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REPORT

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

STANDSTILL – Italy: IT028 - Tax credit for investments in capital goods within innovation projects aimed at reducing energy consumption, so-called "Transition 5.0 (*Tax credits Transition 5.0)*

Preliminary analysis

A. Background:

1. Italy notified in the standstill exercise 2024 a tax credit for investments in capital goods for innovation projects aimed at reducing energy consumption, so-called "Transition 5.0" (IT028).

B. Relevant legal framework

2. The measure is provided for in Article 38 of Decree-Law No. 19 of 2 March 2024[1]. (endorsed by Law 29 April 2024, no. 56).

[1] https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2024-03-02;19!vig

C. Purpose of the measure

3. The purpose of the measure is to incentivise taxpayers to invest in innovation projects that achieve a reduction in energy consumption ("green investments").

D. Description of the measure

4. The measure takes the form of a tax credit.

5. The measure is temporary covering eligible investments made from 1 January 2024 to 31 December 2025.

6. The tax credit is granted within the limits of the resources referred below under point 19 (*Impact of the measure*).

Beneficiaries and nature of the benefit

7. The measure is open to all resident companies[2] and permanent establishments of non-residents in Italy**,** which invest in assets (including intangibles) and capital goods used in production facilities located in Italy, in the context of innovation projects leading to a reduction in energy consumption.

8. The taxpayer can benefit of a tax credit proportional to the expenditure incurred for the investments made. The taxpayer may also benefit of an increase in the amount of the tax credit if a certain level of reduction of the energy consumption is achieved.

9. The tax credit may be used against other tax debts, including social security contributions, until 31 December 2025. The outstanding amount not yet used on that date may be used in five equal annual instalments.

[2] Undertakings in a state of voluntary liquidation, bankruptcy, compulsory administrative liquidation, arrangement with creditors without going concern, or subject to any other insolvency procedure are excluded.

Eligible expenses

10. Eligible costs are the costs of investments[3] in new tangible and intangible assets, which are both instrumental in the operation of the business (*referred to in Annexes A[4] and B[5] to the Law No 232 of 11 December 2016)* and interconnected with the production management system or the supply network. The intangibles assets must thus be related to the tangibles assets themselves.

11. The investments are eligible only if they achieve an overall reduction in the energy consumption of the production structure located in Italy to which the innovation project relates[6].

Amount of the tax credit

12. The actual amount of the tax credit is determined in several steps.

13. First, the eligible costs are determined. The eligible costs for the purpose of the computation of the tax credit are taken into account at 100%, except for specified eligible assets where they amount to 130 %, [7], 140 % [8] or 150 %[9] of the actual cost.

14. Second, the tax credit is granted at the rate of 35%[10] of the costs below EUR 10 million, and 5% of the costs above EUR 10 million and up to the maximum eligible costs of EUR 50 million per year per beneficiary undertaking.

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[3] And expenditure on the training of staff.

[4] ANNEX A (Article 1 (9)) - Assets for the technological and digital transformation of enterprises according to the 'Industry 4.0' model
"Capital goods the operation of which is controlled by computer systems or operated by appropriate sensors and actuations:…."

[5] Annex B ((Article 1 (10))
"Intangible assets (software, systems and system integration, platforms and applications) related to investments in tangible assets "Industry 4.0"".

[6] An overall reduction in the energy consumption of the production structure located in the national territory, to which the innovation project relates, of not less than 3 % or, alternatively, a reduction in the energy consumption of the processes concerned by the investment of at least 5 %.

[7] For the investments in new tangible assets for the purpose of self-generation of energy from renewable sources for self-consumption (e.g. solar resources)

[8] Photovoltaic modules with cells, (both) produced in the Member States of the European Union, with a cell efficiency of at least 23,5 per cent.

[9] Modules produced in the Member States of the European Union consisting of bifacial silicon or tandem hetero-junction cells produced in the European Union with a cell efficiency of at least 24,0 per cent.

[10] For the share of investments of up to EUR 10 million.

15. Third, the amount of tax credit computed for each investment can be increased by a rate of 10%, 15%, 40% or 45% if the reduction in energy consumption exceeds certain thresholds. [11]

16. Finally, the actual amount of the tax credit for each beneficiary is granted to the extent that the total amount of projects allowed does not exceed the expenditure limit (see point 19 below).

17. The tax credit should be "reserved". Taxpayers should submit a "*Prior Notice*" together with an ex-ante certification declaring the reduction in energy consumption achievable by the planned investments[12]. Certification should be issued by accredited bodies. The submitted notifications are assessed and managed by the Gestore dei Servizi Energetici (Energy Services Provider) **in the chronological order** in which they are submitted, in order to verify the eligibility and the amount of the tax credit requested. The GSE sends to the Revenue Agency the list of eligible beneficiaries and the corresponding amount of "reserved" tax credits, ensuring that the budgetary limit is not exceeded.

18. At the end of the innovation project, the taxpayers submit a completion report, accompanied by an ex-post certification, containing the information necessary for the assessment of the completed innovation project. The GSE sends to the Revenue Agency the list of beneficiaries and the amount of tax credit available. The tax credit resulting from the realisation of the investment cannot exceed the "reserved" tax credit.[13]

Example

Eligible costs incurred are of EUR 15 million. Depending on the type of asset, the costs base can amount to 100%, or be increased by 30%, 40% or 50%. If we assumed increased eligible costs by 30%, the base for the tax credit would be EUR 19.5 million; the tax credit would amount to: EUR 3.947.500 (35% x EUR 10mn + 5% x EUR 9.5 million).

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[11] a) 40% and 10%, if the reduction in the energy consumption of the production structure is higher than 6 % or the reduction in the energy consumption of the processes is higher than 10 %;

b) 45% and 15%, if the reduction in the energy consumption of the production structure is higher than 10 % or the reduction in the energy consumption of the processes concerned by the investment is of more than 15 %.

[12] The GSE (Provider of Energy Services) has put in place an IT Platform “Transition 5.0” accessible from its website, for the submission of prior and completion notices.

[13] Paragraphs 10-11 art. 38 DL no.19/2024

Assuming further a reduction of 15% in the energy consumption due to the eligible investment, the amount of the tax credit is increased by 45% and would be EUR 5.723.875 (EUR 3.947.500 x 45%).

Reporting; tracking and tracing

19. There are specific rules requiring that taxpayers inform the fiscal authority as the investment progresses/ expenditure is incurred; and maintain documentation which proves that the eligible costs are actually incurred and correctly determined.

(Anti-)cumulation rules (paragraph 18, of Article 38)

20. The tax credit may not be combined, regarding the same eligible costs, with the tax credit for investment in new equipment[14], but can be combined with other advantages relating to the same costs, if such cumulation does not exceed the costs incurred; and without prejudice to the provisions of the previous sentence, with the investment credit in the Special Economic Zone for the Mezzogiorno-ZES[15] and into the Simplified Logistics Zone (SFZ[16]).

E. Impact of the measure

21. The estimated costs[17] of the measure amount to:

a. EUR 1 039.5 million for 2024,

b. EUR 3 118.5 million for 2025 and

c. EUR 415.8 million for each of the years 2026 to 2030, which increase in net borrowing to EUR 3 118.5 million for 2024.

F. Conclusion(s)

22. The tax credit is an expenditure-based tax incentive, where the benefit depends on the amount of qualifying expenses actually incurred. It may be offset against other tax debts or social contributions due by taxpayers, if all the conditions above are fulfilled. The measure

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14 Referred to in Article 1 (1051) et seq. of Law No 178 of 30 December 2020

15 As per Art 16 and 16-bis of Decree-Law No 124 of 19 September 2023, converted, with amendments, into Law No 162 of 13 November 2023.

16 As per Art13 of Decree-Law No 60 of 7 May 2024, converted, with amendments, into Law No 95 of 4 July 2024.

17 The estimated costs and the relevant implementation costs shall be covered by the new measure NRRP M7 – Investment 15 “Transition 5.0” financed by the Next Generation EU-Italy Fund.’

falls within the scope of the Code of Conduct only insofar as the tax credit can be offset against debts arising from corporate income tax.

23. Investments are only possible in tangible assets (and intangible assets related to such tangibles e.g. used for the functioning of the aforementioned tangible assets), which contribute to the reduction of energy consumption.

24. The tax credit is capped, and the amount of the tax credit not used by 31.12.2025, cannot be used at once in future tax years, but has to be offset against future tax debts in five equal annual instalments.

25. The measure is limited in time (two years) and it aims at incentivising investments in the reduction of energy consumption.

26. The reduction of energy consumption and/or use of clean net-zero energy are among the EU political priorities, as reaffirmed more recently[18].

27. Finally, the measure would mainly impact businesses/ production sites already established in the Italian territory, which invest in the eligible assets.

28. The Commission Services are of the opinion that such a measure does not appear to rise concerns under the Code of Conduct criteria, regarding a possible significant relocation of business in the EU, in particular in view of its temporary application and the type of investments it applies to.

29. Therefore, it is Commission Services' view that the measure does not need to be assessed.

G. Follow-up

In view of the above, the Group agreed that the measure does not need to be assessed.

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[18] Communication from the Commission - The Clean Industrial Deal: A joint roadmap for competitiveness and decarbonisation; Brussels, 26.2.2025 COM(2025) 85 final https://commission.europa.eu/document/download/9db1c5c8-9e82-467b-ab6a-905feeb4b6b0_en?filename=Communication%20-%20Clean%20Industrial%20Deal_en.pdf