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REPORT

From: General Secretariat of the Council
To: Delegations
Subject: Code of Conduct Group (Business Taxation)
- Report to the Council

Italy's Additional income tax deduction to encourage an increase in the employment base and open-ended employment contracts (IT027)

Background

1. Italy notified the measure IT027 – Additional income tax deduction to encourage an increase in the employment base and open-ended employment contracts - in the 2023 Standstill Notification Exercise.

Relevant Legal Framework

2. IT027 is laid down in Article 4 and Annex 1 of the Legislative Decree no. 216 of 30 December 2023 on the “Implementation of the first module of the reform of personal income tax and other income tax measures”.

Purpose of the Measure

3. The measure provides for a tax incentive to encourage employers to hire new employees with open-ended employment contracts and to increase the employment rate in Italy.

Design of the Measure

4. The measure concerns the determination of the amount of deductible labour costs. In particular, for newly hired employees with an open-end employment contract, i.e., permanent staff, the deductible labour costs may be increased by 20%.
5. It is a condition for applying the measure that the number of employees with open-ended contracts in the tax year 2024 is higher than the average number of employees with open-ended contracts in the tax year 2023. This employment increase is to be determined on a net basis, i.e., taking into account employment reductions in subsidiaries or related companies or belonging to the same taxpayer, including by intermediaries.
6. Another condition is that the overall number of employees in the tax year 2024, including employees with fixed-term contracts, is higher than the overall number of employees in the tax year 2023, including employees with fixed-term contracts.
7. The increase in deductible expenses is capped at a number equal to the lower of:
 - i) the actual cost related to the new employees with open-ended contracts, or
 - ii) the total increase in staff costs resulting from the profit and loss account pursuant to Article 2425(B)(9) of the Italian Civil Code compared to that for the current financial year on 31 December 2023. For persons who do not adopt such profit and loss account when drawing up their annual financial statements, the corresponding staff cost items shall be taken into account.In any case, the costs relating to employees shall be charged in accordance with the rules applicable to the determination of the taxpayer's income.
8. The amount of deductible expenses is multiplied by mark-ups in cases where the new employee belongs to one of the categories of workers in need of greater protection set out in Annex 1, i.e., very disadvantaged workers, persons with disabilities and women of any age with at least two children of age less than eighteen years. In these cases, mark-ups are also used for determining the total increase in staff costs resulting from the profit and loss account within the meaning of point (B)(9) of the first paragraph of Article 2425 of the Civil Code. The mark-ups will be set out by a decree of the Minister for Economic Affairs and Finance which has not been adopted yet.
9. The measure is applicable to Italian taxpayers which have employees, e.g., companies, permanent establishments of non-resident persons, and self-employers. It is a condition that the taxpayer has had economic activities in the tax period on 31 December 2023 for at least three hundred and sixty- five days.
10. The measure applies only for the tax year 2024.

Analysis

11. By virtue of paragraph A of the Code of Conduct (Business Taxation), the Code covers preferential tax measures which affect, or may affect, in a significant way the location of business activity in the Union.
12. The measure in question may be considered as a preferential tax measure as it entails an increased deduction from the corporate tax base for companies etc. which have hired new employees with open-ended contracts.
13. However, the benefit is not expected to potentially affect the location of business activity in the EU in a significant way for the following reasons:
 - i) The tax benefit is only applicable to taxpayers which are already carrying out economic activities in Italy.
 - ii) The tax benefit is directly linked to costs incurred upon an increase in the number of employees with an open-ended contract.
 - iii) The tax benefit is an increased deduction which can only be used against an amount of income generated by the taxpayer through a business activity in the tax year.
 - iv) The tax benefit has a temporary nature as it is only applicable in the tax year 2024.
14. The Group has previously dealt with other temporary measures with expected limited effects that were anticipated not to have a significant impact on business activities in the past and concluded that they did not need to be further assessed.¹

Conclusion(s)

15. In light of the aforementioned, it is the view of the Commission that the measure does not meet the criteria in paragraph A of the Code of Conduct and, consequently, that it does not need to be assessed.

Follow-up:

The Group agreed that the measure does not need to be assessed by the Group.

¹ For example, SK009: Temporary increased deduction applying to productive investments in certain fixed tangible assets (WK 9295/22 ADD 6). PL016: Temporary additional deduction for certain robotisation costs (WK 9295/22 ADD 4)