards the 2024 1% amount, it is postponed to the fiscal year 2027 (ii) as regards the 2026 3% amount, it is postponed to 2027. Specific rules are provided for the IRES and IRAP advanced payments computation for the above fiscal years.

### **6. Tax offsetting provided by art. 17, Legislative Decree. n. 241/1997 (art. 1, par. 94 e ss.)**

Taxpayers that are in debt position with the Italian Tax Agency for amounts higher than 100.000 euro are not entitled to make any tax offsetting. Every electronical payment form (F24) showing tax offsetting shall be subject to a control by the Italian Tax Authorities to be made by 30 days.

**7. Tax offsetting for social contributions - INPS e INAIL (art. 1, comma 97)**

Social contributions offsetting has to be made by the electronic form (F24) to be filed to the Italian Tax Authorities, as the Italian law provides in case of tax offsetting.

**8. Employment income: fringe benefit and production bonus (art. 1, par. 15 e ss.)**

Only for fiscal year 2024, goods, services and contribution to support home gas, water or electric energy furniture paid to employees are tax exempt up to 1.000 euro or 2.000 euro in case of employees with children.

Moreover, production bonus paid to employees are subject to a reduced 5% taxation.

**9. Tourist, hotel and thermal business activities (art. 1, par. 21 e ss.)**

An extra 15% contribution is granted to the employees working in restaurants, bars or other structures providing food and beverage or thermal services for extraordinary hours work or for working on vacation days.

**10. Plastic tax and Sugar tax (art. 1, par. 44)**

The effectiveness of plastic tax and sugar tax is postponed to July 1, 2024.

**11. Short term rental substitute tax (art. 1, par. 63)**

The substitute tax on short term real estate rental is increased from 21% to 26%, the reduced 21% can be applied only for one property upon taxpayer's option.

In case the rental agreement is reached by intermediaries or electronic platforms, a 21% withholding tax is applied by the letters as advanced payment. The tax agent position is attributed to the Italian permanent establishment in case the rental fee is due to nonresident entities, if a permanent establishment in Italy is not registered, a fiscal representative has to be appointed.

**12. Real estate rights (art. 1, par. 94)**

The fee cashed for the disposal of any real estate right qualifies as "other income" according to the new provision introduced to the art. 67, par. 1, letter h) of IITC.

**13. Capital gai related to precious metals disposal (art. 1, par. 92)**

Capital gain deriving from precious metal disposal is fully taxed (the 25% exemption has been abolished).

**14. Increase of reduced VAT rates for childcare and feminine hygiene products (Art. 1, par. 45)**

The VAT rate for the following products has been increased, from 5% to 10%:

- childcare products: milk powder or liquid for infants' feeding, infants' food preparations made of flour, groats, meal, starch, or malt extract (all made for retail sales).
- baby diapers.
- feminine hygiene products (e.g., sanitary pads or tampons).

Furthermore, the VAT rate for children car seats has been increased from 5% to 22%.

**15. VAT rate on pellets (Art. 1 par. 46)**

For the months of January and February 2024 the VAT rate for the supply of pellets is set at 10%, by way of derogation from the 22% ordinary VAT rate (same 10% VAT rates was applicable during 2023).

**16. VAT relief for supplies of goods to persons domiciled or resident outside EU (Art. 1 par. 77)**

It was reduced from EUR 154.94 to EUR 70.00 the total amount of supplies, including VAT, which can benefit from the tax relief provided for by art. 38-quater par. 1 of Presidential Decree no. 633/72, for private individuals domiciled or resident outside the EU who purchase goods for personal or family use, to be carried outside the EU in personal luggage. The new amount limit is applicable for supplies carried out starting from 1 February 2024.

**17. Implications related to the automatic closure of the Italian VAT numbers attributed to foreign companies (Art. 1 par. 99)**

Italian Tax Authorities' controls on Italian VAT numbers attributed to foreign companies are strengthened. ITA has the power to start a formal discussion with such foreign entities even in case the company asked for the closure of such Italian VAT no. within the previous 12 months. In the case of failure to appear or failure to obtain the results of the findings made on the documents submitted, ITA can impose the closure of the VAT no. and a penalty of euro 3,000. Moreover, it is forbidden the offsetting of any tax credit, starting from the notification date of the VAT no. closure. In such a case, for the re-attribution of the Italian VAT number it would be necessary the previous issuance of a bank guarantee that has the duration of three years and with amount not lower than euro 50,000 (unless higher tax violations have been committed).

**18. VAT Payment for the registration of vehicles introduced in Italy from San Marino and Vatican City (Art. 1 par. 94 to 98)**

In order to contrast the VAT evasion on vehicles registered in Italy, formally originating from the Republic of San Marino and the Vatican City, but in fact coming from within the EU, the 2024 Budget Law extends the VAT payment - through the F24 form without offsetting possibility - to vehicles (new or second hand), motor vehicles and their trailers introduced in Italy from the Republic of San Marino and Vatican City.

Consequently, for the purposes of their registration or subsequent transfer in Italy, the VAT payment due on the first domestic transfer must be made using the aforementioned F24 form with the indication, for each means of transport of the type of vehicle and the amount of VAT paid.

**19. Brief: Incentives**

- (i) Tax credit for Southern Italy: the tax credit has been refinanced by 1.8 billion euro (art. 16 Law Decree n. 124/2023).
- (ii) Tax credit for gas purchase: the tax credit has been extended for transportation companies.
- (iii) Extension of the tax credit for press companies.
- (iv) New rules for the cinema tax credit.
- (v) Sabatini financing incentive has been refinanced.

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