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## TAX ALERT – COVID-19

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In the last few days, several companies and individuals have expressed their wish to make a gift to entities providing assistance or carrying on scientific research in connection with COVID-19.

This document is aimed at describing the tax benefits provided for by the Italian tax system with regard to gifts made to entities involved in healthcare and scientific research. In this respect, it is possible that those tax rules will be amended by the emergency legislation to be enacted in the near future.

Under current law, the relevant tax benefits are fragmented and vary depending on the nature of the person making the grant (company vs. individual) and/or the type of entity receiving it.

### 1. TAX BENEFITS APPLICABLE TO GIFTS MADE BY INDIVIDUALS

1.1. Gifts made by individuals are primarily regulated by Article 10(1)(l-quater) of the Italian Income Tax Act (“**ITA**”)<sup>1</sup>. Under this provision, as interpreted by the Italian Revenue Agency<sup>2</sup>, individuals may fully deduct from the income tax base the gifts made to:

- (i) University Hospital Institutions (*Aziende Ospedaliere-Universitarie*)<sup>3</sup> and Health and Hospitalization Institutions with research aims (*Istituti di ricovero e cura a carattere scientifico*, “**HHIs**”), both public and private<sup>4</sup>;

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<sup>1</sup> Presidential Decree 22 December 1986, No. 917.

<sup>2</sup> See Letter Ruling 7 July 2010, No. 68/E, Letter Ruling 19 August 2011, No. 87/E and Circular Letter 4 April 2017, No. 7/E.

<sup>3</sup> The list of recognized University Hospital Institutions can be found at the following URL: <http://www.dati.salute.gov.it/dati/dettaglioDataset.jsp?menu=dati&idPag=68>.

<sup>4</sup> The list of recognized public and private HHIs can be found at the following URL: [http://www.salute.gov.it/portale/temi/p2\\_6.jsp?lingua=italiano&id=794&area=Ricerca%20sanitaria&menu=ssn&tab=2](http://www.salute.gov.it/portale/temi/p2_6.jsp?lingua=italiano&id=794&area=Ricerca%20sanitaria&menu=ssn&tab=2).

- (ii) Public Research Institutions, as well as Private Research Institution subject to the supervision of the Ministry of the University and Research (“**MIUR**”) including the National Health Institution (*Istituto Superiore della Sanità*, “**NHI**”).

Therefore, gifts made to Hospitals that are neither University Hospital Institutions, nor HHIs, do not qualify for the above tax benefit.

1.2. In addition, Article 83 of Legislative Decree 3 July 2017, No. 117 (*Codice del Terzo Settore*, hereinafter “**CTS**”) provides for two alternative tax benefits, which are applicable to gifts made to Recognized Non-Profit Organizations (*Organizzazioni non lucrative di utilità sociale*, “**NPOs**”)<sup>5</sup> and Voluntary Organizations (“**VO**”)<sup>6</sup>:

- (i) a deduction from income tax equal to 30% of the gifts made to NPOs (35% for gifts made to VOs); this deduction from tax is granted up to EUR 30,000 for each financial year<sup>7</sup>;
- (ii) a deduction from the income tax base of the gifts made to NPOs and VOs, up to an amount equal to 10% of the income tax base<sup>8</sup>.

1.3. Finally, Article 14 of Law Decree 14 March 2005, No. 35 provides that gifts made to recognized foundations and associations aimed at carrying on and promoting of research activities (“**Research entities**”) are deductible from the taxable income up to the lower of 10% of the taxable income and EUR 70,000.

1.4. In order to claim the mentioned tax benefits the gifts must be made by traceable means of payment (e.g. bank or postal wiring, credit card, debit card and prepaid card). Gifts made in cash fall outside the scope of the tax benefits<sup>9</sup>. Moreover, the taxpayers must keep evidence of the payments (bank or postal receipt, or credit card

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<sup>5</sup> Legislative Decree 3 July 2017, No. 117. Although the CTS is not yet entirely in force, the aforementioned provision is applicable as from 2018 (as provided for by Article 104(1) of the CTS).

<sup>6</sup> VOs include, among others, VOs active in the health sector.

<sup>7</sup> By making a gift of EUR 10,000 to a NPO, therefore, it is possible to benefit from a tax deduction of EUR 3,000. However, if the gift were equal to EUR 200,000, the deduction from income tax would be limited to the maximum amount of EUR 30,000.

<sup>8</sup> Therefore, if the taxable income were equal to EUR 200,000, a gift of EUR 10,000 would lead to a deduction of EUR 10,000 from the income tax base, which would correspond to a tax saving of EUR 4,300 (plus the tax savings relating to the regional and municipal surcharges). If the gift were equal to EUR 200,000 and the taxable income amounted to (or above to) EUR 2,000,000, the tax savings would be equal to EUR 86,000 (plus the tax savings relating to the regional and municipal surcharges).

<sup>9</sup> See Circular Letter 4 April 2017, No. 7/E.

statement). The Revenue Agency also requires proof that the payments are made as gifts.

## 2. TAX BENEFITS APPLICABLE TO GIFTS MADE BY ENTITIES

- 2.1 Gifts made by companies and other enterprises subject to Italian Corporate Tax (*Imposta sul reddito delle società*, “**IRES**”) are deductible from the corporate tax base, under Article 100 (2)(a) of the IITA. This provision grants the deductibility, up to 2% of the tax base, of gifts made to entities engaged in scientific research and medical assistance<sup>10</sup>.
- 2.2 In addition, Article 1(353) of Law 23 December 2005, No. 266 provides for the deductibility from the corporate tax base of gifts made to universities, university foundations and public university institutions, research institutions<sup>11</sup>, as well as certain recognized foundations and associations aimed at carrying on and promoting scientific research (including research entities supervised by the MIUR, such as the NHI).
- 2.3 Under Article 83 of the CTS, companies and other entities subject to corporate tax can deduct from their tax base the gifts made to NPOs and VOs, up to an amount equal to 10% of the same tax base.
- 2.4. Finally, Article 14 of Law Decree 14 March 2005, No. 35 provides that gifts made to recognized foundations and associations aimed at carrying on and promoting of research activities (“**Research entities**”) are deductible from the corporate tax base up to the lower of 10% of the tax base and EUR 70,000.

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<sup>10</sup> It thus appears that the scope of application of Article 100(2)(a) is wider than the scope of Article 10 (1)(1-quater) of the IITA, as the former applies to gifts made to any type of Hospitals.

<sup>11</sup> For the purpose of the deduction, the notion “research institutions” covers also HHIs.

### 3. SUMMARY CHART

The analysis performed in the previous paragraphs shows that, because of the fragmented legislative framework, the tax benefits applicable to gifts made to entities providing assistance, or carrying on scientific research, in connection with COVID-19 can be ascertained only by performing a case-by-case analysis. Here below is a chart summarizing the tax benefits described above. We remain at your disposal, should you need additional clarifications.

Grantors	Beneficiaries	Tax benefits
Individuals	University Hospital Institutions Health and Hospitalization Institutions with research aims Research Institutions	Full deduction from the income tax base
Individuals	Recognized Non-Profit Organizations Voluntary Organizations	- Deduction from the income tax equal to 30% (35% for Voluntary Organizations) of the gift, up to EUR 30,000; <b>or</b> - Deduction from the income tax base, up to 10% of that base
Individuals	Research Institutions	Deduction from the income tax base, up to the lower of 10% of that base and EUR 70,000
Entities subject to IRES	Hospitals Research Institutions	Deduction from the corporate tax base, up to 2% of that base
Entities subject to IRES	Research Institutions	Full deduction from the corporate tax base
Entities subject to IRES	Recognized Non-Profit Organizations Voluntary Organizations	Deduction from the corporate tax base, up to 10% of that base
Entities subject to IRES	Research entities	Deduction from the corporate tax base, up to the lower of 10% of that base and EUR 70,000