

||| Italian Decree Law on Tax Relief (No. 39 of 29 March 2024) - Main measures

In brief

Italian Decree Law 39 of 29 March 2024 ("Tax Relief Decree") was published in Italian Official Journal No. 74 of 29 March 2024 and has been in force since 30 March 2024.

It introduces measures concerning building bonuses, including:

- | further restrictions on options for the assignment of credits or for the invoice discount in addition to those already provided for by Italian Decree Law 11/2023, regarding both transitional provisions for costs incurred up to 30 March 2024, and the "75% barrier bonus" for costs incurred from 31 March 2024;
 - | elimination of the possibility of applying for the "*remissione in bonis*" procedure, referred to in Article 2(1) of Italian Decree Law 16/2012, in relation to notifications of option for the building works referred to in Article 121 of Italian Decree Law 34/2020, relating to costs incurred in 2023 (and for notification of the remaining instalments for costs incurred between 2020 and 2022), as well as the provision that notifications of option for building works sent between 1 April 2024 and 4 April 2024 may be replaced by 4 April 2024;
 - | introduction of a new notification that must be sent to disclose the costs incurred in 2024 and 2025 for works entitling to the superbonus, whether for the energy retrofit or for reducing the seismic risk of buildings;
 - | introduction of the notification obligation in order to claim the 4.0 and research and development tax credits;
 - | prohibition of set-off of tax credits for building bonuses in the presence of past due tax debts of over EUR 10,000.
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In detail

Subject	Description
Options for assignment of credits or for invoice discount - Further restrictions (Article 1)	<p>Transitional provisions</p> <p>Compared to the transitional regulatory framework laid down by Italian Decree Law 11/2023, Article 1(5) of Italian Decree Law 39/2024 establishes that those who, as at 30 March 2024 have not incurred any costs, documented by invoice, for works already carried out, will not be eligible for the options.</p> <p>Works to eliminate architectural barriers using the "75% barrier bonus"</p> <p>Limitations have also been introduced to the possibility of opting for assignment/discount for works to eliminate architectural barriers for which the "75% barrier bonus", referred to in Article 119-ter of Italian Decree Law 34/2020, is being used.</p> <p>It should be noted that this bonus had been fully excluded from the interdiction established by Article 2(1) of Italian Decree Law 11/2023, under the derogation laid down in the second sentence of Article 2(1-bis). These provisions apply to costs incurred up to 30 March 2024.</p> <p>Instead, for costs incurred from 31 March 2024, the provisions contained in the abovementioned second sentence only apply to those for which as at 29 March 2024:</p> <ul style="list-style-type: none"> an application for the appropriate permit has been submitted, where necessary; or, in the case of minor works not requiring a building licence arising from works which, at the same date, have already begun or, if not already begun, where the parties have concluded a binding agreement for the supply of the relevant goods and services and a down payment has already made.
Notification of option for assignment and discount for building works - elimination of the "remissione in bonis" procedure (Article 2)	The Italian Revenue Agency extended from 16 March 2024 to 4 April 2024 the deadline for the electronic submission of the notifications of option, referred to in Article 121 of Italian Decree Law 34/2020, regarding the deductions that can be made for costs incurred in 2023



Subject	Description
cont.	<p>and the options of "deferred" assignment of the remaining instalments not yet used for costs incurred in the years 2020 to 2022.</p> <p>After 4 April 2024:</p> <ul style="list-style-type: none"> it is no longer possible for those who did not submit this notification by the deadline of 4 April 2024 to make use of the "remissione in bonis" procedure referred to in Article 2(1) of Italian Decree Law 16/2012; it is no longer possible to make use of the "remissione in bonis" procedure referred to in Article 2(1) of Italian Decree Law 16/2012 to correct substantive errors committed in notifications submitted by the deadline of 4 April 2024. <p>The deadline for replacing notifications of option sent between 1 April 2024 and 4 April 2024 using the electronic procedure has been established as 4 April 2024.</p>
Superbonus - New notification of costs incurred in 2024 and 2025 (Article 3)	<p>Persons required to provide the new notification</p> <ul style="list-style-type: none"> those who as at 31 December 2023 have not concluded the superbonus works and who by the same date had submitted the CILA (certified notice of commencement of works), referred to in Article 119(13-ter) of Italian Decree Law 34/2020, or the application for obtaining the authorisation required to demolish or reconstruct the buildings; those who submit these documents after 1 January 2024. <p>Information to be notified (to ENEA or to the "National portal for seismic classifications")</p> <ul style="list-style-type: none"> cadastral data relating to the building to be upgraded; amount of the costs incurred in 2024 as at 30 March 2024 and related deduction percentage; amount of the costs expected to be incurred in 2024 and 2025 and related deduction percentage; <p>Penalty system</p> <p>Failure to send the data will result in:</p>



Subject	Description
<p>cont.</p>	<ul style="list-style-type: none"> an administrative fine of EUR 10,000, in the case of CILA or building authorisation submitted before 30 March 2024; forfeiture of the tax relief in the case of CILA-S or building authorisation submitted after 30 March 2024 (without the possibility of being able to apply for the "remissione in bonis" procedure). <p><i>The provisions for implementing the new notification will be defined in a special Prime Minister's Decree to be adopted by 29 May 2024.</i></p>
<p>Prohibition of set-off for tax credits for building bonuses in the presence of past due tax debts of over EUR 10,000 (Article 4(1))</p>	<p>With the introduction of paragraph 3-bis to Article 21 of Italian Decree Law 34/2020 the set-off of tax credits arising from the assignment of the deduction or of the invoice discount for building bonuses has been prohibited in the presence of past due tax debts of over EUR 10,000, for which the payment deadline has expired by more than 30 days, up to the amount of the tax debts (it may be possible to offset the surplus).</p> <p>Registered debts prohibiting the set-off are those for revenue taxes or arising from notices of recovery of tax credits; therefore debts relating to local taxes or social security contributions or INAIL premiums are immaterial.</p> <p>The prohibition does not apply if payments are being made by instalments or if a judicial or administration suspension is in place.</p> <p>The time limits for using each annual instalment of the tax credits arising from the assignment of the deduction or from the invoice discount for building bonuses still apply.</p> <p><i>The entry into force of the prohibition of set-off and the procedures for implementing the provisions will be established by a regulation of the Ministry of Economy and Finance.</i></p>
<p>Prohibition of set-off in the presence of past due tax debts of over EUR 100,000 (Article 4(2))</p>	<p>The 2024 Budget Law provided for a prohibition of set-off in the presence of past due debts of over EUR 100,000, which does not even allow the set-off of the portion of the credit exceeding the amount of the registered debt. The prohibition does not apply if a judicial or administration suspension is in place.</p> <p>Italian Decree Law 39/2024 introduced a number of amendments to these rules:</p>



Subject	Description
cont.	<ul style="list-style-type: none"> the prohibition of set-off only not only applies in the presence of debts for revenue taxes, but also for debts arising from notices of recovery of tax credits (debts relating to local taxes or social security contributions or INAIL premiums are immaterial); the prohibition of set-off does not apply if deferred payment has been granted and has not yet lapsed; the prohibition of set-off does not apply to credits for social security contributions or arising from INAIL premiums; the debt can be discharged through set-off with credits relating to revenue taxes. <p>It is understood that the prohibition in question applies to set-offs implemented after 1 July 2024.</p>
Innovative ACE ("SUPER ACE") - Limitations to assignment of tax credits (Article 5)	<p>Article 5 of Italian Decree Law 39/2024 amends Article 19(6) of Italian Decree Law 73/2021, establishing that it is not possible to implement additional assignments of the tax credit after the first; as a transitional measure, credits which as at 30 March 2024 have been previously assigned, may be assigned to other parties just one more time.</p> <p>Furthermore:</p> <ul style="list-style-type: none"> in the event of misuse of tax credits, the assignor and the assignee will be jointly liable for recovering the credit; the provisions contained in Article 122-bis of Italian Decree Law 34/2020 have been extended to the "Super ACE" credits, meaning that within 5 working days of dispatch of the notice that the credit has been assigned, the Italian Revenue Agency may suspend the related effects for up to 30 days and, if risks of fraud are deemed to exist, establish that the notice is to be considered not to have been provided.
Tax credits for investments in 4.0 assets - Prior notification for the purpose of use in set-off in the F24 form (Article 6)	<p>An obligation has been introduced to submit, by electronic means, specific notifications to the Ministry of Enterprises and Made in Italy in order to claim the tax credit for 4.0 investments and the tax credits for research and development:</p>



Subject	Description
cont.	<ul style="list-style-type: none"> for investments made after 30 March 2024, it is necessary to submit a prior notification stating the total amount of the investments to be made, how the credit will be spread over the years and how it will be used, and a notification of completion of the investments; for investments made between 1 January 2024 and 29 March 2024 it will only be necessary to submit the notification of completion of the investments. <p>The possibility of offsetting credits for investments in 4.0 capital assets relating to 2023 but not yet used is subject to the aforesaid notification.</p> <p><i>The procedures and time frames for sending these notifications will be defined in a subsequent ministerial decree.</i></p>
New prior <i>inter partes</i> review - Entry into effect (Article 7(1 - 3))	<p>The amendments to the "Taxpayers Bill of Rights" regarding the prior <i>inter partes</i> review (introduced by Italian Legislative Decree 2019 of 1 December 2023) will apply to acts issued after 30 April 2024.</p> <p>Therefore, the new prior <i>inter partes</i> review will enter into effect to coincide with the entry into effect of the amendments regarding assessment and agreement laid down by Italian Legislative Decree 13 of 12 February 2024.</p>
Covid State Aid - Extension of time limits for registration in the RNA (Article 7(4))	<p>The time limits established by Article 35(1) of Italian Decree Law 73/2022 for registration in the National Register of State Aid (RNA), by the Italian Revenue Agency, of COVID State Aid relating to 2023 and 2024, have been extended to 30 November 2024.</p>
Electronic payments - notifications - penalties (Article 7(5))	<p>Under Article 22 of Italian Decree Law 124/2019 businesses are entitled to a tax credit for the commissions charged for electronic payments received from private persons.</p> <p>Operators providing the payment systems to businesses must send the Italian Revenue Agency, by electronic means, the information required to check that the tax credit is due.</p> <p>Italian Decree Law 39 of 29 March 2024 provides for a penalty of between EUR 2,000 and 21,000 for each failure, delay or error in sending the data, as the principle of "absorption" does not apply.</p>



Subject	Description
<p>Special voluntary correction procedure - Reopening of deadlines (Article 7(6 - 7))</p>	<p>The deadlines for benefitting from the special voluntary correction procedure introduced by Italian Law 197/2022 (2023 Budget Law) have been reopened.</p> <p>Years up to 2021 - reopening of deadlines</p> <p>The deadlines for infringements committed up to 31 December 2023 have been reopened, setting:</p> <ul style="list-style-type: none"> the deadline of 31 May 2024 for removing the infringements and paying the sums due in a single payment; as an alternative to a single payment, the same deadline of 31 May 2024 for paying the amount of the first 5 instalments that became past due on 30 September 2023, 31 October 2023, 30 November 2023, 20 December 2023 and 31 March 2024. <p>The remaining 3 instalments are still due at the ordinary due dates, and therefore on 30 June 2024, 30 September 2024 and 20 December 2024; interest is due at an annual rate of 2% as from 1 June 2024.</p> <p>Extension to the year 2022 - extension of the deadline</p> <p>For infringements committed in 2022 the deadline has been extended to 31 May 2024 for:</p> <ul style="list-style-type: none"> removing the infringements; paying the total sums due or the first of 4 instalments. <p>The deadlines of 30 June 2024, 30 September 2024 and 20 December 2024 for paying the remaining 3 instalments, increased by annual interest of 2%, remain unchanged.</p>

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