

# Budget Law 2023

## The main updates for self-employed



# Focus on

Budget Law 2023 has introduced several innovations that directly concern natural persons who carry out a business, art or profession. These changes concern:

- the flat-rate regime, modifying the revenue threshold to be respected in order to access it;
- the introduction of the so-called incremental flat tax, aimed at facilitating the taxation of income increases only for 2023;
- strengthening of the Revenue Office's controls on the attribution and operation of VAT numbers.

## Amendments to the flat-rate regime – art. 1 para. 54

Budget Law amends the provision establishing the flat-rate regime - art. 1 of 2015 Stability Law (Law 190/2014) – by raising the threshold of revenues or consideration received for which it is possible to determine a flat-rate income to be subject to a fixed substitute tax equal to 15 percent (reduced 5% for the first five years of activity) instead of ordinary IRPEF.

Specifically, the threshold of revenues or considerations received in 2022 which allow access, starting from 01.01.2023, to the flat-rate regime has been raised from 65 thousand euros to 85 thousand euros. The same limit of 85 thousand euros must be respected from year to year in order to maintain the regime in future years as well.

The threshold is calculated on the basis of revenues or considerations relating to the previous year, assumed by applying the same calculation criterion (accrual basis/cash flow basis) provided by the tax and accounting regime applied in that tax period. 2023 Budget Law also intervenes by introducing the obligation to immediately suspend the flat-rate regime for taxpayers who exceed the limit of 100 thousand euros in revenues or considerations during the year. In fact, these taxpayers are excluded from the flat-rate regime as of the same year in which the threshold is exceeded, unlike what is provided for all other causes of exclusion, for which the exclusion starts from the following fiscal year. Therefore, for the purposes of direct taxes, taxpayers who receive revenues or considerations exceeding 100 thousand euros will determine income according to the ordinary methods, subjecting it to IRPEF and the related surtaxes.

On the other hand, with reference to VAT regulations, tax will be due starting from the performance of operations that imply this limit - thus excluding the previous operations which, pursuant to art. 6 of Presidential Decree 633/72, are deemed as already carried out. Similarly, it is possible to deduct VAT related to purchase transactions subsequent to exceeding the threshold.



With specific reference to the obligations regarding withholding taxes, it is possible to apply a similar logic to that inherent to VAT regulation: withholding taxes must be applied according to the ordinary criteria only on the remuneration paid following the occurrence of the cause that implies the immediate exclusion from the regime. Rules cannot be applied retrospectively on considerations already paid. Likewise, taxpayers will not retroactively act as withholding agents on purchase transactions.

### **Incremental flat tax – art. 1 para. 55 – 57**

Budget Law 2023 also introduced the so-called incremental flat tax, which consists of a 15% tax substitutive for IRPEF and related surtaxes, to be applied on the portion of excess income accrued only in 2023 compared to the highest income among those of the previous three-year period. The rule is aimed solely at natural persons carrying on business, arts or professions, provided that the flat-rate regime was not applied in the same year 2023.

The substitute tax is applied on the taxable base - which in any case cannot exceed 40 thousand euros - determined as the difference between the income relating to 2023 and the higher of the income stated in the years between 2020 and 2022, reduced by an amount equal to 5% of the highest income for the three-year period.

### **Measures against the opening of fictitious business activities – art. 1 para. 148 - 150**

A further measure which concerns natural persons carrying out businesses, arts and professions concerns the strengthening of preventive checks by the Revenue Office carried out when assigning a VAT number (i.e., when a new business is opened), as provided for by art. 35 para. 15-bis of Presidential Decree no. 633/72. In particular, the Revenue Office can carry out specific risk analyses - also by requesting documentation - in order to verify the effective exercise of the activity. Should such checks have a negative outcome, the Office issues an activity termination order. Moreover, the taxpayer is subject to a fine equal to 3,000 euros.

Even if the Office orders the termination of the activity following the aforementioned checks, the possibility for the taxpayer to request a new VAT number and, therefore, start a new activity, remains unaffected; In this case, the law introduces the obligation to issue a surety policy or bank guarantee for a period of three years from the date of issue and for an amount of no less than 50,000 euros.



Please feel free to contact us for further details and information on the above issues.

