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*To whom it may concern*

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## MEMORANDUM N. 8/2024

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### Insight

**Subject: News in the field of IRPEF and IRES - Legislative Decree no. 216 of 30.12.2023**

Avv. Francesca Palladi

#### 1 PREMISE

With Legislative Decree No. 216 published in the Gazzetta Ufficiale No. 303 of Dec. 30, 2023, implementing the enabling act for tax reform set forth in Law No. 111 of Aug. 9, 2023, the first form of income tax reform was implemented.

The following is an analysis of the changes made in IRPEF and related regional and municipal surtaxes, applicable for the 2024 tax period only, as well as in ACE (aid to economic growth), which was repealed as of the 2024 tax period.

On the other hand, the "super deduction" for new hires made in 2024, provided for in Article 4 of LD 216/2023, will be analyzed in the following memo.

#### 2 IRPEF REFORM FOR 2024

Articles 1 and 2 of LD 216/2023 made some changes in IRPEF rates, brackets and deductions, which are applicable for the 2024 tax period only.

##### 2.1 IRPEF TAX BRACKETS AND RATES - REDUCTION FROM FOUR TO THREE

Art. 1 co. 1 of Legislative Decree 216/2023 reduces from four to three, for the 2024 tax period only, the income sca-glioni and related IRPEF rates referred to in Art. 11 co. 1 of the TUIR.

Specifically, for the 2024 tax period only, the following breakdown applies:

- 1) up to 28,000.00 euros □ 23%;
- 2) over 28,000.00 and up to 50,000.00 euros □ 35%;
- 3) over 50,000.00 euros □ 43%.

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Basically, compared to the rates and income brackets provided by Art. 11 co. 1 of the TUIR until the 2023 tax period, the first two brackets of total income are merged, applying a rate of 23% for total income up to 28,000.00 euros.

UNTIL THE TAX YEAR 2023		TAX YEAR 2024	
Taxable income brackets (in euros)	Tax rate	Taxable income brackets (in euros)	Tax rate
Up to 15.000	23%	Up to 28.000	23%
Over 15.000 and up to 28.000	25%		
Over 28.000 and up to 50.000	35%	Over 28.000 and up to 50.000	35%
Over 50.000	43%	Over 50.000	43%

The rate then decreases by two percentage points for the income bracket above 15,000.00 euros but not 28,000.00 euros, resulting in a maximum saving of 260.00 euros (13.000,00 × 2%).

## 2.2 DEDUCTIONS FOR INCOME FROM EMPLOYMENT (EXCLUDING RETIREMENT) AND CERTAIN ASSIMILATED INCOME - AMENDMENT

Art. 1 co. 2 of LD 216/2023 provides for the increase from 1,880.00 euros to 1,955.00 euros of the tax deduction for employee income (excluding pensions) and certain assimilated incomes, with a total income up to 15,000.00 euros, referred to in Art. 13 co. 1 lett. a) of the TUIR for the tax period 2024 only.

This equalizes the tax exemption area of persons with income from employment (excluding pensions) and certain assimilated income to that provided for persons with pension income up to 8,500.00 euros of total income.

The deduction of 1,955.00 euros is in fact equal to the 23 percent gross tax due on the total income of 8,500.00 euros.

## 2.3 "SUPPLEMENTARY TREATMENT TO REMUNERATION" - AMENDMENT

As a result of the amendment of deductions for income from employment (excluding retirement ) and certain assimilated income referred to in Art. 13 co. 1 lett. a) of the TUIR, Art. 1 co. 3 of DLgs. 216/2023 provides that, for the tax period 2024 only, the amounts recognized as "supplementary treatment", referred to in Art. 1 co. 1 of Decree-Law 3/2020, in favor of taxpayers with a total income not exceeding 15,000.00 euros, shall be disbursed provided that the gross tax is higher than the amount of the deduction due, reduced by 75.00 euros, related to the period of work in the year.

The aforementioned amount of 75.00 euros in fact represents the increase in the deduction referred to in Article 1 co. 2 of Legislative Decree 216/2023 (from 1,880.00 to 1,955.00 euros), which is therefore not taken into account for the purposes of eligibility for "supplementary treatment."

In fact, in order to benefit from the "supplementary salary treatment" it is necessary for the holders of employment income (excluding pensions) and/or the expected assimilated income to have a gross IRPEF, generated from such income, greater than the tax deductions due for employment and assimilated work, pursuant to article 13 co. 1 of the TUIR.

## 2.4 APPLICABILITY OF THE NEW PROVISIONS

The provisions on IRPEF rates and deductions under Article 13 of the TUIR are already applicable when making withholdings on employee and assimilated income

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related to the 2024 tax period, pursuant to Articles 23 and 24 of Presidential Decree 600/73.

Therefore, the new provisions are already applicable in relation to withholding on wages and pensions for January 2024.

Similarly, starting from January 2024 wages, tax withholding agents must also apply the new dispositions regarding "supplementary pay".

## 2.5 DETERMINATION OF ADVANCE PAYMENTS 2024 AND 2025

Pursuant to Art. 1 co. 4 of LD 216/2023, in the determination of advance payments due for IRPEF and related surcharges for the tax periods 2024 and 2025, the tax for the previous period is assumed to be that which would have been determined if the provisions of Art. 1 co. 1 and 2 of LD 216/2023 had not been applied.

The way the rule is worded, it seems possible to apply the new rate structure and the change to the deductions under Article 13 of the TUIR for the purpose of determining the 2024 advance payments using the "forecast" method, since in that case the reference to the "tax of the previous period" is not used".

## 2.6 DEDUCTIONS FOR CHARGES - INTRODUCTION OF A "DEDUCTIBLE"

Article 2 of LD 216/2023 introduces a reduction, amounting to 260.00 euros, of the total deductions due for the 2024 tax period to taxpayers with a total income exceeding 50,000.00 euros, in relation to:

- 4) 4) to charges whose deductibility is set, pursuant to the TUIR or any other tax provision, at an amount equal to 19%, with the exception of health care expenses referred to in art. 15 co. 1 lett. c) of the TUIR;
- 5) 5) to liberal disbursements in favor of political parties referred to in Art. 11 of DL 149/2013, for which a deduction of 26% is due;
- 6) 6) to insurance premiums for disaster risk referred to in Art. 119 co. 4 fifth sentence of DL 34/2020, for which a 90% deduction is due.

### ***Parameterization of deductions to total income***

The above reduction of 260.00 euros in the amount of deductions for charges is in addition to the previous parameterization of deductions to the amount of the taxpayer's total income, if such income is above 120,000.00 euros and up to 240,000.00 euros.

## 3 REGIONAL AND MUNICIPAL IRPEF SURTAXES - POSTPONEMENT OF CERTAIN DEADLINES

In order to allow Regions, Autonomous Provinces of Trento and Bolzano and municipalities to "transpose" the new articulation of income brackets and rates provided for IRPEF for the year 2024, Art. 3 of LD 216/2023 postpones:

- 7) to April 15, 2024, the deadline to change the brackets and rates of regional IRPEF surcharges and to approve municipal resolutions to change the brackets and rates of municipal IRPEF surcharges, in relation to the 2024 tax period;
- 8) to 15.5.2024, for the tax period 2024 only, the deadline for the Regions and the Autonomous Provinces of Trento and Bolzano to transmit to the Ministry of

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Economy and Finance the data contained in the measures of variation of the regional additional taxes on IRPEF, in order to publish them on the appropriate computer site.

### 3.1 FAILURE TO APPROVE THE 2024 RATES

If, by 4/15/2024, the new rates of regional and municipal IRPEF surtaxes are not approved, for the 2024 tax period only, the tax brackets and rates in force for 2023 shall apply.

In relation to municipalities, the rates of municipal surtaxes in force for the 2023 tax period shall be applied even if the municipalities do not transmit the relevant resolution of change for publication on the website of the Ministry of Economy and Finance by 20.12.2024.

### 3.2 POSSIBILITY OF APPROVING DIFFERENTIATED RATES

Provision is made for the possibility for both the Regions and the Autonomous Provinces of Trento and Bolzano and for municipalities to determine, for the 2024 tax period only, differentiated rates of regional and municipal IRPEF surcharges on the basis of the income brackets provided for in Art. 11 co. 1 of the TUIR in the version applicable for the 2023 tax period, thus maintaining the four bracket structure.

## 4 REPEAL OF THE ACE

Art. 5 of Legislative Decree 216/2023 provides for the repeal of the ACE ("aiuto allacrescita economica" aid to economic growth, referred to in Art. 1 of Legislative Decree 201/2011), with a view to redefining the tax benefits due to companies.

### 4.1 DURATION

The relief is no longer applicable from the tax period following the one in progress as of Dec. 31, 2023. It is, therefore, the:

- 9) tax period 2024, for individuals with a tax period coinciding with the calendar year;
- 10) tax period 2024/2025 (e.g., the period from 1.7.2024-30.6.2025), for "straddling" tax years.

Taking "solar" entities as a reference, as of 2024, neither (positively) shareholders' cash contributions and allocations of profits to reserves, nor (negatively) distributions of past reserves to shareholders will have any effect.

### 4.2 TRANSITIONAL REGIME FOR UNUSED SURPLUSES

By express provision of the law, beneficiary companies may continue to use the surpluses recognized at the end of the tax period in progress as of Dec. 31, 2023, if not exploited in that year due to absence or insufficiency of income, "*until the effects thereof are exhausted*," and thus without any time limitation.

- 9) For corporations, untapped surpluses due to lack of income may be:
- 10) 9) carried forward for offset against income in subsequent years;

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- 11) 10) transformed into a tax credit, usable for IRAP purposes only and divided into five annual installments of equal amount.

For general and limited partnerships:

- 12) the notional return of the investee company that exceeds the total net income declared is attributed by transparency to the partners in proportion to their shares in the profits, or, alternatively, transformed into a tax credit to be used for IRAP purposes, also by the same company (always with the five-year use restriction);
- 13) the share allocated by transparency is added to each partner's "own" share, or, alternatively, is transformed into a tax credit to be used for IRAP purposes;
- 14) the share of excess notional yield attributed to the partner does not go to reduce the "declared net comprehensive income," but exclusively to reduce the partner's business income.

The firm remains available for any clarifications.

Kind Regards.

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