

## ||| “Tax Simplification” Decree (Italian Decree Law 73 of 21 June 2022) - Main changes

### In brief

Italian Decree Law 73 of 21 June 2022, published in OJ 143 of 21 June 2022, introduced urgent tax simplification measures and financial provisions (the “Tax Simplification” Decree).

While Italian Decree Law 73/2022 entered into force on 21 June 2022, specific effective dates have been established for certain provisions. The Decree Law is in the process of being converted into law and its provisions could therefore be amended or supplemented.

The main changes include:

- | extension of the principle of enhanced derivation to micro enterprises;
  - | relevance for tax purposes in the period income components recorded as a result of the correction of accounting errors are carried in the financial statements;
  - | repeal of the rules concerning systematic loss-making companies as from the 2022 “calendar” tax period;
  - | rationalisation of IRAP deductions for temporary employees;
  - | amendments to the “Esterometro” rules;
  - | increase, from EUR 250.00 to 5,000.00, of the threshold for deferral of the payment of stamp duty on electronic invoices relating to the first or the first two calendar quarters.
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## Details

Subject	Description
<p>Extension of the principle of enhanced derivation to micro enterprises (Article 8(1)(a))</p>	<p>Article 8(1)(a) of Italian Decree Law 73/2022 amends Article 83(1) of the TUIR (Consolidated Law on Income Tax), establishing that entities qualifying as micro enterprises, since they do not exceed the size limits set out in Article 2435-ter of the Italian Civil Code (balance sheet assets EUR 175,000.00; revenues from sales and services EUR 350,000.00; an average of 5 employees during the FY) but which choose to draw up financial statements in the ordinary form, determine their corporate income by applying the enhanced derivation principle, as a result of which the criteria of qualification, time allocation and classification in the financial statements required by the accounting standards are applicable, with the consequent tax recognition of the accounting representation based on the principle of substance over form.</p> <p>Before this amendment, the law did not extend the application of the enhanced derivation principle to micro enterprises (even if they drew up their financial statements in the ordinary form), and therefore required full application of the valuation criteria set out in Article 2426 of the Italian Civil Code, or in abbreviated form, or if (even though they drew up their financial statements applying the simplifications established for them) they decided to value the receivables, payables and securities according to the amortised cost method. In these cases, a twin track statutory/fiscal approach was adopted.</p> <p>The amendment shall apply from the tax period in progress as at 22 June 2022 and therefore, for those whose tax year coincides with the calendar year, as from FY 2022.</p>
<p>Relevance for tax purposes in the period income components recorded as a result of the correction of accounting errors are carried in the financial statements (Article 8(1)(b))</p>	<p>An amendment has been made to Article 83(1) of the TUIR, establishing that income components carried in the financial statements (in the income statement or in the balance sheet) as a result of the correction of accounting errors have immediate relevance for tax purposes (with the exception of negative income components for which the deadline for submitting the supplementary return has expired) in the year in which the error is corrected, without it being necessary to submit a supplementary return relating to the tax period in which the error was committed.</p> <p>Once again, the amendment shall enter into effect from the tax period in progress as at 22 June 2022 and therefore, for those whose tax year coincides with the calendar year, as from FY 2022.</p>



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<p>Repeal of the rules concerning systematic loss-making companies as from the 2022 "calendar" tax period (Article 9(1))</p>	<p>The rules concerning systematic loss-making companies set out in Article 2(36-decies), (36-undecies) and (36-duodecies) of Italian Decree Law 138/2011 have been repealed with effect from the tax period in progress as at 31 December 2022 (and therefore from the tax period 2022, for "calendar" entities). Instead, the rules concerning non-operating companies laid down in Article 30 of Italian Law 724/94 have not been amended.</p> <p>As a result of these provisions, the penalties provided for by Article 30 of Italian Law 724/94 shall not apply in the tax period 2022 if:</p> <ul style="list-style-type: none"> <li>  the tax periods 2017, 2018, 2019, 2020 and 2021 reported tax losses;</li> <li>  four of the above periods reported losses and the fifth recorded taxable income lower than the minimum income.</li> </ul>
<p>Repeal of the IRES surcharge for enterprises operating in the oil and energy sectors - (Article 9(2))</p>	<p>The IRES (corporate income tax) surcharge set out in Article 3 of Italian Law 7 of 6 February 2009 has been repealed. This refers to the 4% IRES surcharge applied to companies and commercial entities resident in Italy:</p> <ul style="list-style-type: none"> <li>  engaged in the exploration and production of liquid and gaseous hydrocarbons, with controlling and non-controlling shareholdings and with net tangible and intangible assets dedicated to this activity with a book value higher than 33% of the corresponding item in the financial statements;</li> <li>  issuing shares or equivalent securities admitted to trading in a regulated market;</li> <li>  with a capitalisation of more than EUR 20 billion determined on the basis of average capitalisations recorded in the last month of the year in the regulated market with the highest volume traded.</li> </ul> <p>The IRES surcharge shall no longer apply from the tax period after the one in progress as at 31 December 2020 (and therefore from FY 2021 for entities whose tax period coincides with the calendar year).</p>
<p>Rationalisation of IRAP deductions for temporary employees (Article 10)</p>	<p>The deductibility of the cost of permanent employees has been amended with effect from the tax period before the one in progress as at 22 June 2022 (and therefore from FY 2022 for entities whose tax period coincides with the calendar year).</p> <p>As a result of this amendment the total cost of employees on a permanent contract is fully deductible, while additional deductions have been maintained only for employees hired on a different type of contract who can already benefit from them (e.g., research and development personnel, apprentices, disabled workers, seasonal workers, etc.).</p>



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<p>Amendment of the time limit for registering deeds (Article 14)</p>	<p>The set time limit for registration is governed by Article 13 of Italian Presidential Decree 131/86, which until 21 June 2022 set the limit as 20 days after the date of the deed. A number of exceptions applied, such as those for real estate leases and for registering notarial deeds, for which the limit was 30 days.</p> <p>Italian Decree Law 73 has amended the “ordinary” time limit for registration stated by Article 13 of Italian Presidential Decree 131/86, by permanently eliminating the 20 day time limit and applying the new 30 day time limit to all deeds subject to registration within a set timeframe drawn up in Italy.</p> <p>The new rule shall apply to deeds concluded with effect from 22 June 2022.</p>
<p>Amendments to payment of stamp duty on electronic invoices (Article 3(4 - 5))</p>	<p>Article 3(4) of Italian Decree Law 73/2022 has raised, from EUR 250.00 to 5,000.00, the threshold for deferral of the payment of stamp duty on electronic invoices relating to the first or the first two calendar quarters.</p> <p>The increase in the threshold for deferral of the payment of stamp duty on electronic invoices relating to the first or the first two quarters in the year shall apply to invoices issued as from 1 January 2023.</p>
<p>Amendments to the “Esterometro” rules (Articles 12 and 13)</p>	<p>A number of amendments have been introduced to the reporting of cross-border transactions (“Esterometro”), regarding both the transactions to be reported and the rules governing sanctions.</p> <ul style="list-style-type: none"> <li>┆ The amendments specifically establish the exclusion of purchases of goods and services not territorially relevant for VAT purposes in Italy pursuant to Articles 7 to 7-octies of Italian Presidential Decree 633/72, if they are worth no more than EUR 5,000.00 (per transaction). As from 1 July 2022 transactions must be reported exclusively by sending the data in electronic invoice format through the Interchange System (Sdl).</li> <li>┆ Italian Decree Law 73/2022 also defers to 1 July 2022 the entry into force of the new rules governing sanctions, which have however been in effect since 1 January 2022. If cross-border transaction data are not reported or are incorrectly reported, an administrative sanction of EUR 2.00 shall be applied for each invoice, up to a maximum of EUR 400.00 per month. The sanctions may be halved, up to a maximum of EUR 200.00 per month, if the data are transmitted within 15 days of the legal expiry date, or if the data are correctly transmitted by said deadline.</li> </ul>



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<p>Standard deferral of the time limit for submitting Intrastat lists (Article 3(2))</p>	<p>Periodic Intrastat lists can now be sent by the last day of the month after the period to which they refer, instead of the 25<sup>th</sup> day of the month after the reference period.</p> <p>The new time limit concerns the submission of both monthly lists and quarterly lists. The new time limit already applies to lists referring to May 2022.</p>
<p>Tax credit for research, development and innovation activities - Activity certification (Article 23(2-8))</p>	<p>Article 23(2-8) of Italian Decree Law 73/2022 has introduced the possibility for enterprises to request certification of their R&amp;D activities in order to facilitate application of the tax credit for research, development and innovation (Article 1(200 - 203-sexies) of Italian Law 160 of 27 December 2019) under conditions of certainty.</p> <p>This certification:</p> <ul style="list-style-type: none"> <li>  may be issued by qualified certifiers who conduct the valuation process in accordance with the specific guidelines regularly developed and updated by the Ministry of Economic Development;</li> <li>  may be requested on condition that no breaches of rules on use of the tax credits provided for by the aforesaid laws have already been ascertained and that no visits, inspections, audits or other administrative assessment activities have been initiated, of which the perpetrator or those jointly and severally liable, have been formally notified.</li> </ul> <p>A subsequent Prime Ministerial Decree will set out the requirements of the public or private entities qualified to issue the certification and a special register of certifiers will be duly set up.</p>

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