

# DECEMBER TAX NEWS

## "Super Deduction" for New Hires – Extension and Official Clarifications

### 1. INTRODUCTION

Article 4 of Legislative Decree No. 216 of December 30, 2023 (so-called "IRPEF-IRES Reform" Decree) introduced, for the sole tax period following the one in progress as of December 31, 2023 (i.e., the 2024 tax period for calendar-year taxpayers), an increase in the deductible cost of labor for new permanent hires. This provision establishes a "super deduction" for new hires, granted under specific conditions.

#### Enabling Law for Tax Reform

This tax benefit:

- implements Article 6, paragraph 1, letter b) of Law No. 111 of August 9, 2023 (the enabling law for tax reform);
- is introduced pending the full implementation of the so-called "mini IRES" and the revision of tax incentives for economic operators.

#### Implementing Provisions

The implementing provisions were established by Ministerial Decree of June 25, 2024.

#### Extension for 2025, 2026, and 2027 - Updates from the 2025 Budget Law

Article 1, paragraphs 399-400, of Law No. 207 of December 30, 2024 (2025 Budget Law), extended the tax benefit for the tax period following the one in progress as of December 31, 2024, and for the two subsequent years (i.e., tax periods 2025, 2026, and 2027, for calendar-year taxpayers).

The provisions of Article 4 of Legislative Decree No. 216/2023 apply, within the limits and conditions set therein, also to employment increases recorded at the end of each of the aforementioned tax periods compared to the previous period.

The benefit must be calculated on a "rolling" basis, allowing the employment increase to be determined for each eligible tax period relative to the corresponding previous tax period.

This temporal adjustment must also consider compliance with other regulatory requirements (e.g., verifying the "seniority" of business or professional activity).

#### Official Clarifications

With Circular No. 1 of January 20, 2025, the Italian Revenue Agency provided clarifications regarding the tax benefit.

### 2. ELIGIBLE BENEFICIARIES

The "super deduction" is available to:

- business income holders (entities under Article 73 of the Italian Income Tax Code - TUIR, sole proprietorships, including family businesses and jointly owned businesses, partnerships, and equivalent entities as per Article 5 of the TUIR);
- self-employed individuals conducting professional activities under Article 54 of the TUIR, including those operating in associated forms.

### **Business Activity for 365 Days**

To qualify for the tax benefit, these entities must have conducted business for at least 365 days during the tax period in progress as of December 31, 2023 (i.e., the 2023 tax period for calendar-year taxpayers). In other words, calendar-year taxpayers must have effectively carried out their business for the 365 days preceding January 1, 2024; thus, businesses established after January 2, 2023, are excluded.

Essentially, a minimum period of actual business or professional activity must exist before the eligible period (including extended periods).

Generally, the business start date reported in form AA7/10 or AA9/12 is relevant (see explanatory report to the Ministerial Decree of June 25, 2024, and Revenue Agency Circular 1/2025).

### **Non-commercial Entities**

For non-commercial entities under Article 73, paragraph 1, letter c) of the TUIR, the tax benefit applies exclusively to new hires employed in commercial activities, provided they are separately accounted for. If employees are engaged in both institutional and commercial activities, the deduction applies proportionally based on the ratio of revenues and proceeds from commercial activities to total revenues and proceeds.

### **Excluded Entities**

The tax incentive is not available to:

- agricultural entrepreneurs determining income under Article 32 of the TUIR, as they do not qualify as business income holders;
- businesses undergoing voluntary liquidation or subject to judicial liquidation or other crisis resolution procedures;
- taxpayers under the flat-rate tax regime.

## **3. DETERMINATION OF THE TAX BENEFIT**

The labor cost for newly hired employees under permanent employment contracts is increased, for income determination purposes, by 20% of the cost related to the employment increase.

This translates to an additional deduction of 20% (or higher in certain cases) of the cost associated with the employment increase.

### **Relevance of Contract Type**

Regarding eligible permanent hires, reference is made to the contract type defined in Article 1 of Legislative Decree No. 81/2015 (including apprenticeship contracts).

### 3.1 CONDITIONS

To qualify for the tax benefit:

- The number of permanent employees at the end of the eligible tax period (e.g., 2024) must exceed the average number of permanent employees in the previous period (e.g., 2023), net of workforce reductions in controlled or affiliated companies or entities under the same ownership (directly or indirectly).
- The total number of employees (including temporary workers) at the end of the eligible period (e.g., 2024) must exceed the average number of such workers in the previous period (e.g., 2023), disregarding intra-group workforce reductions.

#### Implementing Rules in Ministerial Decree of June 25, 2024:

- The conversion of fixed-term contracts into permanent contracts within the eligible period is considered.
- Part-time employees count proportionally based on hours worked relative to the national contract standard.
- Agency workers count for the client company in proportion to the duration of the employment relationship.
- Worker-members of cooperatives are treated as employees.
- Employees previously hired by another company in the group and whose employment ended after December 30, 2023, are excluded.
- Permanent employees assigned to a foreign permanent establishment of a resident entity are excluded.

#### Calculation of Employment Averages

To calculate the employment average, the total number of days worked by each employee (as per contract) is divided by 365.

For example, a company with a calendar-year tax period that employed two full-time permanent workers in 2023—one for the entire year and the other for 180 days due to resignation—calculates the employment average as follows:

$$365/365 + 180/365 = 1.49$$

To verify the employment increase, this value (1.49) is compared with the number of permanent employees at the end of 2024. If, for example, two full-time permanent employees were hired during 2024 and remained employed at year-end, and no employees left, the first eligibility condition is met, as the total permanent workforce as of December 31, 2024, is 3, which is greater than 1.49.

A similar calculation applies for total employment (including temporary workers).

#### Extraordinary Transactions

Employees transferred due to business transfers, mergers, demergers, contributions, sales, leases, or contract transfers under Article 1406 of the Italian Civil Code, whose contracts remain valid at the end of the eligible period, are excluded.

In such cases, employees are not considered for either the transferring or receiving entity (for both the eligible period and the prior period).

However, if the receiving entity does not retain the transferred employee at the end of the eligible period, the exclusion does not apply.

It is also established that, in the aforementioned cases, employees hired on a permanent basis during the facilitated period are relevant for both the transferor and the transferee in proportion to the duration of the employment relationship.

### 3.2 RELEVANT COST

In the presence of an increase in employment, the cost to be considered is the lower of:

- the amount actually attributable to the new hires (item B.9 of the income statement, as defined by OIC 12);
- the overall increase in employee personnel costs, including temporary employees (item B.9 of the income statement), in the facilitated reference period compared to the previous one.

For example, suppose an LLC hired permanent employees in 2024, incurring a cost of €100,000, and that the personnel cost in the 2024 income statement exceeds that of 2023 by €150,000.

In this case, the relevant cost for the “super deduction” is the lower amount, i.e., €100,000.

#### Relevance of item B.9 in the income statement

The Revenue Agency, in Circular 1/2025 (§ 3), clarified that for this purpose, the following balance sheet items must be specifically considered:

- B.9 a) wages and salaries;
- B.9 b) social security contributions;
- B.9 c) severance indemnity;
- B.9 d) retirement and similar benefits;
- B.9 e) other costs.

However, according to the Revenue Agency, costs recorded under other items in the income statement are excluded, such as meal vouchers, employee training expenses, meal and lodging costs for traveling employees, as well as costs related to company cars provided for mixed use by employees.

#### Cost allocation methods

Employee-related costs are allocated over time according to the rules applicable for determining the taxpayer’s income.

For example, for self-employed professionals, the cash basis accounting principle applies.

### 3.3 AMOUNT OF THE “SUPER DEDUCTION”

The cost increase, as determined above, is generally 20%.

Therefore, assuming a cost of €100,000, it is possible to deduct €120,000 (with an additional €20,000).

#### Employees deserving greater protection

Among new hires, particular categories of employees are prioritized, as listed in Annex 1 to Legislative Decree 216/2023.

These include, for example:

- highly disadvantaged workers;
- persons with disabilities;
- women with at least two minor children;

- young individuals eligible for employment incentives;
- beneficiaries of the former citizenship income program.

If the new hire falls into one of these protected categories, as specified by Ministerial Decree 25.6.2024, the personnel cost, as determined above, is further increased by an additional 10%; in this case, the total increase will be 30% (see explanatory report to the Ministerial Decree).

If the total increase in personnel costs is lower than the actual cost attributable to the new hires, and if both categories of workers (with a 20% and 30% increase) are present, the cost to be considered for the increase must be allocated between the two categories in proportion to the cost of the newly hired permanent employees in each.

#### **4 UTILIZATION OF THE BENEFIT**

The benefit consists of a downward adjustment applied when determining corporate taxable income (not for IRAP purposes).

Therefore, a downward adjustment must be made in the REDDITI tax return form.

For the 2024 tax period (for calendar-year taxpayers), the adjustment must be made in the 2025 REDDITI tax return.

#### **5 TAX ADVANCE PAYMENTS**

By explicit legal provision, when calculating advance income tax payments due for 2025, 2026, and 2027, these provisions are not taken into account (predictive method).

Furthermore, in determining the advance tax payment for 2025 (Article 4, paragraph 7 of Legislative Decree 216/2023) and for 2026, 2027, and 2028 (Article 1, paragraph 400 of Law 207/2024), the tax for the previous period is assumed to be the one that would have been determined without applying these provisions (historical method).