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REPORT

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

Preliminary analysis - Tax credit for investments in SEZ in Southern Italy (IT025)

A. Background

1. The IT025 measure was first notified in the standstill exercise 2024 by way of notification of the Law Decree 124 of 19.09.2023. The measure provides for a tax credit for eligible investments in specific geographic areas¹, which are established by the same Law Decree. The Single SEZ (Zona Economica Speciale per il Mezzogiorno - ZES Unica) replaces the previous eight Special Economic Zones (introduced by the Law Decree 91 of 17 June 2017), with the aim of providing a new more centralized governance structure. It applied initially to investments intended for production facilities located in the specific areas between 1 January 2024 and 15 November 2024.
2. In the meantime, the Italian authorities notified its prolongation to cover investments made until 31 December 2028.

B. Relevant legal framework

3. Articles 9 to 16 of the Law Decree 124 of 19.09.2023², as converted by the Law no. 162 of 13 November 2023, have established as of 1 January 2024, the Special Economic Zone for Southern Italy (*ZES unica*), hereafter referred to “**Single Economic Zone**” (SEZ). Thus, as of 1 January 2024, the Special Economic Zone for Southern Italy replaces the above mentioned previous 6 regional SEZ and 2 interregional SEZ³.
4. Article 16 of the Law Decree provides specifically for a **tax credit** for eligible investments⁴ in the “Single Economic Zone”, capital goods intended for production facilities located in the zone.

¹ Art. 16 of the Law Decree 124 of 19.09.2023 provides the following: “*To undertakings that carry out the acquisition of the capital goods...a grant, in the form of a tax credit, is granted up to the maximum intensity permitted by the same Regional Aid Map 2022–2027...*”

² Law Decree 124 of 19.09.2023: Urgent provisions on cohesion policies, for the relaunch of the economy in the Southern areas of the country, as well as on immigration.

³ <https://www.investinitaly.gov.it/en/doing-business/favourable-tax-areas>

⁴ Capital goods referred to in the law and intended for production facilities located in the **assisted areas of the regions of Campania, Puglia, Basilicata, Calabria, Sicily, Sardinia and Molise**, eligible for the derogation provided for in Article 107(3)(a) of the Treaty on the Functioning of the European Union, **and in assisted areas in the Abruzzo region**, eligible

5. Subsequently, the legal framework was completed by the adoption of the implementing rules laid down in the Ministerial Decree regulating the tax credit for investments made in the “Single Economic Zone” introduced by Law Decree No. 124/2023 and has been issued on 17 May and published on 21 May 2024⁵.

C. Purpose of the measure

6. The purpose of the measure is to incentivize the acquisition of capital goods intended for production facilities located in assisted areas (i.e. tangible assets). It is a business taxation relief linked to investments in a specific disadvantaged geographic area ⁶.

D. Design of the measure

7. The measure takes the form of a **tax credit** for investments in the SEZ. The tax credit is granted for investments made between 1 January 2024 and 31 December 2028.
8. The tax credit can be used through the regular compensation system that allows Italian taxpayers to offset tax or social security debts with tax credits using the F24 unified payment form⁷. This allows the Italian tax administration to control the use that taxpayers make of the tax credit to avoid fraud risk.
9. The tax credit can be carried forward until it is exhausted. The general limit of 250,000 euros per year shall not apply to the tax credit.

for the derogation provided for in Article 107(3)(c) of the TFEU, as identified in the Regional Aid Charter 2022-2027, shall be granted a contribution, in the form of a tax credit.

⁵ Official Gazette No 117 of 21 May:

<https://www.gazzettaufficiale.it/eli/id/2024/05/21/24A02615/sg>

⁶ “*where the standard of living is abnormally low or where there is serious underemployment*” and “*in view of their structural, economic and social situation*” or “*to facilitate the development of certain economic activities or of certain economic areas...*”, Article 107 (3) (a) (c) TFUE.

⁷ Set in Article 17 of Legislative Decree No 241 of 9 July 1997.

10. The following companies can **benefit from the tax credit**, and within specific limits:

- companies undertaking *the acquisition of capital goods intended for production facilities located in the assisted areas of the regions* of Campania, Apulia, Basilicata, Calabria, Sicily, Sardinia and Molise, eligible for the derogation provided for in Article 107, paragraph 3(a) of the TFEU, and in the assisted areas of Abruzzi region, eligible for the derogation provided for in Article 107 paragraph 3(c) of the TFEU⁸ - *up to the maximum extent allowed by the regional aid map 2022-2027.*

The following activities are explicitly excluded from the tax credit:

- extractive industry;
- transport (excluding the warehousing and transport support sectors), and related infrastructure;
- energy production, storage, transmission and distribution and energy infrastructure,
- broadband;
- the credit, financial and insurance sectors;
- entities undergoing insolvency or winding-up proceedings and entities in difficulty;
- moreover, goods intended for sale as such are excluded from this benefit, as are those that have been processed or assembled to produce goods intended for sale, and consumables.

⁸ The measure is granted in accordance with the conditions and limits of Article 14 of Regulation (EU) No 651/2014 (GBER), up to the maximum extent allowed by the regional aid map 2022-2027.

Amount of the Tax credit

11. The amount of the tax credit is determined by reference to the amount of the eligible investments forming part of an initial investment project⁹. The investment project needs to relate to the purchase or lease of **new machinery, plant and equipment intended for production structures** *already existing or being installed* in the territory, as well as the **purchase of land** and the acquisition, construction or extension of investment equipment. The value of land and real estate may not exceed 50 per cent of the total value of the subsidized investment. The actual incurrence of eligible expenses and their consistency with the accounting records prepared by the company must be certified by registered Auditors¹⁰.
12. The tax credit shall be commensurate with a proportion of the total cost of the eligible goods purchased or, in the case of real estate investments, realized - from 1 January 2024 to 31 December 2028, up to a maximum of EUR 100 million for each investment project. Investment projects below EUR 200,000 are not eligible. The amount of tax credit to be granted is subject to the limits and conditions laid down in Commission Regulation (EU) No 651/2014 of 17 June 2014¹¹.
13. The detailed rules governing access to the benefit, as well as the criteria and the rules for the application and use of the tax credit, related controls, including with a view to ensuring compliance with the expenditure limit referred to are included in the ministerial decree adopted on 17 May 2024.

⁹ As defined in Article 2 (49), (50) and (51) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty Text with EEA relevance: (49) “initial investment’ means:

(a) an investment in tangible and intangible assets related to the setting-up of a new establishment, extension of the capacity of an existing establishment, diversification of the output of an establishment into products not previously produced in the establishment or a fundamental change in the overall production process of an existing establishment; or (b) an acquisition of assets belonging to an establishment that has closed or would have closed had it not been purchased, and is bought by an investor unrelated to the seller and excludes sole acquisition of the shares of an undertaking.

¹⁰ A person registered in Section A of the Register of Auditors referred to in Article 8 of Legislative Decree No. 39 of January 27, 2010.

¹¹ Regulation 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, and in particular Article 14 of that Regulation, which governs regional investment aid.

14. Based on the aforementioned ministerial decree¹², the following amounts apply:
- The amount of the tax credit for large undertakings shall range generally from 30% to 50% of the costs related to eligible investments, depending on the region¹³.
 - For investment projects with eligible costs below EUR 50 million, the ceilings referred to above are to be increased by 10 p.p. for medium-sized enterprises and by 20 p.p. for small enterprises.
 - For large investment projects with eligible costs in excess of EUR 50 million the maximum intensity of aid for large enterprises also applies to small and medium-sized enterprises.¹⁴
15. However, for budgetary reasons, the maximum amount of tax credit is capped by the overall available budget for the programme.
- (i) **For 2024** the interested beneficiaries informed the tax authorities from June 12 until July 12, 2024, of the eligible expenditure incurred from 1st January 2024 and the expenditure they had planned to undertake until 15 November 2024. From November 18, 2024, to December 2024, they submitted a supplementary notification certifying that the investments were completed by the deadline of November 15, 2024. The notification also specified the amount of the tax credit accrued in relation to the investments actually made and the revised actual total expenditure, adjusting the claimed tax credit. As a result, the **percentage was equal to 100%** of tax credit amount claimed¹⁵.

¹² in line with art. 14 of Commission Regulation (EU) No 651/2014 of 17 June 2014

¹³ Regions of Basilicata, Molise and Sardinia, - 30%; regions of Calabria, Campania, Puglia – 40%; the territories identified at for the purpose of support from the Just Transition Fund in the regions of Apulia and Sardinia – 40%-50%; and in the Abruzzo Region where the amount is of 15%.

¹⁴ For such projects, the aid amount must be calculated according to the "corrected aid amount" methodology referred to in art 2, point 20, of Regulation (EU) No. 651/2014.

¹⁵ Article 1 paragraphs 2 e 3-bis Law Decree 9 August 2024, no. 113 as amended by article 8 Law Decree 19 October 2024, no. 155. The Director's order of December 12, 2024, set for 2024 100% tax credit claimed.

- (ii) **For 2025** the interested beneficiaries informed the tax authorities from March 31, 2025 until May 30 the eligible expenditure incurred from 16 November 2024 and the expenditure they had planned to undertake until 15 November 2025. From 18 November 2025 the interested beneficiaries have revised their actual total expenditure, adjusting the claimed tax credit. As a result, **the percentage was equal to 75,3%** of tax credit amount claimed.¹⁶
- (iii) **From 2026 onwards**, the interested beneficiaries must inform the tax authorities by a set deadline (between March 31, 2026, and May 30 of the relevant year) of the eligible expenditure incurred and the expenditure they plan to undertake during that year. The Revenue Agency compares the total amount of the claimed tax credit with the maximum overall spending limit. The ratio between these two amounts sets the tax credit granted per taxpayer.
16. Under penalty of forfeiture of the tax benefit, economic operators who have submitted the notifications must send to the Italian tax administration, by January of the subsequent year to that relevant to investment notified, supplementary notification and documentation certifying the completion of the investments, including the amount of the tax credit accrued in relation to the investments actually made. The supplementary notification shall indicate the amount of investments actually made not exceeding that reported in the initial notification.
17. The tax credit may be cumulated with *de minimis aid* and other State aid covering the same costs as those eligible for the benefit, provided that such cumulation does not result in exceeding the highest amount of aid permitted under the relevant EU state aid provisions.

¹⁶ The Director's order of December 12, 2025, set for 2025 the tax credit rate at 60.3811% based on the notifications received. Following the revision of the total expenditures the Budget Law 2026 established, in paragraphs 448 of Article 1, an additional contribution of 14.6189%.

18. The beneficiaries **must maintain their activities** in the areas of establishment, where the aided investment has been carried out, **for at least five years after the completion of that investment**. If the condition is not met, the benefits granted and enjoyed are withdrawn (**claw-back**).
19. A **specific claw back provision** is also included: the tax credit shall be recomputed by excluding from the subsidized investments the costs of those assets which: i) have not yet been put in operation; or ii) were disposed of. In such situations, the tax credit unduly used in relation to the amount recomputed shall be reimbursed by the taxpayer.

Budgetary impact

20. As stipulated by the annual Budget Laws¹⁷, for the year 2024, the maximum overall spending limit to cover the subsidized investments was of EUR 3,400 billion¹⁸; EUR 2,200 billion for 2025; EUR 2,300 billion for 2026; EUR 1 billion for 2027 and EUR 750 millions for 2027. Unused tax credits are reported to the following tax years.

E. Preliminary remarks

21. The Group can note the following design elements of the tax incentive:
- it applies to a *geographically delineated area*;
 - it is an *expenditure-based tax advantage* computed by reference to the eligible costs incurred in tangible assets for production facilities located in delimited areas;
 - the amount of the tax advantage *is limited* by the amount of the eligible costs incurred, representing a ratio up to 30–70% of the eligible investment costs, depending on the size of the taxpayer and region;
 - there is an absolute *nominal ceiling* set at EUR 100 million costs per project;

¹⁷ 2024 : <https://www.fiscoetasse.com/files/17561/legge-del-30122023-213.pdf> and subsequent ones.

¹⁸ Pursuant Article 1 paragraph 8 and 9 of Decree-Law No. 63 of 15 May 2024 and Decree Law No 113/2024 (art 1 para 2). the annual spending limit for the tax credit was redetermined up the limit of EUR 3,400 million for the year 2024.

- the offsetting occurs against a variety of taxes due, including CIT, social security contributions and local taxes;
 - the tax credit can be carried forward indefinitely;
 - there are yearly overall budgetary spending limits set which cannot be exceeded;
 - the credit, financial and insurance sectors are explicitly excluded.
22. Given that the measure has applied so far for two taxyears, the Italian authorities provided preliminary data regarding the actual effects of the measure covering taxyear 2024 (see Annex). Italy also informed that data related to taxyear 2025 was not available yet.

F. Conclusions

23. As the tax incentive applies to a geographically delineated area, the Code of Conduct Group's Guidance on 'Tax Privileges related to Special Economic Zones'¹⁹ is applicable. From a preliminary analysis regarding the compliance with the Guidance on SEZ, the Commission services can preliminary conclude that:

- The measure does not seem to raise concerns regarding letters a), b), d) and e):
 - i. there is no *de jure* ring-fencing;
 - ii. the tax advantage is computed by reference to actual expenditure incurred for the acquisition of capital goods intended for production facilities located in SEZ (i.e. tangible assets); as a result, adequate substance is ensured in the SEZ; furthermore, the tangible assets must be maintained in the SEZ for a definite period of time; There are safeguards in place which ensure that the tax benefit is recovered if the assets are not kept in the SEZ.
 - iii. highly mobile activities – although not explicitly excluded, are unlikely to benefit given that the eligible investments are in tangible assets for the production facilities in the one; and

¹⁹ Endorsed by the Council on 16 June 2017 (doc. 10392/17):
<https://data.consilium.europa.eu/doc/document/ST-5814-2018-REV-6/en/pdf>

iv. the rules are set out in a transparent and detailed manner in the aforementioned legislation.

- Under its letter c), the Guidance on SEZ requires, inter alia, a nexus between the real economic activity carried on within the zone and the profits for which the tax privilege is granted. In the absence of such link, a measure could be subject to a particular scrutiny.

In Commission services view, the design of the Italian measure remains within the spirit of letter c) of the Guidance on SEZ due to the double limitation of the tax benefit: the tax advantage is granted only if the investment takes place in the SEZ itself and the tax benefit (tax credit) is limited to a percentage of the expenditure incurred for the tangible assets (the tax benefit is commensurate to the investment). Finally, the tax credit calculated is limited by the overall yearly available budgetary resources.

24. The Commission services asked the Italian tax authorities to provide relevant data to allow the analysis of the actual effects of the measure. The data for tax year 2024 (statistics are based on tax return data for 2024) provided so far reveals that: around 5.000 taxpayers benefited of the tax credit, as follows:

- i. The domestic or domestically owned taxpayers represented 98,3 % of the overall beneficiaries; (table 1)
- ii. The aforementioned 98% domestic-owned beneficiaries (national standalone firms, or companies that are part of purely domestic groups) benefitted of over 95% of the total amount of the tax advantage (table 1); and the 1.7% foreign-owned beneficiaries claimed less than 5% of the tax credits;
- iii. The average amount of tax credit enjoyed by domestic owned beneficiaries (98.3%) was around 300,000 euros, while the average amount of the tax credit enjoyed by the foreign owned beneficiaries (1.7%) was around 800,000 euro; (table 1);
- iv. The main business activity sectors in which the beneficiaries are performing are: manufacturing, which represents the 54% of the beneficiaries and receives the largest share (57%) of the total amount of the tax advantage, and trade, which represents 17.1% of the beneficiaries and same amount of the tax advantage. (table 2);

- v. No highly mobile activities seem to be carried out (and the credit, financial and insurance sectors are explicitly excluded from the tax credit);
- vi. Regarding the size of the taxpayers, the majority (90%) of them are SME and they benefited from more than 80% of the overall amount of the tax credit claimed in 2024;
- vii. A substantial portion of tax credit - approximately 90% in both number and value - was used by companies with tax residence in the regions specifically targeted by the tax incentive; (table 3)
- viii. The overall budget impact (amount of tax credits claimed) for 2024 was approximately 1.8 billion euros²⁰; the average value of the tax credit was between 330,000 and 380,000 euros in each economic sector.

25. In view of the data provided so far and mindful of the administrative burden such collection entails, it appears disproportionate to require that further data is provided. A horizontal monitoring exercise of all SEZ regimes and their effects is planned for 2027. Thus, any upcoming data will be provided when the horizontal monitoring takes place.

G. Follow-up

The Group agreed that the measure does not need to be assessed and no further data is required at this stage.

²⁰ Overall amount lower than the resources allocated in the budget, i.e. 3.4 bn.

Tables 1-4

TABLE 1. DISTRIBUTION OF BENEFICIARIES BY OWNERSHIP STRUCTURE AND NATIONALITY.

Structure/nationality	Observations	Obs. %	Amount (€)	Amount %	Mean (€)
National standalone and purely domestic group	4,965	98.3%	1,715,563,957	95.7%	345,532
Controlling entity of domestic MNE	32	0.6%	27,870,653	1.6%	870,958
Subsidiaries of foreign MNE	56	1.1%	48,638,769	2.7%	868,549
TOTAL	5,053	100%	1,792,073,379	100%	354,655

Source: 2024 tax returns, provisional data. Distribution by ownership based on the field RS 106, letters A, B, C of tax returns, regarding transfer pricing documentation.

TABLE 2. DISTRIBUTION OF BENEFICIARIES BY ECONOMIC ACTIVITY.

Economic Industry	Observations	Obs. %	Amount (€)	Amount %	Mean (€)
Manufacturing	2,733	54.1%	1,023,738,376	57.1%	374,584
Trade	886	17.5%	306,910,225	17.1%	346,400
Private service	1,109	21.9%	370,384,632	20.7%	333,981
Public service	284	5.6%	88,375,338	4.9%	311,181
Other	41	0.8%	2,664,808	0.1%	64,995
TOTAL	5,053	100.0%	1,792,073,379	100.0%	354,655

Source: 2024 tax returns, provisional data.

TABLE 3. DISTRIBUTION OF BENEFICIARIES BY FIRM SIZE.

Firm size	Observations	Obs. %	Amount (€)	Amount %	Mean (€)
SMEs	4,532	89.7%	1,449,160,409	80.9%	319,762
Large	282	5.6%	289,813,249	16.2%	1,027,707
Not allocable (mainly small)	239	4.7%	53,099,721	3.0%	222,175
TOTAL	5,053	100.0%	1,792,073,379	100.0%	354,655

Source: 2024 tax returns, provisional data.

TABLE 4. DISTRIBUTION OF BENEFICIARIES BY TERRITORY.

Territory	Observations	Obs. %	Amount	Amount %	Mean
SEZ regions	4,674	92.5%	1,568,397,667	87.5%	335,558
Other regions	379	7.5%	223,675,712	12.5%	590,173
TOTAL	5,053	100.0%	1,792,073,379	100.0%	354,655

Source: 2024 tax returns, provisional data.