

Budget Law 2023



Focus on

Introduction

Budget Law 2023 (Law no.197 29.12.2022) was published in Official Gazette no. 303 S.O. 43 on 29 December 2022 n. 303 S.O. 43. Below is a brief description of some of the most important issues.

Extraordinary allowance in favour of enterprises for the purchase of electricity and natural gas as granted as tax credit

The rates of the tax credit already granted in 2022 to partially offset the higher cost incurred by enterprises for the purchase of electricity and natural gas have been raised also for Q1, 2023.

Tax credits can be used or transferred by 31 December 2023 (unless a stamp of approval is added):

- entirely by the same beneficiary enterprises to other persons, including credit institutes and other financial intermediaries, excluding the possibility to transfer them afterwards;

- for two further transfers, if they are in favour of banks and financial intermediaries registered with the roll provided under the Consolidated Banking Law or of specific insurance companies authorized to operate in Italy.

Ref. Law no. 197/2022, art. 1, para. 2-9.

Reduction of value added tax for quarter 1, 2023 in the gas sector and supply of thermal energy produced with methane gas

In order to contain the effects of the increased cost of gas, the law provides that the supply of natural gas (for civil and industrial use) can still benefit from the reduced 5% VAT rate – instead of ordinary 10% and 22% tax rates (depending on the civil or industrial use) – in quarter 1, 2023.

The law also provides that the reduced 5% VAT rate be extended also to the supply of thermal energy produced with methane gas within the execution of an energy service agreement (which provides for the sale of thermal energy to the end client, instead of the direct supply of fuel).

Ref. Law no. 197/2022, art. 1, para. 13-14.

Flat-rate tax regime for self-employed – raise of revenue threshold

The threshold of revenues and considerations that allows to apply a flat-rate 15% tax (5% rate for the first five years of activity) – substitute for IRPEF – has been increased from 65 to 85 thousand Euro. It is also provided that such allowance is immediately suspended for those who accrue revenues or considerations higher than 100 thousand Euro in 2023. On the contrary, taxpayers who accrue revenues or considerations higher than 85 thousand Euro but lower than 100 thousand Euro will stop benefitting from the flat-rate regime as of the following fiscal year.

Ref. Law no. 197/2022, art. 1, para. 54.



Incremental flat tax

Under certain conditions and limited to 2023, individuals receiving business income and/or income from self-employment who do not apply the flat-rate tax regime can apply a 15% flat tax on the taxable income determined from the income variation – within the maximum limit of Euro 40.000 – calculated as the difference between the higher income generated in 2023 compared to the highest income stated in the previous three years and an amount equal to 5% of this latter amount.

Ref. Law no. 197/2022, art. 1, para. 55-57.

Performance bonuses with 5% reduced tax

The rate of the substitute tax on amounts paid as performance bonuses or as profit sharing to employees in the private sector is reduced from 10% to 5%, limited to 2023.

Ref. Law no. 197/2022, art. 1, para. 63.

Non-deductibility of black-list expenses and substitute tax on profit reserves

The Law restores some limits to the deductibility of expense and other charges deriving from transactions occurred with companies and professionals residing in Italy or located in non-cooperative countries or territories for tax purposes.

Specifically, such deductibility is limited to the normal value of such expense, provided that the above transactions concretely occurred.

A substitute tax is introduced on profit and non-distributed profit reserves related to profit sharing in companies and entities located in blacklist countries or territories. Such substitute tax is applied under different rates in case of release or repatriation of profits or non-distributed profit reserves.

In case of repatriation, the reduced tax rate is applied provided that profits are allocated in a specific shareholders' equity reserve for at least two fiscal years.

Rif. Legge n. 197/2022, art. 1, commi 84 – 86 e 87 – 95.

Concessional transfer of assets to shareholder

The concessional transfer of registered movable assets and property (excluding operating assets) to shareholders is now available again. Similar concessions are provided for the related corporate transformations. Analoghe agevolazioni sono previste per le relative trasformazioni societarie.

Tax allowances for transactions occurred by 30 September 2023 provide for a substitute tax (substitute for income tax and IRAP) equal to 8% (10,5% for companies that resulted as shell companies for at least two years in the period 2020-2022) on capital gains realized on assets transferred to shareholders, as well as for a 13% substitute tax on untaxed reserves annulled as a result of the abovementioned transactions.

Substitute taxes will have to be paid in two instalments: 60% by 30 September 2023 and 40% by 30 November 2023.

Ref. Law no. 197/2022, art. 1, para. 100 – 105.

Revaluation of participating interests and land at a 16% rate

In 2023, individuals, general partnerships, non-commercial entities and non-resident persons without a permanent establishment in Italy can revalue the cost or the purchase value of non-listed and (for the first time) listed participating interests, as well as agricultural and building land held (outside the scope of their business activity) at 1 January 2023 against the payment of a 16% substitute tax.

Ref. Law no. 197/2022, art. 1, para. 107 – 109.

Release of UCIs shares and insurance policies

The Law provides for the possibility to consider the capital income and other income related to shares of UCIs as realized, by applying a 14% substitute tax to income deriving from the difference between the value of shares as recorded in periodic statements at 31 December 2022 and the cost/purchase value/subscription value.

Moreover, taxpayers who subscribed life and capitalisation insurance policies can consider the difference between the value of the mathematical reserve at 31 December 2022 and premiums paid as actually realised income. The 14% substitute tax should be paid by the insurance company by 16 September 2023.

Ref. Law no. 197/2022, art. 1, para. 112-114.

Rules concerning crypto assets

The Law fills the legislative gaps on the so-called crypto assets. Specifically:

- it defines a new item representing capital gains and other proceeds realized on crypto assets;
- it determines the procedure to calculate capital gains, net of the relevant capital losses, realized up to the effective date of Budget Law, pursuant to art. 68 para. 10 of TUIR;
- it allows to calculate capital gains and losses based on the value of crypto assets held at 1 January 2023, instead of the cost or purchase value;
- it allows those taxpayers (individuals, non-commercial entities and general partnerships residing in Italy, pursuant to art. 5 of TUIR) who did not state the possession of crypto assets in their tax return to regularize their position.

The Law also introduced paragraph 3bis to art. 110 of TUIR, providing that proceeds or charges resulting from the measurement of crypto assets are not relevant for IRES and IRAP purposes

Ref. Law no. 197/2022, art. 1, para. 126-143.

Regularisation of formal irregularities

Irregularities, infringements and breaches of formal obligations or fulfilments that are not relevant for the calculation of the taxable base for income taxes, VAT and IRAP and for the payment of social security contributions can be regularised, if they were committed by 31 October 2022, by removing them and paying an amount equal to 200 Euro for each fiscal year they were referred to. Payment must be fulfilled in two instalments, i.e. by 31 March 2023 and by 31 March 2024.

Ref. Law no. 197/2022, art. 1, para. 166 - 173.

Special voluntary settlement with 1/18 sanctions

Departing from the ordinary regulation on voluntary settlement, it is possible to regularize validly submitted tax returns related to the tax period being current at 31 December 2021 and to previous ones, unless the relevant breaches were already objected at the date of payment (single payment or first instalment) of the due amount, by removing the concerned irregularity or omission and by paying the relevant tax, interest and sanctions – which are reduced to one eighteenth of the inflexible law minimum amount.

Voluntary settlements already carried out on 1 January 2023 are still valid and no refund of already paid amount is provided.

Ref. Law. 197/2022, art. 1, para. 174 - 178.

Concessional settlement of debts

The Law introduced a new concessional settlement of debts related to amounts committed to the tax collection agent between 1 January 2000 and 30 June 2022, even if these were concerned by previous concessional measures which have been declared as null. The Law allows taxpayers to settle assessed tax arrears by only paying principal, executive procedure expenses and notification fees (i.e., fines, interest – even delay interest -, and amounts accrued as collecting commission are not due).

The Law also provides for a concessional settlement of amounts related to avvisi bonari related to the tax periods being current at 31 December 2019 – 31 December 2020 – 31 December 2021 whose payment deadline did not expire on 1 January 2023. In this case, sanctions can be reduced to 3%.

Lastly, the Law provides for a concessional settlement of tax disputes being pending at 1 January 2023, also before the Court of Cassation, by paying a percentage amount related to the value of the dispute, to the court level, and to the stage of the dispute.

Ref. Law no. 197/2022, art. 1, para. 231 – 252, 153 – 159 and 186 – 205.

Bonus on furniture

The amount deductible by 50% for the purchase of furniture and large domestic appliances for real estate subject to a renovation authorized with a proper construction permit, if provided by the relevant building regulation, has been increased to 8.000 Euro for 2023 (keeping it as equal to 5.000 Euro for 2024).

Ref. Law no. 197/2022, art. 1, para. 277.

110% Superbonus

The 110% deduction rate – instead of the reduction to the 90% rate – is maintained as of 1 January 2023 for those works that:

- concern buildings for which a meeting decision approved the execution of works by 18 November 2022 provided that the relevant CILAS (certified notice of commencement of work) results as submitted on 31 December 2022;
- concern buildings for which a meeting decision approved the execution of works between 19 and 24 November 2022 provided that the relevant CILAS (certified notice of commencement of work) results as submitted on 25 November 2022;

- imply the demolition and reconstruction of buildings for which the obtainment of the relevant construction permit results as submitted on 31 December 2022.

Departing from the provisions of art. 121 of Law Decree no. 34/2020, the Law introduced the possibility to use the tax credits deriving from the notification of transfer or discount relevant to works admitted under the Superbonus deduction and submitted to the Revenue Office by 31 October 2022, but not yet used, in 10 instalments instead of 4 or 5.

Lastly, the so-called “aiuti quater” law decree also set some provisions on this issue; in fact, it extended from two to three the possible transfers of tax credits relevant to building tax bonuses deriving from the credit transfer or discount under art. 121 of Law Decree no. 34/2020 in favour of financial intermediaries.

Ref. Law no. 197/2022, art. 1, para. 894-895 and Law Decree no. 176/2022, art. 9, para. 4 - 4bis.



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