THE WEEK IN BRIEF

DISSOLUTION AND LIQUIDATION
Legislative Decree 17.1.2003 No. 6 – Liquidation – Company cancellation – Pending litigation – Personal liability of shareholders – Tax irrelevance of cancellation for five years (Cass. SS.UU. 12.2.2025 No. 3625)

Article 2495 of the Italian Civil Code and Article 36, paragraph 3 of Presidential Decree 602/73 provide, albeit with some differences, for the personal liability of shareholders of capital companies for the company's tax debts in case of its cancellation from the Business Register.

The Supreme Court's United Sections ruling (Cass. SS.UU. 12.2.2025 No. 3625) clarified various aspects related to this liability.

First, the principle remains that if a company is removed from the Business Register while a legal proceeding is pending, the case continues against the shareholders, regardless of their personal liability. The tax authority has an interest in obtaining a ruling on the legitimacy of the tax claim against the company (which may later be enforced against shareholders or liquidators under Article 36, paragraph 1 of Presidential Decree 602/73, provided legal conditions are met). Therefore, it is incorrect to assume that the proceeding automatically terminates upon the company's cancellation.

Following the cancellation, and in light of the five-year deferral under Article 28, paragraph 4 of Legislative Decree 175/2014, the legal proceeding is interrupted and must be resumed by either the shareholders or the tax authority. However, after resumption, the case can no longer extend to assessing the shareholders' personal liability.

Personal Liability of Shareholders of a Dissolved Company

The Supreme Court's United Sections established two key principles:

- The liability of shareholders, even when deriving from Article 2495 of the Italian Civil Code (a civil law provision), must be enforced through a specific tax assessment notice.
- It is the responsibility of the tax authority, under Article 7, paragraph 5-bis of Legislative Decree 546/92, to prove the shareholders' liability (i.e., that they received funds from the final liquidation balance).
- In their appeal, shareholders may challenge procedural defects of the tax notice or contest their alleged liability but cannot challenge the substance of the tax claim.

Five-Year Period After Company Cancellation

Under Article 28, paragraph 4 of Legislative Decree 175/2014, for five years following a company's cancellation request, it is still considered legally existent in relation to tax authorities and social security contributions.

As a result, tax assessment acts may still be addressed to the company. The ruling confirms the prevailing interpretation that during these five years, legal standing in litigation exceptionally belongs to the former legal representative, rather than to the shareholders, even if they may ultimately be held liable.

According to Cass. SS.UU. 12.2.2025 No. 3625, even during this five-year period, shareholders may receive tax assessments concerning their personal liability. In other words, the tax authority is not required to wait for the five years to elapse before pursuing them. The fact that the company is still legally recognized in this period does not imply that the shareholders' liability is also on hold.

References:

- **Article 2495 of the Italian Civil Code**
- **Article 36 of Presidential Decree 29.9.1973 No. 602**

DIRECT TAXES

Small Business - Option for the VAT Recording Regime - Invoice Registration Based on the Transaction Date (Italian Revenue Agency FAQ 13.2.2025)

With FAQ 13.2.2025, the Italian Revenue Agency clarified the criteria by which, under the simplified accounting regime with the VAT recording method, revenues contribute to the determination of business income.

Presumption of Receipt and Payment (so-called "VAT Recording Method")

Following the amendments to Article 66 of the Italian Income Tax Code (TUIR) introduced by Law 232/2016, the determination of income for businesses adopting the simplified accounting regime is generally based on a cash basis. However, certain exceptions in favor of the accrual principle remain, explicitly stated in the law by referencing specific TUIR provisions (Circular of the Italian Revenue Agency 13.4.2017 No. 11, § 3.2). This approach requires keeping accounting records of

receipts and payments to allocate revenues and costs in the period in which the financial transaction occurs.

That said, a specific exemption is provided under Article 18, paragraph 5 of Presidential Decree 600/73, which allows businesses, through a three-year option, to maintain VAT records without tracking receipts and payments. Under this method, for simplification purposes, there is a legal presumption that the registration date of documents coincides with the date of receipt or payment.

Based on the guidance provided in Circular No. 11/2017:

- Revenues are considered received at the time the invoices are recorded, even though, for VAT settlement purposes, invoice registration affects the period in which the transactions were carried out.
- Costs are considered paid when the accounting document is recorded, regardless of the actual financial outflow.

Registration After Invoice Transmission

In this context, the Italian Revenue Agency clarified in a response given during the videoconference on 5.2.2025 that an invoice (related to a transaction performed in 2023) dated 29.12.2023 but sent to the SdI system on 8 January of the following year must necessarily be recorded in 2024 and, consequently, contributes to the determination of business income in 2024. However, for VAT purposes, the transaction is included in the VAT settlement for the period in which the transaction is considered carried out, pursuant to Article 6 of Presidential Decree 633/72.

These conclusions align with previous clarifications on the topic and are consistent with those provided regarding electronic invoicing. According to Circular No. 14/2019 (§ 3.1):

- The date entered in the "Date" field of the "General Data" section of the electronic invoice file is always and necessarily the transaction date.
- However, the invoice is considered issued when transmitted through the SdI system, which certifies the transmission date unequivocally for the sender, recipient, and tax authorities.

In the same circular, the Agency notes (§ 3.2) that Article 23, paragraph 2 of Presidential Decree 633/72, regarding recording procedures, states that "each invoice must indicate the progressive number and date of issuance (...)." Given the "changed technical-regulatory framework," which allows for a separation between the transaction date and the issuance/transmission date of invoices, including so-called "immediate" invoices, the Administration clarifies that the relevant date to be recorded in the register is the "Date" field in the "General Data" section of the invoice file. This date identifies the transaction moment and allows for correct VAT settlement.

Registration Coinciding with the Transaction Date

In incorporating the response provided on 5.2.2025 into FAQ 13.2.2025, the Italian Revenue Agency added the following statement:
"For simplification purposes, the option to record invoices based on the 'Date' indicated in the

'General Data' section of the electronic invoice file, as specified in Circular No. 14/E of 2019, § 3.2, remains confirmed."

According to the Agency, this clarification (which initially seemed to refer to VAT calculation) may allow businesses to anticipate the registration date to align with the transaction date stated in the invoice.

Effectively, within the optional regime provided under Article 18, paragraph 5 of Presidential Decree 600/73, the invoice related to a transaction completed at the end of 2023 but transmitted through SdI on 8.1.2024 may be included in business income either:

- **In 2025**, if the invoice is considered issued and recorded in that year, even though it relates to a 2024 transaction.
- **In 2024**, if the registration is based on the transaction date, thus preceding the document's actual issuance.

In some respects, this conclusion could have been inferred indirectly from the provisions of Resolution No. 89757/2018 (and subsequent Resolution No. 433608/2022), which states in section (6.3) that when "a supplier/service provider has recorded an electronic invoice that was rejected by the SdI system, an internal accounting adjustment is made, if necessary, without requiring the transmission of a credit note to SdI."

By reasoning a contrario, the new clarification seems to implicitly acknowledge the possibility of maintaining the "anticipated" registration without annulment, considering it valid for accounting purposes, provided the file transmission was successful.

References:

- **Article 18, paragraph 5 of Presidential Decree 29.9.1973 No. 600**
- **Article 66 of Presidential Decree 22.12.1986 No. 917**
- **Italian Revenue Agency FAQ 13.2.2025**
- **Circular of the Italian Revenue Agency 13.4.2017 No. 11**
- **Italian Ministry of Economy and Finance Responses - Videoconference 5.2.2025**
- **Il Quotidiano del Commercialista, 14.2.2025 - "Under the VAT Recording Regime, Reference to the Transaction Date is Allowed" - Bilancini - Rivetti**
- **Il Sole 24 Ore, 14.2.2025, p. 40 - "Invoice Registration Can Precede Issuance" - De Stefani L. - Santacroce B.**
- **Italia Oggi, 14.2.2025, p. 26 - "Virtual Cash Basis, Easier E-Invoicing" - Poggiani F.G.**
- **Eutekne Guides - Tax Assessment and Penalties - "Small Business" - Rivetti P.**
- **Eutekne Guides - Direct Taxes - "Simplified Accounting - Businesses" - Rivetti P.**
- **Eutekne Guides - Tax Assessment and Penalties - "Simplified Accounting - Businesses" - Rivetti P.**
- **Eutekne Guides - Direct Taxes - "Small Business" - Rivetti P.**

In response to ruling request No. 25 dated February 11, 2025, the Italian Revenue Agency clarified the applicable regulations for IRES, IRAP, and VAT purposes regarding the transfer of goods as a discount upon reaching predetermined turnover levels.

Subject of the ruling request

The requesting company (a limited liability company engaged in wholesale trading of tires and car accessories) has proposed a commercial agreement to certain "strategic" customers. This agreement provides for the allocation of a promotional kit (containing clothing products bearing the customer's chosen brand) upon reaching specified tire purchase thresholds.

For other customers, referred to as "profile" customers, a different agreement has been proposed, which grants:

- A promotional kit under the same conditions as for strategic customers;
- Points (earned upon reaching certain targets), redeemable on an online platform managed by a third-party company.

The company has asked the tax authorities to clarify whether:

- For direct taxation and IRAP purposes, the costs related to the goods or services offered to customers can be considered relevant and, therefore, deductible;
- For VAT purposes, the goods provided to customers qualify as "in-kind discounts" for non-core business goods.

Income tax implications

First, the response recalls that the ruling request cannot serve as an advance review of the investigative powers granted to tax offices under Articles 32 and 33 of Presidential Decree No. 600/73.

Therefore, in responding to the company's request, the Agency did not assess:

- The qualification, timing, and financial statement classification of the transaction described by the applicant;
- The factual elements exceeding the qualification aspect, which can only be determined during an audit;
- Whether the expenses incurred should be classified as advertising or representation expenses.

That said, the notion of "relevance" as interpreted in recent years by both tax authorities (see, among others, Revenue Agency ruling No. 243 of December 5, 2024) and prevailing case law (see, for example, Supreme Court rulings No. 2224 of February 2, 2021, and No. 972 of January 13, 2023) is reiterated.

This concept is understood as a cause-effect relationship between business expenses and the company's activities or assets, which should generate revenues or other income contributing to taxable income. In general, expenses are considered relevant if they can potentially generate additional revenues or other non-exempt income.

Expenses are not considered relevant if they are:

- Related to purposes different from those of the business (e.g., personal or mixed-use expenses, for the non-business portion);
- Inherently incapable of generating new revenues (e.g., gratuitous donations, except for deductible ones, or uneconomic transactions).

The transaction in question, in principle, meets the relevance requirement. The circumstances under which the company grants benefits to certain customer categories based on purchase thresholds and the method of granting incentives suggest potential revenue growth from the beneficiaries' purchases. Consequently, the costs related to the goods or services offered to customers are deductible.

However, since the Agency has not provided a definitive ruling, uncertainty remains regarding whether the expense should be classified as:

- A representation expense (and thus deductible under the conditions and limits of Article 108, paragraph 2, of the TUIR and Ministerial Decree of November 19, 2008);
- An advertising expense (and therefore fully deductible).

Provisions under Article 107, paragraph 4, of the TUIR state that provisions set aside by the company for the normal value of goods offered to customers are non-deductible when the goods and services are delivered in the fiscal year following revenue recognition. These costs will be deductible in the year in which they are effectively incurred.

IRAP implications

These costs are also deductible for IRAP purposes based on the amounts recorded in the financial statements (even if classified as representation expenses). This is because, under IRAP regulations, costs recorded in the income statement according to the company's adopted accounting principles generally meet the relevance requirement (see Revenue Agency circulars No. 36 of July 16, 2009, § 1.2, and No. 39 of July 22, 2009, as well as Supreme Court rulings No. 11791 of May 2, 2024, and No. 15115 of June 11, 2018).

VAT implications

According to the Agency, the commercial transaction involving the granting of in-kind discounts to customers upon reaching a certain turnover threshold falls under sales excluded from the taxable base under Article 15, paragraph 1, No. 2, of Presidential Decree No. 633/72. This provision states that "the normal value of goods transferred as a discount, premium, or rebate" does not contribute to the VAT taxable base. This also applies to goods selected by "profile" customers by redeeming points on the online platform managed by a third-party company.

Additionally, the supplier is entitled to deduct the VAT paid on purchases, as these goods are acquired within the scope of business operations and relate to a taxable transaction.

A free transfer of goods under Article 2, paragraph 2, No. 4, of Presidential Decree No. 633/72—outside the scope of VAT—would be applicable only if no consideration is received.

Tax litigation

Tax trial - Electronic trial - Certification of conformity of filed documents - Appeals filed from September 2, 2024 (Ministry of Economy's response in a video conference on February 5, 2025) - Initial judicial interpretations

The notification and filing of procedural acts and documents are conducted exclusively in electronic format (Article 16-bis of Legislative Decree No. 546/92).

Documents that are not digitally native—whether received as PDFs via email from clients or in paper format and then scanned by legal representatives—must be certified as conforming to the original by the attorney or the tax authority (e.g., documents obtained during an audit).

Article 25-bis, paragraph 1, of Legislative Decree No. 546/92 states that for digital copies of documents originally in paper format, the parties must "certify the conformity of the copy to the original document" in accordance with Legislative Decree No. 82/2005.

Simply put, when submitting a document, a digitally signed file must be provided, certifying its conformity to the original held by the party under Article 25-bis, paragraph 1.

Legislative Decree No. 220/2023, applicable to appeals filed from September 2, 2024, introduced paragraph 5-bis, which states that "the judge does not consider paper documents unless an electronic copy, including scanned versions, certified as conforming to the original, is filed in the electronic case record."

This rule, if interpreted strictly:

- Requires the party or attorney to submit only documents for which they hold the original or a certified copy;
- Prevents the judge from considering documents lacking a certification of conformity.

This issue does not affect digitally native documents (e.g., emails and documents downloaded from Entratel).

Ministry of Economy's interpretation

During the video conference on February 5, 2025, the Ministry of Economy stated that certification is required not only for original or certified copy documents held by the attorney (Article 25-bis, paragraph 1) but also for other non-original analog documents in their possession, such as invoices or contracts received from clients.

Early case law rulings suggest that a missing certification does not necessarily make a document unusable unless a party provides a valid reason to question its authenticity (see C.G.T. I Cuneo ruling No. 341/2/24 of December 20, 2024, and C.G.T. I Caserta ruling No. 4542/2/24 of November 5, 2024).

This introduces an additional requirement beyond paragraph 5-bis, linking document usability to the presence of a conformity certification.

Operational Aspects

The certification must appear in a PDF file, digitally native and digitally signed by the defense lawyer, to be filed along with the documents. A statement like the following can be included in the file: “It is certified that, in accordance with Article 25-bis, paragraphs 1 and 5-bis of Legislative Decree 546/92, the documents produced are in conformity with the copies in my possession.”

It may be appropriate to list the documents for which the conformity is certified.

Article 25 of Legislative Decree 31.12.1992 no. 546 Ministry of Economy and Finance Responses Videoconference 5.2.2025
The Daily of the Accountant of 11.2.2025 - "According to the Ministry of Economy and Finance, the conformity certificate is required for any document" - Amato
Eutekne Guides - Tax Litigation - "Telematic Tax Process" - Cissello A. - Monteleone C.

ASSOCIATED WORK EXERCISE

Group Medicine Association – Treatment for IRES, IRAP, and VAT purposes (Response to Inquiry by the Revenue Agency 7.2.2025 no. 23)

With the response to inquiry 7.2.2025 no. 23, the Revenue Agency has defined the treatment for IRES, IRAP, and VAT purposes of an association (not recognized) engaged in general medicine activities in the form of group medicine. **Civil Law Regulation**

According to Article 40, paragraph 3 of Presidential Decree 270/2000, general practitioners in agreements can agree among themselves and create forms of associative work classified as:

- Associative forms that constitute organizational methods for work and functional sharing of structures between multiple professionals, aimed at developing and improving each professional's potential for care.
- Associative forms, such as service companies, including cooperatives, whose members, by statute, are permanently in the majority primary care physicians and free-choice pediatricians listed with the local health authorities, or municipalities encompassing more than one health company, where they operate and ensure the operational modes stated earlier.

The first category includes the associative forms of medicine in association, network medicine, and group medicine, whose common characteristics are defined in paragraph 4 of Article 40 of Presidential Decree 270/2000.

In group medicine, associated doctors use shared spaces and technological and instrumental support, in addition to common secretarial or nursing staff. The division of management costs of the "practice" is freely agreed upon between the members of the association.

The inquiry concerns an association (unrecognized) between general practitioners who have agreed to carry out general medicine activities in the associative form of group medicine according to the above-mentioned Article 40 of Presidential Decree 270/2000 and the National Collective Agreement for General Medicine 22.3.2005. The goal of the association is to ensure higher structural, instrumental, and organizational standards for professional activities. The association

assumes the costs of managing the clinic (e.g., administrative expenses and personnel costs) and charges, without additional costs, each associated doctor for their share.

Treatment for IRES Purposes

For IRES purposes, the association is classified as a private entity, distinct from corporations, with the exclusive or primary aim of engaging in commercial activities, as per Article 73, paragraph 1, letter b) of the TUIR. Specifically, the association engages in providing services to the associated doctors, including bearing costs for personnel and management expenses in its name, and subsequently recharging these costs to the associates without additional charges. As a result, the provisions related to corporations and commercial resident entities, both from an accounting and IRES perspective, apply.

In relation to declarative obligations, the REDDITI SC form must be submitted, even in the absence of income (a likely scenario when costs are recharged to associates at cost).

Treatment for IRAP Purposes

For IRAP purposes, the association's classification as a private entity engaging in commercial activity exclusively or primarily leads to the application of provisions for commercial entities as per Article 5 of Legislative Decree 446/97.

The Revenue Agency considers irrelevant the reference by the applicant to the ruling of the Court of Cassation 7291/2016, where it was excluded that the "associative form" of group medicine could be seen as an association between professionals and thus be subject to IRAP by law. The case examined by the Supreme Court, in fact, referred more generally to the relevance of conducting a freelance activity in an associative form for IRAP purposes.

Treatment for VAT Purposes

Regarding VAT treatment of cost reallocation by the group medicine association, the Revenue Agency confirms the possibility of applying the exemption regime under Article 10, paragraph 2 of Presidential Decree 633/72.

As previously recognized in earlier official responses (Revenue Agency response 30/2012 and response to inquiry 161/2024), this provision, although formally addressed to consortia, also applies to other "autonomous associative schemes formed to provide, at cost, common services to members who perform VAT-exempt or non-VAT-subject activities, necessary for the operation of each of their activities."

Therefore, the group medicine association that reallocates costs to its members can benefit from the VAT exemption regime under Article 10, paragraph 2 of Presidential Decree 633/72.

Article 40 Presidential Decree 28.7.2000 no. 270
Article 73 Presidential Decree 22.12.1986 no. 917
Response to Inquiry by the Revenue Agency 7.2.2025 no. 23
The Daily of the Accountant of 8.2.2025 - "The Group Medicine Association is Commercial in

Nature" - Fornero - Rivetti
The Daily of the Accountant of 27.7.2024 - "VAT Exempt for the Distribution of Expenses Among Doctors" - Bilancini
Medical Association Operating Group Medicine
The Daily of the Accountant of 14.4.2016 - "Associative Practices Always Subject to IRAP" - Fornero

PENSION SYSTEM

Contributions for Artisans and Traders – Contributions for the Year 2025 (INPS Circular 7.2.2025 no. 38)

With Circular 7.2.2025 no. 38, INPS has provided instructions for the calculation and payment of contributions due for the year 2025 by members of the Artisan and Commercial Activity Management, indicating the rates and income amounts (minimum and maximum) to be used.

Applied Tax Rates and Additional Contributions

For 2025, the base rate of 24% is confirmed, as provided by Article 24, paragraph 22 of DL 201/2011, which has progressively increased the rate since 2012 to reach this threshold.

The circular under review specifies that, due to this progressive increase, the 24% rate will also apply from 2025 to assistants with an age of 21 or younger, who until now benefited from a reduced contribution (in 2024, the rate was 23.70%).

As a result, the contribution rates for the funding of pension schemes for artisans and merchants in 2025 will all be set at 24%.

This 24% rate is subject to specific increases or reductions. In particular, for those enrolled in the Merchants' Scheme, the additional rate under Article 5 of DLgs. 207/96 will apply, intended to compensate for the permanent cessation of business activity, which is set at 0.48% from January 1, 2022.

Therefore, for members of the Merchants' Scheme, the total rate is 24.48%, while for members of the Artisans' Scheme, it remains at 24%.

Finally, the additional contribution for maternity benefits under Article 49 of Law 488/99 is confirmed at a rate of 0.62 euros per month.

Contribution Reductions

The provisions of Article 59, paragraph 15 of Law 449/97, concerning a 50% reduction in contributions for artisans and merchants over 65 years of age who are already pensioned with INPS schemes, will also continue to apply in 2025.

Additionally, Article 1, paragraph 186 of Law 207/2024 (2025 Budget Law) provides for a 50% contribution reduction for workers who first enroll in one of the Artisans' or Merchants' Schemes in 2025 and who earn business income, including under a flat-rate regime.

INPS also announces that a subsequent circular will provide detailed information on this provision, along with guidelines for submitting applications.

Income Values for Contribution Calculation

Following a 0.8% increase in the ISTAT consumer price index for the 2023/2024 biennium, the amounts related to the minimum and maximum income for contribution calculation have been increased compared to the previous year.

In particular:

- The minimum income to be considered for this year in calculating the IVS contribution due from artisans and merchants is 18,555.00 euros (compared to 18,415.00 euros last year).
- The maximum income is 92,413.00 euros (91,680.00 euros in 2024) for those enrolled before January 1, 1996, or 120,607.00 euros (compared to 119,650.00 euros last year) for those enrolled from that date onward.

Regarding the IVS contribution above the minimum, INPS announces that the contribution is due on income earned in 2025 above the minimum of 18,555.00 euros, with rates applied up to the limit of the first annual pensionable wage range, which for this year is 55,448.00 euros (compared to 55,008.00 euros in 2024). For income exceeding this threshold, the 1% rate increase under Article 3-ter of DL 384/92 continues to apply.

Contribution Based on the Minimum Income

Considering the rates and income values indicated above, the contribution calculated on the minimum income for 2025 is as follows:

- 4,460.64 euros annually (371.72 euros monthly) for members of the Artisans' Scheme.
- 4,549.70 euros annually (379.15 euros monthly) for business owners.

Contribution Payment

The circular under review specifies that contributions due on the minimum income must be paid using the unified F24 payment forms, according to the following deadlines:

- May 16, 2025, August 20, 2025, November 17, 2025, and February 16, 2026, for the payment of the 4 installments of contributions due on the minimum income.
- Within the deadlines for paying IRPEF, for contributions due on the income exceeding the minimum, as part of the first and second installments of 2025 and the final payment for 2025.

INPS reminds that the data and amounts for contribution payment by artisans and merchants are published in the "Cassetto previdenziale" under the "F24 Data" section, accessible to the taxpayer or their delegate. Through this option, it is also possible to view and print the model to use for payment.

Article 24, paragraph 22 DL 6.12.2011 no. 201 INPS Circular 7.2.2025 no. 38 Il Quotidiano del Commercialista, February 8, 2025 - "Contribution Rate of 24% for Assistants Under 21" -

Mamone Il Sole - 24 Ore, February 8, 2025, p. 24 - "Artisans and Merchants, Contributions at 24% for Everyone" - Prioschi M. Guide Eutekne - Previdenza - "Artisans and Merchants Contributions" - Quintavalle R.

CATASTRO

Real Estate Units with Superbonus Interventions - Missing Cadastre Update - Invitations to Regularize - Implementation Provisions (Agenzia delle Entrate Decree 7.2.2025 no. 38133 and Parliamentary Inquiry Response 12.2.2025 no. 5-03532)

In implementation of Article 1, paragraphs 86 and 87 of Law 213/2023, Agenzia delle Entrate Decree 7.2.2025 no. 38133 has defined the rules for sending invitations for voluntary compliance to taxpayers who have not updated the cadastre records for properties involved in superbonus interventions under Article 119 of DL 34/2020, where required.

Verification of the Cadastre Update Obligation

Whenever work is carried out on real estate units, the owners must update the cadastre records if these interventions have led to changes in the property's size or affected the property's category and class, thereby impacting the cadastre income (Article 17 of RDL 652/39).

For real estate units involved in superbonus interventions, Article 1, paragraph 86 of Law 213/2023 establishes that the Agenzia delle Entrate will verify, based on specific selected lists, whether the owner has submitted the required cadastre update declaration under Article 1, paragraphs 1 and 2 of DM 701/94 (the so-called DOCFA). This is also for any effects on the property's cadastre income, which is relevant for income taxes, IMU, and indirect taxes on property transfers (e.g., inheritance and donation taxes, and registration tax for transactions involving residential properties and related accessories, if the "price-value" principle applies).

If, as a result of this verification, it is found that the cadastre update has not been done, Article 1, paragraph 87 of Law 213/2023 provides that the Agenzia delle Entrate may send the taxpayer a communication under Article 1, paragraphs 634 to 636 of Law 190/2014 (the so-called compliance letters). These communications are aimed at facilitating voluntary compliance by the taxpayer regarding the cadastre update obligation.

Verification Criteria

In response to Parliamentary Inquiry 12.2.2025 no. 5-03532, the Agenzia delle Entrate specified that, in the first phase, the compliance letters will be sent to property owners involved in superbonus interventions under Article 119 of DL 34/2020, who currently appear in the cadastre as:

- Having no cadastre income; or
- Having cadastre values that are modest compared to the costs incurred for the interventions.

The Agenzia notes that, in both cases, it is reasonable to assume that the interventions could have altered the property's size or classification.

Communication for Voluntary Compliance

With Decree 7.2.2025 no. 38133, the Agenzia delle Entrate defined the method of transmission and content of the compliance letters.

Specifically, these invitations will be sent via PEC (to the digital address in the INI-PEC list under Article 6-bis, paragraph 2 of DLgs. 82/2005) or by registered mail with acknowledgment of receipt. The same communication will also be made available in the taxpayer's fiscal drawer.

The communication will contain necessary information for the taxpayer to verify the accuracy of the data held by the tax authorities, including:

- The taxpayer's fiscal code, name, and surname;
- The cadastral identification of the property indicated by the taxpayer in the credit transfer or discount option under Article 121 of DL 34/2020 for superbonus interventions;
- An invitation to provide any necessary clarifications and supporting documents via the "Submit documents and requests" service available in the Agenzia delle Entrate's reserved area.

Taxpayer's Rights in Response to the Communication

Upon reviewing the data provided by the Agenzia delle Entrate, the taxpayer (or their delegate) may offer clarifications and appropriate documentation via the "Submit documents and requests" service if:

- They believe the data is incorrect;
- Or if they wish to provide new information or facts not known to the Agenzia, justifying the lack of obligation to submit a cadastre update declaration.

Alternatively, the property owner who receives the communication may regularize their position by submitting the required update declaration under Article 1, paragraphs 1 and 2 of DM 701/94.

Reduction of Penalties in Case of Regularization

Regularizing the situation offers some benefits in terms of penalties. According to Article 60 of DPR 1142/49, those who fail to submit the cadastre update declaration face an administrative penalty under Article 31 of RDL 652/39, ranging from 1,032.00 to 8,264.00 euros.

However, if the owner of the building regularizes the omitted cadastral update by submitting an appropriate declaration, the aforementioned penalty is reduced according to the provisions for voluntary correction under Article 13 of Legislative Decree 472/97.

Art. 1, para. 86 of Law 30.12.2023 no. 213 Art. 1, para. 87 of Law 30.12.2023 no. 213 Art. 119 of Legislative Decree 19.5.2020 no. 34 Ministerial Decree 19.4.1994 Ministry of Finance no. 701 Provision of Revenue Agency 7.2.2025 no. 38133 Parliamentary Inquiry 12.12.2025 no. 5-03532 Il Quotidiano del Commercialista of 8.2.2025 - "Notices for voluntary compliance on properties with superbonus defined" - Magro Il Sole - 24 Ore of 8.2.2025, p. 23 - "Superbonus, letters sent with no changes to the Cadastral Register" - Latour G., Parente G. Eutekne Guides - Assessment

and penalties - "Voluntary compliance" - Cissello A. Eutekne Guides - Direct Taxes - "Cadastral income" - Magro L. Zeni A. Eutekne Guides - Direct Taxes - "Superbonus" - Zeni A.

FIRST HOME BENEFITS
Concessions - Expiry - Buyer residing abroad (Responses to inquiries from the Revenue Agency 12.2.2025 nos. 27, 28, and 29)

With three different responses to inquiries (nos. 27, 28, and 29), published on 12.2.2025, the Revenue Agency examined several interesting issues related to first home benefits.

Characteristics of the benefit

It is reminded that the first home benefit, regulated by Note II-bis to Article 1 of the Tariff, part I, annexed to DPR 131/86, allows for the application of a favorable tax treatment for the purchase of a home in categories other than A/1, A/8, or A/9, i.e., a registration tax at a rate of 2% or VAT at a rate of 4%.

To apply the benefit, the law requires several conditions, two of which (letters b and c of Note II-bis) relate to the non-ownership of other properties in the same municipality or across the national territory if already acquired with the benefit, while one concerns the location of the benefiting property (so-called residency requirement).

Condition of non-ownership of other homes purchased with the benefit

Response no. 27/2025 deals with the condition of non-ownership of other properties already purchased with the benefit, under letter c) of Note II-bis, which requires the buyer to divest themselves of other properties purchased with the benefit before the deed, or, thanks to paragraph 4-bis of the Note, within 2 years (from 1.1.2025; 1 year until 31.12.2024) from the deed.

In the specific case, a taxpayer asked the Revenue Agency whether a donation of the former first home to the mother, made before the deed but containing a "reversibility" clause (Article 792 of the Civil Code), could allow the donor to make a new purchase with the benefit. The condition of reversibility implies that, if the donee (the mother) dies before the donor, the donation is undone and the property returns to the donor.

According to the Agency, such a donation, made before the deed, allows the donor to declare in the new deed the fulfillment of the non-ownership condition under letter c), as the donation has immediate effects and therefore achieves the required divestment to access the benefit again.

Residency condition for emigrants abroad

Responses no. 28 and 29 address two buyers residing abroad.

Response no. 28/2025 focuses on the conditions for accessing the first home benefit for emigrants abroad, which, as of 2023, have changed due to Article 2 of Legislative Decree 69/2023.

Specifically, under the current wording of letter a) of Note II-bis to Article 1 of the Tariff, part I, annexed to DPR 131/86, if the buyer has moved abroad for work reasons, the "residency" requirement is satisfied if:

- The buyer has resided or worked in Italy for at least 5 years;
- The property purchased in Italy is located in the buyer's municipality of birth or in the municipality where the buyer had residence or worked before moving abroad.
  The doubts examined in response 28 concern the wording "before the transfer," to understand whether it refers only to the last municipality of residence. In this specific case, the taxpayer, born and residing in Italy (in different municipalities) for 25 years before moving abroad, intends to purchase a property in a municipality where they resided for

many years, not the last municipality of residence before moving abroad.
The Agency confirms that the benefit can apply in this case. The legal rationale is that the expression "before the transfer" should be interpreted as allowing the emigrant to purchase in any municipality with which they had a lasting connection before emigrating, without it being necessary to be the last municipality where they lived or worked.

- **Avoiding forfeiture by purchasing land abroad**

  Response no. 29/2025 concerns a person residing abroad (but the clarification also applies to those residing in Italy) who, after purchasing a property in Italy with the first home benefit, intends to sell it before 5 years have passed. The taxpayer asks whether purchasing land abroad, for building a main residence, could allow them to avoid forfeiture. Referring to the clarifications previously provided in the Revenue Agency circulars 31/2010 and 38/2005, the Agency answers affirmatively: purchasing land abroad for building a home to be used as the primary residence is suitable to avoid forfeiture for selling the property within 5 years, provided that, within the year, the land purchase is completed and a structure with perimeter walls and a roof exists (as per Article 2645-bis, para. 6 of the Civil Code).
  Furthermore, as the acts and properties are abroad, it is necessary to provide specific documentation to prove all elements to the Agency that justify avoiding forfeiture.

Art. 791 of the Civil Code
Art. 792 of the Civil Code
Tariff Part I, Article 1 of TUR
Response to inquiry by the Revenue Agency 12.2.2025 no. 27
Il Quotidiano del Commercialista of 13.2.2025 - "Donation with a reversibility clause qualifies for first home benefit" - Mauro
Eutekne Guides - VAT and indirect taxes - "First home" - Mauro A.

AGENCY OF REVENUE PROVISION 10.12.2024 N. 443574
TAX
ASSESSMENT – DECLARATIONS – Pre-filling of income tax returns – Data related to public transport subscription services – Optional indication of the taxpayer's tax code

In accordance with Ministerial Decree 29.3.2023 (published in the Official Gazette on 7.4.2023, No. 83), with the Agency of Revenue Provision 4.10.2023 No. 354629, the methods for electronically transmitting data related to expenses for public transport subscriptions and their reimbursements to the Tax Register were established for the pre-filling of income tax returns (forms 730 and REDDITI PF).

This provision introduces some changes to the aforementioned provision, aiming to make the indication of the tax code of the person who made the payment optional on a permanent basis.

Subjects Involved
The subjects involved in the electronic communication to the Agency of Revenue regarding public transport subscription data are:

- Public entities;
- Private entities in charge of providing public transport services.

In addition to the aforementioned subjects, this communication also applies to other entities providing reimbursements related to public transport subscriptions.

Entry into Force
The communications related to public transport subscriptions and their reimbursements are made:

- On a voluntary basis, for the tax years 2023 and 2024;
- Mandatorily, starting from the 2025 tax year.

Relevant Expenses
The electronic communication to the Agency of Revenue concerns data on deductible expenses, pursuant to Article 15, paragraph 1, letter i-decies) of the Consolidated Income Tax Act (TUIR):

- For the purchase of public transport subscriptions (local, regional, and interregional) incurred by individuals in the previous year;
- Including identification data of the subscription holders and those who incurred the expenses.

Expenses related to subscriptions sold without recording the identification data of the holders are excluded from the communications.

Traceability Obligation
Only data related to expenses made through bank or post office transactions, or other payment systems under Article 23 of Legislative Decree 241/97, should be indicated in the communications.

According to Article 1, paragraph 679 of Law 160/2019, the 19% IRPEF (Personal Income Tax) deduction for these expenses is granted on the condition that the payment is made through traceable methods.

Indication of the Payee's Tax Code
For the transmission of data for the pre-filling of income tax returns, this provision eliminates the obligation to indicate the tax code of the person who made the payment for public transport subscriptions, while still leaving the option to provide it if available.

Under the previous provision (4.10.2023 No. 354629), this obligation would have applied starting from the 2024 tax year.

In practice, starting from expenses incurred in the 2024 tax year, the optional indication of the tax code will become standard, as was already foreseen for expenses in 2023, the first year of the application of this data communication.

From discussions with transport companies, it emerged that their data storage systems do not always allow, even due to personal data protection profiles, to collect and store information on the payer.

However, the obligation to indicate the subscription holder remains.

Update of Technical Specifications
This provision also updates the technical specifications for the electronic transmission of data, approved in the aforementioned 4.10.2023 provision, to ensure that the data regarding the payer's tax code is transmitted only if the information is available.

Deadline for Communication
Under Article 16-bis, paragraph 4 of Legislative Decree 26.10.2019 No. 124, converted into Law 19.12.2019 No. 157, the electronic transmission of data concerning public transport subscriptions and their reimbursements must be made by March 16 of the following year.

The new provisions and technical specifications will therefore apply to data regarding subscriptions paid in 2024, which must be communicated to the Agency of Revenue by March 16, 2025 (the deadline, falling on a Sunday, will be extended to Monday, March 17).