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ADVANTAGES OF THE REVALUATION OF NON-QUALIFIED SHAREHOLDINGS

One of the changes introduced in the "UNICO 2012 Persone Fisiche" (the 2012 tax form for individuals) is the possibility of revaluing non-qualified shareholdings, paying 12.5% of the capital gains accrued by the shareholdings with reference to 31.12.2011. This means of revaluation has one disadvantage (all the non-qualified shareholdings must be revalued), but also numerous advantages, specifically: - in the event of shareholdings that have lost value, 12.5% is due on the sum of (revaluations + devaluations); - the capital gains arising from the exemption may be set off against the capital losses recorded in previous years; in the event the exemption produces a capital loss (unrealised), there's the possibility of setting it off against the capital gains of the subsequent 4 tax periods (within the limit of 62.5%).

NEW *OIC* 15 ACCOUNTING STANDARD

As part of the revision of national accounting standards, no. 15 relating to amounts receivable, while not introducing significant changes compared to the replaced standard, clarifies, however, a number of important points, including: - the financial component implicit in trade receivables with long payment periods, without interest (very common in this period), must be separated off and apportioned in the period of regulation; - in sales with payment in instalments with retention of title, the revenue and relative amount receivable must be recognised upon delivery of the goods, since the risks and benefits are immediately transferred to the buyer (art. 1523 of the Civil Code provides, on the other hand, that the transfer of title occurs with the payment of the last instalment).

LOSSES ON SHAREHOLDINGS NOT ELIGIBLE FOR PARTICIPATION EXEMPTION ("NON PEX"): OBLIGATION OF NOTIFICATION

As is well-known, specific notification is required for the deductibility of financial capital losses above certain thresholds. (Non PEX) capital losses on disposals of fixed assets of an amount greater than € 5 million must be notified to the Tax Office within the due date for submission of the tax return; a similar obligation applies to capital losses greater than € 50 thousand on listed shares and securities. While before the promulgation of art. 11 of Leg. Dec. no. 16/2012, failed notification resulted in the non-deductibility of the capital loss, now it is possible to make use of the tax amnesty by 30 September of the subsequent year to that of the due date: - with the payment of a sanction of 10% of the capital loss (minimum € 500, maximum € 50,000, reduced by one eighth); - giving the omitted notification.

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NEW CUSTOMS SANCTIONS

Leg. Dec. no. 16/2012 (converted into Law no. 44/2012) has toughened the sanctions imposed on anyone not correctly declaring the value of imported or exported goods or who transfer money outside the country without a currency declaration for amounts over a certain limit. With regards to goods, an aggravating circumstance has been introduced in relation to misrepresentation, which for tax evasions greater than € 4,000 implies a minimum sanction of € 30,000. With regards to currency, on the other hand, anyone who covertly introduces or exports more than € 10,000 shall be subject to the seizure of between 30 and 50% of the part in excess. In the event that this sum does not exceed € 40,000, there is the possibility of cancelling the sanction, paying between 5 and 15% (of the part in excess).

VAT REGULATIONS FOR THE TRANSFER OF ASSETS SUBJECT TO CUSTOMS SUSPENSION

An important sentence of the EU Court of Justice, in proceeding C-165/11 of 22.5.2012, regards the VAT treatment of goods subject to customs warehousing. The conclusions of the European Community authority are that the concessionary regime in question operates only for customs purposes, but does not prevent the taxation of the transfer of the goods (which come under the regime) between two persons or entities of the same country of the European Community. In the case in question, goods were imported from Ukraine into Slovakia (by a Slovak operator), placed under the customs warehousing regime and subsequently sold before processing (remaining in a privileged customs regime) to another passive Slovak person or entity. The Court ruled that such a sale must be subject to VAT.

FULFILMENTS FOR THE ACQUISITION OF EU SERVICES

In a recent meeting with a group of experts, the Tax Office pointed out that, in relation to the acquisition of services supplied in the EU, the moment of incurring the tax liability (completion of the performance of the service) is effectively to be considered as the issue of the invoice on the part of the supplier. In the event that the resident buyer fails to receive the invoice within the following month from the execution of the operation (which it gains knowledge of by other means), the buyer must issue a self-billing invoice within the following month, in accordance with art. 46, paragraph 5, Leg. Dec. no. 331/1993.

LOSSES ON LOANS ASSOCIATED WITH BANKRUPTCY PROCEEDINGS

The Supreme Court (sentence no. 8822 of 1.6.2012) has provided valuable clarification regarding losses on loans to customers subject to bankruptcy proceedings (excluding administration orders). In practice, the start of proceedings (art. 101, paragraph 5, of the Consolidated Act) implies the “simple assumption” of the loss of credit, but it is always possible to waive the loss and to recognise it, in whole or in part, upon the occurrence of certain events, also in tax periods subsequent to that in which the proceedings begin. Specifically, such events relate to the acts and reports of the bodies involved in the proceedings, or the closure of proceedings.