

MINISTERIAL CLARIFICATIONS ON THE NEW RULES ON CAPITAL GAINS ARISING FROM REAL ESTATE SALE AFFECTED BY “SUPERBONUS” INTERVENTIONS

Revenue Agency Circular No. 13/E dated 13/06/2024

- ✓ With the Ministerial Circular under review, the Revenue Agency (RA) provides the first clarifications regarding the new provisions of Art. 1, paragraph 64 et seq. of Law 213/2023 (Budget Law 2024) by which a new hypothesis of taxable real estate capital gain concerning the sale for consideration of properties that have been the subject of subsidized interventions pursuant to Art. 119 of Decree-Law 34/2020 (so-called "Superbonus") where the sale took place within 10 years of the conclusion of said interventions (Article 67, paragraph 1, lett. b-bis of the TUIR).
- ✓ First of all, the RA clarifies that the new taxable case concerns all types of property subject to the subsidized interventions, regardless of whether these interventions were carried out on the property by the "transferring" owner or by the "other parties entitled" to the Superbonus tax deduction (e.g., tenant, bailer, etc.) and regardless of the percentage of deduction due (110%, 90%, 70%) as well as regardless of the way in which the tax deduction is used (in the tax return or through the option for "transfer of credit" or "invoice discount").
- ✓ The RA also points out that the new taxable case becomes applicable only in relation to the first sale for consideration (which occurs within 10 years of the completion of the subsidized interventions) and not also to any subsequent transfers of the property. The type of interventions (so-called towing or towed) carried out on the property being transferred does not matter, so it is sufficient that a subsidized intervention has been carried out on the common parts of the building of which the real estate unit transferred is part.
- ✓ Lastly, the RA clarifies that the initial deadline for calculating the 10-year time limit, identified as the date of completion of the interventions eligible for the Superbonus, must be proven by the administrative approvals or notices required by the town planning and building regulations in force.

