

## The new Budget Law

### Expert's opinion

**Capitalisation, corporate losses and intangibles**

**Alessandro Grassetto**  
Partner Bernoni Grant Thornton

Among the various forms of support for companies introduced in 2020, those relevant to liquidity and capitalisation are the most significant. The 2021 Budget Law includes, with amendments, some of the temporary provisions introduced with the so-called Relaunch Decree aimed at supporting the recapitalisation of joint-stock companies, as well as those introduced with the so-called Liquidity Decree...

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### Overview

**Significant tax news for 2021**

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### Focus on...

**Tax credit for capital goods, R&D bonus, training 4.0**

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Law no. 178/2020 (so-called "Budget Law 2021") confirmed the allowances concerning tax credits that constitute the so-called "National Industry 4.0 Plan". The above plan is aimed to encourage and lead businesses in the technology and environmental sustainability transition and re-launches those investments that could be penalized by the pandemic crisis and the subsequent macro-economic recession. With an allotment of approx. 24 billion Euro...

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## Overview

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As every year, the so-called Budget Law represents for business operators – and for citizens in general – the reference document on economic policy measures. It is also the reference document for the implementation of specific management strategies or new fulfilments.

This year, especially for the many health, economic, and social effects following the pandemic crisis that is still ongoing, the Law has a more crucial role than ever in creating expectations and dictate the actions to be taken to get over the crisis.

However, the promulgated law, apparently, does not fully meet these expectations but this article is aimed at providing a technical – and not political – opinion.

The structure of the law is actually very complex, thus making its interpretation difficult (the first article alone includes 1,150 paragraphs...) and many of its provisions are related to the future issue of implementation decrees, or even amendment decrees (as happened with one of the first law decrees of 2021). Moreover, some provisions need to coordinate with the many law measures that were issued in 2020 to deal with the pandemic emergency, as well as with some postponements provided under the so-called *Milleproroghe Decree* (law decree no. 138/2020).

Therefore, operators are apparently dealing with a law which regulates some issues that are in some ways minor compared to the economic crisis which many players are going through. In this issue of TopHic we would like to provide a brief outline of the most significant updates that we deem it useful to mention and are aimed at supporting the economic recovery.

First of all, the law is dated 2020 (law no. 178/2020) as it was published in Official Gazette no. 322 on 30 December 2020, and it came into force on 1st January 2021 (except for different effective dates for some specific provisions).

Some rules are aimed to support liquidity and the financial strengthening of companies: these are better analysed in the “Expert’s opinion” (with particular reference to tax allowances and incentives provided for strengthening of capital) and the “Focus on” (with reference to new tax credits on capital goods, to R&D bonus, and to 4.0 training plan) of this TopHic issue.

As a general outline, the measures having the highest tax (and corporate) impact are included under article 1 and can be briefly listed as follows:

- reduction of the tax burden (para. 2 – 50)
- growth and investment (para. 51 – 158)
- Southern-Italy areas and territorial cohesion (para. 159 – 205)
- liquidity and business recapitalization (para. 206 – 274)
- labour, family and social policies (para. 275 – 402)
- recovery and resilience national plan (para. 1037 – 1074)



- provisions on inland revenue, fight against tax evasion, tax collection, tax measures for the safeguard of environment and public health, Customs agency (para. 1075 – 1133).

In addition to the above specific measures, there are other relevant provisions that are worth being mentioned and considered to evaluate development opportunities.

The first one is the extension of corporate assets revaluation also to goodwill and other intangible assets already registered in the financial statements at 31 December 2019. As known, the corporate assets revaluation is aimed to allow companies to increase their equity (therefore, also to deal with any losses that could possibly generate), registering higher values among assets. The peculiarity of the provision consists, on the one hand, in the low tax cost of the revaluation (3% compared to the higher rates applied in the past) and, on the other hand, in the possibility to revalue single assets (and not necessarily the whole category of assets). Now, the law extends the revaluation – applying the same 3% tax rate – to the realignment of accounting and tax values. These values arise following M&A operations that are neutral from a tax perspective and that generate goodwill and intangible assets.

The realignment of the 3% tax cost must be considered carefully, as it represents a tax opportunity (due to the possibility to deduce the relevant depreciations) and an administrative simplification (as it improves on the differences between accounting and tax values).

The second provision we would like to mention is the possibility for individuals and non-commercial entities to re-determine the tax

cost of land and shareholdings as initial cost value for the purposes of taxation of income (the capital gain derives from the difference between the sales price and the initial cost, which can now be re-determined).

The provision represents a further extension of past regulations – which are now constantly applied – to revalue the cost of shareholdings and land by paying an 11% substitute tax, applied to the entire new re-determined value. The revaluation must be finalized by 30 June 2021 by paying the relevant tax, after preparing a proper opinion by a qualified expert. Shareholdings and land held at 1 January 2021 can be revaluated. This possibility is provided as part of a tax planning aimed at the future sale of the concerned assets.

The third provision we would like to highlight is the extension of the so-called building “110% superbonus”, including some new elements. The term to benefit from the allowance – i.e. from the tax deduction of expenses for concerned building interventions – has been extended from 31 December 2021 to 30 June 2022.

There are also some operating updates concerning, among other things, the possibility to benefit from the 110% deduction also for multi-family buildings held by one single owner (always meant as individuals, outside the scope of the business activity), for run-down buildings, for roof insulation interventions, for interventions aimed at removing architectural barriers, for installations of solar-power plants, etc.

The fourth provision concerns a properly corporate-law measure, which combines with those aimed to support and strengthen companies’ capital.



It consists, specifically, in the exemption of companies from the application of accounting fulfilments (provided under the Italian Civil Code) for the coverage of losses generated in the FY at 31 December 2020 (thus, suspending the specific fulfilments provided under articles 2446, 2447 and 2482-bis of the Italian Civil Code, which establish times and procedures according to which shareholders can intervene if losses are higher than one third of capital). Specifically, companies have time to reduce losses to less than one third of capital up to the fifth following FY (and not to the immediate following FY, as generally provided), thus having more time to cover them. Subsequently, if losses make capital be lower than the statutory minimum amount, the shareholders' meeting resolving upon their coverage can be called within the extended term of the fifth following FY. On the other hand, in case of losses, directors still have the obligation to immediately call the shareholders' meeting, to provide them with the report required under the Italian Civil Code, and to comply with all relevant fulfilments for the coverage of losses, but they can resolve upon (and proceed with) the coverage of losses within the extended term. The fifth and last provision we would like to mention is aimed at developing research and skills. The Budget Law provides a fund to support investment in "human capital" within strategic areas. This fund aims to incentivize the integration of newly-graduated young people in the production economy and involve the production system to provide financial support to training initiatives.

Such training initiatives should be addressed to the development and acquisition of managerial skills. A tax credit is also provided - which differs depending on the company's size - to support gender equality.

These are, in brief, the main new provisions, to be evaluated (and applied) within the scope of entrepreneurial decisions aimed at overcoming this difficult phase, taking opportunities and benefitting from issued regulations. All Grant Thornton Italy professionals would be pleased to analyse the many and fragmented new provisions in the Budget Law 2021.

One last consideration concerns the so longed-for tax reform, which is also oriented to simplification and to reach an efficient and effective relationship between tax authorities and taxpayers, both in terms of fulfilments and in terms of a correct use of public resources generated from Inland Revenue.

Therefore, the measure contained in the Budget Law providing for the establishment of a proper fund to further fight tax evasion, whose resources come from higher revenues generated by taxpayers' voluntary tax fulfilment (so-called tax compliance).

This is certainly the right way, but this must be supported by concrete measures that simplify the understanding of the tax regulation and its application. In addition to this, politics can then intervene on the right extent of the tax burden and implement the necessary balances.

We will certainly overcome this difficult period, although it's up to us, as we must be able to take the opportunities and correctly respond to the requirements set by the legislator.



## Expert's opinion

### Capitalisation, corporate losses and intangibles

**Alessandro Grassetto**

*Partner Bernoni Grant Thornton*

#### Foreword

Among the various forms of support for companies introduced in 2020, those relevant to liquidity and capitalisation are the most significant. The 2021 Budget Law includes, with amendments, some of the temporary provisions introduced with the so-called Relaunch Decree aimed at supporting the recapitalisation of joint-stock companies, as well as those introduced with the so-called Liquidity Decree aimed at suspending the obligations provided under the Italian Civil Code for joint-stock companies with reference to share capital losses and the relevant causes of dissolution due to share capital reductions below the minimum threshold provided by law. Again, with reference to the recapitalisation of companies, it is also worth mentioning the extension provided under Budget Law for 2021 as concerns the application of the revaluation and realignment provisions, allowing - through the application of the norms introduced by Law Decree no. 104/2020 - to intervene also on goodwill and on other intangible assets posted in the financial statements at 31 December 2019.



#### Recapitalisation of joint-stock companies

Talking about the measures supporting the recapitalisation of joint-stock companies, para. 263, art. 1 of the Budget Law includes the incentives already contained in art. 26 of the Relaunch Decree. In particular, the following provisions have been extended:

1. the tax credit equal to 50% of the losses recorded in 2020 further to the approval of the Financial Statement for FY 2020 exceeding 10% of the net equity, gross of said losses and up to 50% of the share capital increase; in this case the incentive structure is the original one, except for minor amendments, including the one relevant to the term within which the share capital increase is to be completed, i.e. 30 June 2021; the tax incentive no longer



applies - and the amounts received plus interest accrued are to be returned - in case any reserve is distributed before 1 January 2025, or in case the non-existence of any of the requirements provided by the norm is assessed. The provisions contained under Ministerial Decree dated 20 August 2020 and enforcing this tax incentive will remain in force. The tax credit can be used only to offset other taxes starting from the tenth day following the one in which the investment is made, further to the approval of the financial statements for FY 2020 by 3 November 2021. The tax credit in favour of subjects who make capital contributions in cash have not been confirmed

2. the fund dedicated to SMEs, so-called *Fondo Patrimonio PMI*, aimed at the subscription of newly-issued bonds or debentures.

Such fund, further to the amendments introduced by 2021 Budget Law, will have the possibility to subscribe both bonds and debentures:

- by 30 June 2021
- within the limits of its provision and up to the maximum limit of 1 billion Euro for subscriptions to be made in FY 2021
- for a total maximum total amount equal to the lower between three times the amount of the resolved and paid share capital increase and 12.5% of the total revenues for the 2019 tax period, exceeding 10 million Euro and up to 50 million Euro
- issued by companies which meet the requirements provided for by the norm.

Financial instruments are refunded after six years from the subscription. The issuing company commits itself not to resolve until the distributions of reserves and the purchase of own shares have been refunded, and not to proceed with the refund of shareholders' loans.

### **Suspension of the Italian Civil Code provisions relevant to share capital reduction of joint-stock companies**

As far as the suspension of the provisions of the Italian Civil Code regulating share capital reductions is concerned, art. 1, para. 266 of the 2021 Budget Law includes a new version of art. 6 of the so-called "Liquidity" Decree, with a wider scope of application.

In this case, the new provision is confirmed, according to which the requirements under the Italian Civil Code for companies with liability limited by shares (Italian S.p.A) (articles 2446 and 2447) and for limited liability companies (Italian S.r.l.) with reference to losses recorded in the FY underway at 31 December 2020 (i.e. 2020 losses for entities with a FY corresponding to the calendar year), besides the cancellation of the causes of dissolution due to losses.

Aim of the provision is thus to avoid situations in which directors of joint-stock companies are compelled - further to the recording of losses due to the pandemic - to wind-up the company to avoid being deemed liable of a management not complying with the going concern principle and, therefore, to avoid that losses accrued in this extraordinary period might lead to the dissolution of companies



still able to generate profits but which - in the short term - cannot overcome their difficulties. The norm also provides for longer terms for the recapitalisation and specifies that:

- the term within which the loss need to be reduced to less than a third is not the first subsequent FY, but the fifth one
- should the loss lead to a reduction of the share capital below the minimum threshold provided by law, a shareholders' meeting need to be convened promptly by the directors; the shareholders' meeting - as an alternative to the immediate reduction of the share capital and its contextual increase up to an amount not lower than the minimum threshold provided by law - can resolve to postpone such resolution to the end of the fifth following FY, until which the dissolution of the company due to a reduction or loss of the share capital will not apply.

The losses accrued in the FY underway at 31 December 2020 will have to be distinctly indicated in the notes to the financial statements, specifying in dedicated tables their origin and the changes occurred in the FY. This means that losses possibly accrued during the 5-year period of suspension of the norm, if autonomously relevant, should be subject to the ordinary provisions.

## **The realignment of intangibles**

In order to improve the assets situation of companies and to allow them to face losses which might arise due to the pandemic, art. 1, para. 83 of Budget Law for 2021 introduced para. 8-bis into art. 110 of Law Decree no. 104/2020 (revaluation of corporate assets and participating interests and realignment), which provides for that provisions under art. 14 of Law no. 342/2000 apply also to the goodwill and to the other intangibles which are not legally protected as resulting from the financial statements of the FY underway at 31 December 2019.

This norm thus extends the possibility to revalue or realign the values of corporate assets, including goodwill as well as other intangibles.

Since - in practice - it is complex from a statutory point of view to revalue assets such as goodwill or other intangibles, it would be more convenient to apply the abovementioned art. 14 concerning realignment.

If we consider goodwill, the realignment of values included in the financial statements further to an extraordinary operation through the payment of a 3% substitute tax instead of IRES and IRAP implies, first of all, an economic benefit compared to the provision normally applicable lacking the new norms being analysed. With reference to this point it is worth reminding that:



- art. 176, para. 2-ter of the T.U.I.R. (Italian income tax consolidated text) provides for capital contributions that the transferee company can opt for the total or partial application of a substitute tax on the higher values attributed in the financial statements to the income items representing tangible and intangible assets of the contributed company instead of IRES and IRAP, equal to: 12% on the portion of higher values included within the 5 million Euro threshold, 14% on the portion of higher values exceeding 5 million Euro and up to 10 million Euro, and to 16% on the portion of higher values exceeding 10 million Euros
- a similar possibility is granted to merging company or company resulting from a merger and benefitting from a demerger, which can thus opt for the application of the substitute tax regime pursuant to the abovementioned art. 176, para. 2-ter of the T.U.I.R., in order for the accounting values to be recognised for tax purposes following to the tax-neutral extraordinary operation.

By comparing the substitute tax rate applied in the two cases (the emergency provision introduced with the 2021 Budget Law and the T.U.I.R. provision), the greater economic benefit is clear. The realignment to the 3% cost thus represents a valid alternative to be carefully considered both from a tax point of view (for the deductibility of the relevant amortisations and depreciations) and from an administrative one (as it represent an administrative simplification, overcoming the difference between accounting value and tax value).

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## Focus on...

### Tax credit for capital goods, R&D bonus, training 4.0

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#### Introduction

Law no. 178/2020 (so-called Budget Law 2021) confirmed the allowances concerning tax credits that constitute the so-called National Industry 4.0 Plan.

The above plan is aimed to encourage and lead businesses in the technology and environmental sustainability transition and re-launches those investments that could be penalized by the pandemic crisis and the subsequent macro-economic recession.

With an allotment of approx. 24 billion Euro, the plan supports – both from a quantity perspective and in terms of admitted categories – investments in (i) new capital goods, (ii) R&D/technology innovation/design, and (iii) the so-called training 4.0.

#### Tax credit for capital goods

In order to support and incentivize businesses investing in new capital goods – either tangible or intangible –, being functional to the technology/digital transformation of production processes and aimed to production sites located within the territory of State, Budget Law 2021 strengthens and extends up to 2022 the tax credit provided for investments in capital goods, already introduced by Law no. 160/2019 for 2020.

#### Subjective scope of application

All businesses residing in Italy (including permanent establishments of non-resident entities) can benefit from the tax credit, regardless of their legal form, industry, size, and tax regime applied for the calculation of income, provided that they comply with rules on safety at workplace being applicable in their respective industry and that they paid social security contributions for their employees.

Professionals and artists can also benefit from the tax credit, though limited to capital goods other than those provided under the so-called Industry 4.0 (i.e. ordinary assets).

#### Objective scope of application

All investments in new tangible and intangible capital goods – both those related to the so-called “Industry 4.0” (assets listed, respectively, under Appendix A<sup>1</sup> and B<sup>2</sup> to Law no. 232/2016), and those being not related to it, i.e. the so-called “ordinary” assets – are concerned by the provision. Investments in such assets must be aimed to production units located within the territory of State.

On the other hand, the following assets are expressly excluded: vehicles and other means of transport under art. 164 of TUIR; assets for which a tax rate lower than 6.5% is provided under Ministerial Decree dated 31.12.88; buildings; assets under Appendix 3 to Law no. 208/2015<sup>3</sup>; free-transferable assets of companies operating in the following industries: energy, water, transport, infrastructures, post offices, telecommunications, collection and purification of waste water, and of waste collection and disposal.



### **Time scope of application**

The new tax credit applies to investments made from 16 November 2020 to 31 December 2022.

All investments made from 1 January 2023 to 30 June 2023 are also included, but only provided that – by 31 December 2022 – a purchase order of the concerned asset, being accepted by the seller, is made and that advances for at least 20% of the purchase cost of the asset are paid.

### **Amount of the granted benefit**

#### ***Investments in so-called “ordinary” tangible and intangible assets***

With reference to investments in tangible (maximum cost amount admitted: Euro 2 million) and intangible (maximum cost amount admitted: Euro 1 million) assets that are not related to the so-called Industry 4.0, made from 16 November 2020 to 31 December 2021 (or up to 30 June 2022, provided that a purchase order of the concerned asset, being accepted by the seller, is made and that advances for at least 20% of the purchase cost of the asset are paid by 31 December 2021), a tax credit equal to 10% of the cost determined pursuant to art. 110 of TUIR is provided (15% for investments in technology tools and devices aimed to the implementation of smart working procedures).

If investments are made from 1 January 2022 to 31 December 2022 (or to 30 June 2023, provided that the above-described requirements are met), tax credit is equal to 6%.

#### ***Investments in so-called “4.0” tangible and intangible assets***

As concerns investments in tangible and intangible assets related to Industry 4.0 (Appendix A to Law no. 232/2016), tax credit is different depending on the period in which the investment is made and on its amount.

For investments made up to 31 December 2021 (or 30 June 2022, provided that the above-described requirements are met) tax credit is equal to: 50% of the investment up to Euro 2.5 million; 30% of the investment for the amount exceeding Euro 2.5 million and up to 10 million; 10% of the investment between Euro 10 million and 20 million.

For investments made from 1 January 2022 to 31 December 2022 (or 30 June 2023, provided that the above-described requirements are met): 40% of the investment up to Euro 2.5 million; 20% of the investment for the amount exceeding Euro 2.5 million and up to 10 million; 10% of the investment between Euro 10 million and 20 million.

With reference to investments in intangible assets related to Industry 4.0 (Appendix B to Law no. 232/2016), tax credit is equal to 20% of the cost, within the limit of Euro 1 million, regardless of the period in which the investment is made.



### **Tax treatment of granted tax credits**

The benefit under analysis is not subject to IRES nor to IRAP taxation. Moreover, it is not relevant for the application of articles 61 and 109 of TUIR, para. 5, concerning the calculation of non-deductible interest payable and expenses, respectively, due to the presence of revenues or proceeds excluded from IRES taxation.

### **Procedure to benefit from granted tax credits**

Tax credit is granted starting from the year in which assets come into operation in case of investments in ordinary assets, and starting from the year in which they are interconnected, in case of investments in Industry 4.0 assets.

Tax credits can be used, without the need to previously file the tax return, exclusively through F24 form by offsetting 3 equal annual instalments. Subjects with revenues or considerations lower than Euro 5 million can offset the credit in a single annual instalment.

If the amount of the year is not fully used, according to the instructions provided by the Revenue Office during *Telefisco 2021*, the remaining amount can be used in following fiscal years.

The offset amount is not subject to the limits established for tax credits entered under the “RU” section of the tax return, nor to the annual offset and utilisation limits in case of overdue tax payables entered in the taxpayers’ list, whose amount is higher than Euro 1.500.

### **Cases of recapture of the benefit**

If assets concerned by the benefit are sold against a consideration or transferred to production sites located abroad – even if owned by the same subject – by 31 December of the second year following that in which the same assets come into operation or are interconnected tax credit is proportionally reduced, excluding the relevant cost from the original calculation base.

### **Cumulability with other tax benefits**

The tax credit can be combined with other benefits that concern the same costs only if this combination, even considering the non-relevance for the calculation of income for IRES purposes and of the taxable base for IRAP purposes, does not generate a ratio between the total benefits obtained and the cost incurred higher than 1.

### **R&D bonus, technology innovation and design**

Within the so-called National Industry 4.0 Plan, Budget Law 2021 includes some provisions on tax credit for investments in research and development, technology innovation, and design activities, extending their period of application by two further years and increasing the percentages and maximum utilization limits of the benefit, as already provided under Law no. 160/2019.

### **Subjective scope of application**

All businesses, of any legal form, size and regime applied for the definition of business income, can benefit from the tax credit.



## Objective scope of application

Research and development costs are admitted to the tax credit if they are related to technology and scientific basic research, industrial research, and experimental development activities, as defined under art. 2 of Ministerial Decree dated 26.5.2020 based on the criteria included in OECD's Frascati Manual.

As concerns technology innovation activities, those that can benefit from the tax credit are those aimed to the realization of new or substantially improved products or production processes for an environmental transition or digital innovation purpose. These are defined under articles 3 and 5 of Ministerial Decree dated 26.5.2020 based on the criteria included in OECD's Frascati Manual.

Lastly, design activities that can benefit from the tax credit are those performed for the ideation and realization of new products and samples (please refer to art. 4 of Ministerial Decree dated 26.5.2020) by businesses operating in the following industries: textile and fashion, footwear, eyewear, goldsmith's art, furniture and ceramics. The tax credit calculation base for the abovementioned activities – despite some specific limits/rules for some cases – is generally made up of:

- costs related to researchers and technicians under a subordinate or self- or other employment relationship, who directly deal with R&D/technology innovation/design activities that are carried out internally by the company, within the limit of their actual involvement in such activities;

- depreciation charges, rental fees and other costs related to movable tangible assets and software used in R&D/technology innovation/design projects (even for the realization of prototypes or pilot plants)
- costs for agreements concerning the direct performance by the contractor of R&D/technology innovation/design activities that can benefit from the tax credit
- costs for consultancy (and equivalent) services concerning R&D/technology innovation/design activities that can benefit from the tax credit
- costs for materials, supplies and other products used in R&D/technology innovation/design activities that can benefit from the tax credit, which are entirely carried out by the company (even for the realization of prototypes or pilot plants)
- with only reference to R&D activities, depreciation charges relevant to purchases from third parties, or license agreements, of industrial patents related to an industrial or biotechnological invention, to a topography of semiconductor products, or to a new vegetable variety.

## Time scope of application

The tax credit applies to the 2020 tax period and until the tax period underway at 31 December 2022.

## Amount of the benefit granted

Budget Law for 2021 increased the amount of the tax credit (compared to what already provided under Law no. 160/2019). Below is an overview of the provisions now in force:



- research & development: 20% of the eligible cost base (25% for large enterprises, 35% for medium enterprises and 45% for small enterprises, but only for Covid-19 projects in production facilities in Southern Italy regions), up to 4 million Euro
- technological innovation: 10% of the eligible cost base (15% in case of technological innovation aimed at realising new or significantly improved products or production processes for the attainment of an ecological transition or 4.0 digital innovation target), up to 2 million Euro
- design and creative design: 10% of the eligible cost base, up to 2 million Euro.

### **Tax treatment of the recognised tax credits**

Similarly to tax credits on investments in new capital assets, this tax benefit is not subject to the application of IRES or IRAP and, furthermore, it is not considered for the application of articles 61 and 109, para. 5 of TUIR relevant to the calculation of the non-deductibility of interest expenses and expenses relevant to revenues or proceeds excluded from IRES taxation.

### **How to benefit from recognised tax credits**

Tax credits can be used exclusively in the F24 form to offset other taxes in 3 yearly instalments of an equal amount, starting from the tax period following the one in which they have been accrued and subject to the actual fulfilment of the reporting obligations provided.

### **Certification obligations**

The actual disbursement of eligible expenses and their matching with the accounting documentation prepared by the company need to result from the dedicated certification issued by the appointed auditors.

For the purposes of further checks, companies benefitting from the tax credit are required to prepare and keep in their files a sworn technical report illustrating the aims, contents and outcomes of the eligible activities carried out in each tax period with reference to the projects in progress.

### **Cumulability with other tax benefits**

Similarly to the tax credit for new investments in capital assets, this tax credit can be cumulated with other tax benefits relevant to the same costs, only if such cumulation does not lead to have a ratio between total benefits and costs borne higher than 1 - also considering that they do not contribute to the formation of income and of the IRAP taxable base.

### **Tax credit for 4.0 training**

Provisions relevant to tax credits relevant to expenses for the so-called 4.0 training have also been strengthened under Budget Law for 2021, with specific reference to the extension of the duration of norm (already amended by Law no. 160/2019) and to the types of eligible expenses. Below is an overview of the main features of this tax credit.



### Subjective scope of application

The tax benefits are theoretically addressed to all companies, regardless of their legal form, industry sector in which they operate or accounting regime adopted.

### Objective scope of application

Eligible expenses are those pertaining to training activities aimed at acquiring and consolidating technology skills relevant to technologies included in the National Industry 4.0 Plan, such as: big data and data and analytics, cloud and fog computing, cyber security, cyber-physical systems, rapid prototyping, augmented reality visualisation systems, advanced and collaborative robotics, human-machine interface, additive manufacturing, internet of things and of machines and digital integration of business processes. These activities mandatorily need to be applied to specific categories of activities<sup>4</sup> listed in Annex A to Law no. 205/2017.

The following costs are eligible:

1. personnel costs relevant to trainers for the hours dedicated to the training
2. operating costs relevant to trainers and trainees, directly related to the training process, such as travel expenses, accommodation costs, materials and supplies directly related to the project, depreciation of tools and equipment for the amount in which they are used exclusively for the training programme
3. costs relevant to consultancy services related to the training programme
4. personnel costs relevant to trainees and indirect overheads (administration costs, rental costs, overheads), for the hours during which the participants attended the training.

Online trainings can also be eligible for this tax benefits, upon condition that specific requirements are met (circular letter by the Ministry of Economic Development no. 412088 dated 31.12.2018).

### Temporal scope of application

The tax benefit already in force up to 31 December 2020 will be applicable until 31 December 2022 further to Budget Law for 2021.

### Amount of the benefit granted

The tax credit granted varies depending from the company size:

- small enterprises can monetise 50% of eligible expenses, up to max 300,000 Euro
- medium enterprises can monetise 40% of eligible expenses, up to max 250,000 Euro
- large enterprises can monetise 30% of eligible expenses, up to max 250,000 Euro.

The tax credit has been increased for all companies - without prejudice to the maximum yearly thresholds - up to 60% in case the addressees of the eligible training fall within the categories of disadvantaged or seriously disadvantaged workers, as defined by the Decree of the Ministry of Labour and Social Policies dated 17 October 2017.

## Tax treatment of recognised tax credits

Such tax credits do not contribute to the formation of income, nor of the IRAP taxable base. They are also not relevant for the purpose of the application of the provisions under art. 61 and 109, para. 5 of the T.U.I.R., as per Presidential Decree no. 917 dated 22 December 1986.

## How to benefit from recognised tax credits

Tax credits can be used exclusively in the F24 form to offset other taxes, starting from the tax period following the one in which the eligible expenses were borne. Their use to offset other taxes in the box RU of the tax return is not subject to yearly limitations.

## Cumulability with other tax benefits

Should the aid to training concurrent with the tax credit be referred also to personnel costs of trainees, the company will have to check that the cumulation of the two incentives does not exceed the maximum amount set forth under regulation no. 651/2014 concerning aids to training.

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<sup>1</sup> **Appendix A** - Assets that are functional to technology and/or digital transformation of companies within Industry 4.0, including a list of assets divided into three categories:

- Capital goods whose operation is controlled by computerized systems and/or systems managed through proper sensors and activations;
- Systems to ensure quality and sustainability;
- Devices for human-computer interaction and for the improvement of ergonomics and safety of the workplace in an Industry 4.0 perspective.

<sup>2</sup> **Appendix B** - Intangible assets (software, systems and system integration, platforms and applications) related to investments in Industry 4.0 tangible assets.

<sup>3</sup> Bottling of natural mineral waters, mains; Production and distribution of natural gas, pipes for civil uses (urban networks); Thermal and hydrothermal plants, mains; Production and distribution of natural gas, pipelines for long-distance transport from production sites; Production and distribution of natural gas, pipelines for long-distance transport from gas and water deposits (supply and connection pipes); Rolling stock (excluding locomotives), except for machinery and equipment, even if moving on rails, needed for the performance of maintenance works; Airplane including complete equipment (including engine and except for specific rules due to safety requirements)

<sup>4</sup> Activities relevant to sales and marketing, IT, manufacturing techniques and technologies, within the limitations set forth in the abovementioned Annex.

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