

## ITALY – New rules and limits on tax credits

Introduced new limits and conditions to use tax credits to offset tax debts - cash flow impacts



### New limits on the possibility to use tax credits for the payment of tax debts – legal background

The Italian Government, with the purposes of avoiding frauds about on the use of tax credit to pay tax debt by offsetting the first (tax credit) with the latter (tax debt), has introduced new rules on the compensation of credits and tax debts. The article 3 of Law Decree 26 October 2019 (the tax rule attached to 2020 Italian Budget law) has provided new limits and conditions on the compensation of tax credits. This rule has to be converted into Law by the end of the year, so we cannot exclude changes, even if we expect its confirmation.

### Cash flow impacts

These new limits, if confirmed as stated in the mentioned article, will be applied to tax credits related to the tax year 2019, that will be reported on Corporate tax returns to be filed in 2020.

We can say that with this new article, VAT tax rules about credit compensation will be extended to any other tax credits. Therefore, in case taxpayers would like to use their tax credits to offset (pay) tax debts for amounts up to EUR 5,000 totally each tax year, they are free to offset them. However, once exceeded EUR 5,000 on yearly basis, the compensation can be done, for the amounts over EUR 5,000, after ten days following the filing of the tax return that reports the tax credit.

This is an important rule to be considered for cash flow planning, because there is a possible postponement on the use of tax credits with the necessity to pay tax debts, even if company has a tax credit because it will be available only after 10 days from the filing date the related tax return. So for example, if a company will have a IRES tax credit related to 2019, it has to wait 10 days after the filing of 2019 tax return that normally can be filed in March / April of 2020, in order to use such credit to pay tax debts.

The above mentioned limits won't apply if the tax credit is used to pay (offset) the same tax debts. So for example if a company with 2019 IRES tax credit equal to EUR 50,000 has to pay the tax advance of IRES for 2020 TY

(i.e. the same tax but for a different year), the limits are not applicable.

### Other conditions and compliance obligation to use the tax credit

The offsetting is allowed through the payment form (F24 form) The tax return, where the tax credit is reported, has to be assessed, certified and signed by a tax professional (CPA) who has to be registered in a special record of professionals allowed by the tax authority to assess tax credits.

### Penalties

New penalty of EUR 1,000 applies if the tax Authority rejects the offsetting that includes a compensation of tax credit. Such penalty will apply to F24 form submitted after 1<sup>st</sup> March 2020. Furthermore, Italian tax authority and social security authorities will set up a process to monitor data on offsetting.

### Next steps

Clients should consider soon the impacts on the postponement on the use of their tax credits, in order to have the cash flow planning updated. In order to speed up the use of the tax credits, Clients should start as soon as possible the collection of all the documents needed for the tax return filing, since it is possible to use the tax credit only after filing the related tax return. (\*)

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