

Studio Baldi News

Fortnightly Newsletter

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NEW RULES FOR INTRA-COMMUNITY TRANSACTIONS

From 1.1.2013 the "Stability Law" has introduced, among other things, provisions implementing European Community directives regarding extra-Community transactions. Specifically: - all transactions (the sale of goods and services) must be invoiced, even if outside the scope of VAT (and inserted in annual VAT returns); - the moment of incurring the tax liability regarding the sale of goods, is the beginning of transport or shipment; - payment in advance (total or partial) of the consideration with respect to the start of transport no longer gives rise to the obligation to issue an invoice; - in the event, however, that an invoice is issued, consequent tax obligations shall apply; for the sale of goods, the invoicing obligation must be fulfilled within the 15th day of the month following completion of the transaction (but with reference to the day on which the transaction took place); for services performed, the moment of incurring the tax liability is the completion of the service, with the possibility of invoicing within the 15th day of the subsequent month (always with reference to the day of the transaction) but with the obligation to also invoice any advance payments received.

CAR COSTS: ONLY 20% DEDUCTIBLE FROM 2013

Again with reference to the Stability Law (paragraph 501), there has been a reduction in the deductibility of car costs for firms and freelance professionals, limited to 20% from 2013. The maximum cost on which to calculate tax depreciations (€ 18,075.99) and that of annual hire (€ 3,615.20) remain unaltered. The deductibility of the costs for cars granted in use to employees falls from 90% to 70%, without amount limits. The percentage of the deduction of car costs for agents and sales representatives doesn't change (80%), while the maximum limit of the purchase cost has been increased to € 25,822.84. Unfortunately, on at least two occasions (resolutions no.s 190 and 231 of 2007), the Tax Office has excluded the possibility of extending the maximum limits of deductibility, also in the event of proof of exclusive use or, in any case, above the maximum percentage limit permitted by the law, since the latter is not an anti-tax-avoidance rule, but rather, a predetermined quantification of the pertinence of the cost.

INTRODUCTION OF A NEW TAX CREDIT ON RESEARCH AND DEVELOPMENT

Art. 1, paragraphs 95-97, of Law no. 228/2012 (the "Stability Law") has introduced, starting from 2013, a new tax incentive for research and development under the form of a tax credit, intended for individual firms, trading companies and business networks. The concession relates both to research assigned to universities, public entities or research bodies, and to research carried out directly. The criteria and methods for obtaining the tax credit will be established jointly by the Ministry of Finance and the Ministry for Economic Development.

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The relevant ministries will quantify the available contributions by the end of January, for the purpose of issuing the relevant provisions.

NEW REVALUATION FOR LAND AND SHAREHOLDINGS

A new extension has been introduced in the terms for reassessing the value of land and shareholdings on the part of individuals (physical persons not involved in the exercise of business activities, partnerships, non-commercial enterprises, also non-resident). Art. 1, paragraph 473, of Law no. 228/2012 (the "Stability Law") provides that the reference date for the expert's sworn assessment is the first of January 2013 and the time period for preparing it and for paying the first or only instalment of revaluation tax shall be the first of July 2013. The rules have not changed with regards to previous versions, including the cost, which is 2% for non-qualified shareholdings (up to 20% for companies with share capital and 25% for partnerships) and 4% for qualified shareholdings and land. Shareholdings in listed companies cannot be revalued. The tax codes also remain unaltered (8055 for shareholdings and 8056 for land).

NEW RULES REGARDING LATE PAYMENTS FROM 1.1.2013

New rules regarding late payments will apply for commercial transactions concluded after 1.1.2013, as provided for by Leg. Dec. no. 192/2012. Without the need for formal notice of default to be given, interest in arrears shall accrue on the unpaid sums from the day following the due date of payment (deriving from the sale of goods or the performance of services, also professional). Their quantification is composed of the ECB reference rate increased by 8 percentage points, updated on a daily basis with a simple method. In the event that no due payment date has been provided for, this shall be considered as 30 days from receipt of the invoice.

IVIE AND IVAFE ONLY FROM THE 2012 FINANCIAL YEAR

The wealth taxes, IVIE (tax on overseas property) and IVAFE (tax on overseas assets), introduced by art. 19 of Law no. 214/2011, will apply only from 2012 (the 2013 Tax Return); they shall be calculated as follows: -0.76% per year on the cost or market value of property possessed abroad by physical persons; - a fixed annual tax of € 34.20 for current accounts and savings accounts held abroad by resident physical persons. What has been paid, in relation to the above, with reference to 2011 shall be considered as an advance payment for the following year. This is established in paragraphs 518 and following of the "Stability Law", which also provides for the possibility of deducting from IVIE and from IVAFE (up to the relevant amount) respective property taxes on properties and financial assets paid abroad.