News on the Third Sector, sport, business crisis and VAT - Legislative Decree 4.12.2025 n. 186

info@bgsm.it – www.bgsm.it
Via F. Ferrucci, 57 – 59100 Prato (PO) – Tel. 0574/575795

1 INTRODUCTION

With Legislative Decree no. 186 of 4.12.2025, published in the *Official Gazette.* 12.12.2025 no. 288, on the basis of the enabling law for tax reform referred to in Law no. 111 of 9.8.2023, numerous innovations have been provided for in the fieldof the third sector, sport, business crisis and VAT.

Legislative Decree 186/2025 entered into force on 13.12.2025, the day after its publication, but specific effective dates are provided for various provisions.

2 THIRD SECTOR ENTITIES - TRANSFER OF GOODS FROM THE - COMMERCIAL TO THE NON-COMMERCIAL SPHERE

Article 1 of Legislative Decree 186/2025 introduced Article 79-bis into Legislative Decree 117/2017 (Third Sector Code), which aims to ensure the fiscal neutrality of the capital gains that could emerge in the transfer of business assets from the commercial to the non-commercial sphere, as a result of the requalification of activities of general interest on the basis of the new criteria dictated by the Third Sector Code and applied from the tax period following the one in question course as of 31.12.2025.

By exercising a specific option in the tax return, entities can choose not to compete in the formation of the taxable income of the capital gain relating to the assets relating to the company on condition and as long as the assets are used for the performance of the statutory activity for the exclusive pursuit of civic, solidarity and social utility purposes.

2.1 EMERGENCE OF CAPITAL GAIN

The state of suspension of the capital gain ceases when:

- the assets are intended by the entity for other different purposes;
- or the goods are transferred for consideration or in the event of compensation, including in the form of insurance, for their loss or damage.

In the case of use for purposes other than civic, solidarity and social utility, the capital gain is made up of the difference between the normal value of the assets at the time of use for other purposes and the cost not amortised at the time of transfer.

In the event of a sale or compensation, the capital gain is made up of the difference between the consideration or compensation obtained at the time of the sale or compensation, net of directly attributable ancillary charges, and the non-amortised cost of the asset.

The capital gain thus determined contributes to forming the income pursuant to Article 86, paragraph 4 of the TUIR.

2.2 CIVILLY RECOGNIZED RELIGIOUS ENTITIES

The measure can also be used for assets included in the destined assets and indicated in the regulation of the ETS branches of civilly recognized religious entities.

2.3 EFFECTIVE DATE

Being included in Title X of the Third Sector Code, the rule becomes operational from the tax period following the one in progress on 31.12.2025 (therefore from the 2026 tax period, for "solar" subjects).

3 FLAT-RATE REGIME FOR AMATEUR SPORTS ENTITIES

Art. 7 of Legislative Decree 186/2025 makes some amendments to art. 1 of Law no. 398 of 16.12.91, aimed at specifying that the flat-rate regime is applicable:

- associations, corporations and amateur sports cooperatives registered in the National Register of Amateur Sports Activities (RASD), with the exception of Third Sector entities;
- provided that, in the previous tax period, the income obtained from the exercise of commercial activities does not exceed the amount of 400,000.00 euros (this limit is included in the text of the rule, but had already been defined by Article 90 paragraph 2 of Law 289/2002).

Exceeding the same limit of € 400,000.00 during the year determines the exit from the regime with effect from the month following the month in which the limit is exceeded.

Effective date

The provision has been in force since 13.12.2025.

4 TAX RELIEF ON CONTINGENT ASSETS FROM DISCHARGE OF DEBT

With a rule of authentic interpretation, contained in art. 8 of Legislative Decree 186/2025, the preferential regime provided for by art. 88 par. 4-ter of the TUIR for contingent assets from debt reduction is also extended to insolvency proceedings and similar institutions provided for by Legislative Decree 14/2019 (so-called "business crisis code", CCII).

4.1 REGULATION OF THE EXEMPTION REGIME

Pursuant to Article 88, paragraph 4-ter of the Consolidated Income Tax Act, the following is established:

- the full non-taxability for contingent assets from discharge of debt deriving from institutions activated for liquidation purposes (bankruptcy arrangement or liquidation estimate) or from equivalent foreign procedures;
- partial tax relief for contingent assets from discharge of debt accrued as a result of institutions functional to the continuation of business activities (composition with creditors, debt restructuring agreement approved *pursuant to* Article 182-bis of RD 267/42, certified recovery plan *pursuant to* Article 67 paragraph 3 letter d) of the aforementioned RD 267/42) and equivalent foreign procedures.

Determination of the tax-free amount

In the case referred to in the second point, the reduction of the company's liabilities – including those due to shareholders – does not constitute contingent assets for the part of the contingent that exceeds the sum:

- current or past tax losses that may be offset pursuant to art. 84 of the TUIR (without considering, therefore, the 80% limit), including those transferred to the tax filing system;
- of the period deduction and the excess relating to the ACE pursuant to art. 1 co. 4 of Legislative Decree 201/2011 and Ministerial Decree 3.8.2017;
- interest expense and similar financial charges referred to in art. 96 par. 4 of the TUIR.

4.2 EXTENSION OF THE EXEMPTION REGIME TO THE PROCEDURES OF THE CRISIS CODE

Article 8 of Legislative Decree 186/2025 establishes that Article 88, paragraph 4-ter of the TUIR is interpreted as meaning that the following are not considered contingent assets:

- reductions of the company's debts also in the context of composition in judicial liquidation, minor liquidation arrangement and simplified arrangement for the liquidation of assets: in this case, the contingency is entirely non-taxable;
- the reductions of the company's debts even in cases of a minor arrangement with creditors as a going concern, an approved debt restructuring agreement (pursuant to Articles 57, 60 and 61 of the CCII), a certified plan pursuant to Art. 56 of the aforementioned CCII, published in the Register of Companies, or of a restructuring plan subject to approval: in this case, the contingency is partially non-taxable, as specified in the previous paragraph.

Effective date

Since it is a rule of authentic interpretation, it has retroactive effect and, therefore, also applies to the past. It is, however, established that any higher taxes paid as a result of interpretations different from that contained in the provision in question will not be refunded.

5 REFERENCE THRESHOLD FOR FLAT-RATE SCHEMES FOR VOLUNTARY ORGANIZATIONSAND SOCIAL PROMOTION ASSOCIATIONS

Article 2 of Legislative Decree 186/2025 sets at €85,000.00 the revenue threshold within which voluntary organisations (SBs) and social promotion associations (APS) can make use of the VAT exclusion regime provided for by Article 5, paragraph 15-quinquies of Legislative Decree 146/2021 and the flat-rate regime envisaged, both for VAT purposes and for direct tax purposes, by art. 86 of Legislative Decree 117/2017.

5.1 VAT EXCLUSION REGIME PURSUANT TO DECREE-LAW 146/2021

Article 5, paragraph 15-quinquies of Legislative Decree 146/2021 provides that, pending the implementation of the provisions of Title X of Legislative Decree 117/2017, voluntary organisations and social promotion associations may apply, for VAT purposes only, the exclusion regime provided for by Article 1, paragraphs 58-63 of Law 190/2014 for the so-called "flat-rate" funds.

In essence, these entities, if they have chosen to exercise the option, do not charge VAT on the transactions carried out and do not deduct the tax paid on the purchases, as well as benefiting from exemption from most VAT obligations (payment, declaration, etc.).

Prior to the amendments to Legislative Decree 186/2025, the option for this regime was allowed to SBs and APS with annual revenues not exceeding €65,000.00.

Art. 2 paragraph 1 of Legislative Decree 186/2025, on the other hand, raises this limit to 85,000.00 euros.

Effective date

The new revenue threshold should operate with reference to the 2025 tax period, also considering that, starting from 2026, this regime should be "superseded" by that provided for by art. 86 of Legislative Decree 117/2017.

5.2 FLAT-RATE REGIME REFERRED TO IN ART. 86 OF LEGISLATIVE DECREE 117/2017

Art. 86 of Legislative Decree 117/2017 (Third Sector Code) provides for a flat-rate regime, valid for both VAT and income tax purposes, for voluntary organizations (ODV) and social promotion associations (APS) that meet certain conditions. This regime may be applied optionally starting from the tax period following the one in progress on 31.12.2025 (therefore from 2026, for "solar" subjects).

Essentially, in relation to the commercial activities carried out, it will allow:

- to determine the taxable income by applying a profitability coefficient of 1% for ODVs and 3% for ODS to the amount of revenues received;

- from a VAT point of view, not to exercise the reimbursement of the tax for the transactions carried out and to benefit from the exemption from most of the obligations related to the tax, without prejudice to the non-deductibility of the VAT paid on purchases.

Prior to the amendments provided for by Legislative Decree 186/2025, art. 86 paragraph 1 of Legislative Decree 117/2017 made the option for this regime subject to the fact that the entities, in the tax period prior to the reference one, had not exceeded the threshold of 130,000.00 euros in revenues or the threshold possibly harmonized at European level.

As a result of art. 2 co. 2 of Legislative Decree 186/2025, on the other hand, the entities concerned will be able to apply the regime in question provided that in the previous tax period they have received revenues, related to the tax period, not exceeding 85,000.00 euros or to the different threshold that should be harmonized at European level.

6 SIMPLIFICATIONS RELATED TO THE FLAT-RATE REGIME FOR VOLUNTARY ORGANIZATIONS AND SOCIAL PROMOTION ASSOCIATIONS

Art. 5 of Legislative Decree 186/2025 amends art. 86 paragraph 8 of Legislative Decree 117/2017, enriching with a further facilitation the flat-rate regime already provided for VAT and direct tax purposes, for voluntary organizations (ODV) and social promotion associations (APS) that comply with the aforementioned requirements in terms of annual revenues.

In particular, it is provided that, under this regime, entities also benefit from the exemption from the certification of fees and therefore also from the electronic transmission of daily fees pursuant to art. 2 of Legislative Decree 127/2015.

In addition, starting from the tax period following the one in progress on 31.12.2025 (therefore from the year 2026), art. 2 co. 1 letter hh) of Presidential Decree 696/96, establishing that among the hypotheses of exemption from tax certification there are also transactions carried out by SBs and APS that make use of the flat-rate regime referred to in art. 86 of Legislative Decree 117/2017.

7 EXTENSION OF THE VAT EXCLUSION SCHEME FOR ASSOCIATIONS

Art. 6 of Legislative Decree 186/2025 postpones for ten years, i.e. from 1.1.2026 to 1.1.2036, the abolition of the VAT exclusion regime provided for certain associations with reference to transactions made to members and members in accordance with institutional purposes.

Specifically, art. 1 co. 683 of Law 234/2021 is amended, which establishes the effective date of the provisions contained in art. 5 co. 15-quarter of Decree-Law 146/2021.

The latter provision, in fact, in order to adapt the national legislation to that of the Community, provides:

- the repeal of the VAT de-marketing regime provided for by art. 4 co. 4, 5 and 6 of Presidential Decree 633/72 for the operations of some associations;
- the introduction of the VAT exemption regime for many of the services currently de-marketed, in order to exempt entities from paying the tax.

The reform of the discipline has been postponed several times and, as a result of art. 6 of Legislative Decree 186/2025, is now postponed for a further ten years, confirming the current exclusion regime until 31.12.2035.

Therefore, the following will continue to be considered outside the scope of VAT, pursuant to art. 4 paragraph 4 of Presidential Decree 633/72, the supply of goods and services rendered for specific consideration or additional contributions in accordance with the institutional purposes:

- political, trade union and trade associations, religious, welfare, cultural, amateur sports, social promotion and extra-curricular training of the person;

- towards members, associates or participants, of associations that carry out the same activity and that by law, regulation or statute are part of a single local or national organization, as well as their respective members, associates or participants and members of the respective national organizations.

The VAT exclusion is also confirmed for:

- the publications of political, trade union and trade associations, religious, welfare, cultural, amateur sports, social promotion and extra-curricular training of the person transferred mainly to their members (art. 4 co. 5 of Presidential Decree 633/72);
- the supply of goods and services carried out on the occasion of propaganda events by political parties represented in national and regional assemblies (Article 4, paragraph 5 of Presidential Decree 633/72);
- the administration of food and beverages carried out by social promotion associations pursuant to art. 4 co. 6 of Presidential Decree 633/72.

8 VAT BENEFITS REFERRED TO THIRD SECTOR ENTITIES

Taking into account the repeal of the discipline of NPOs provided for by Legislative Decree 117/2017 (Third Sector Code), art. 3 of Legislative Decree 186/2025 "updates" the scope of application of some VAT benefits so far referred to non-profit organizations of social utility. Consequently, both art. 89 paragraph 7 of Legislative Decree 117/2017, and arts. 3 and 10 of Presidential Decree 633/72.

8.1 VAT BENEFITS FOR NPOS

Please note that currently:

- art. 3 paragraph 3, first sentence, of Presidential Decree 633/72 provides for the exclusion from VAT for advertising dissemination services carried out for the benefit of the institutional activities of non-profit entities and associations that pursue educational, cultural, sporting, religious and social assistance and solidarity purposes, as well as in favor of non-profit organizations;
- Article 10 of Presidential Decree 633/72 provides that among the beneficiaries of the exemptions provided for in nos. 12), 15), 19), 20) and 27-ter) of the relevant paragraph 1 there are also non-profit organizations.

8.2 NEW SUBJECTIVE SCOPE OF THE BENEFITS

In view of the repeal of the regulations relating to non-profit organizations, art. 89 par. 7 of Legislative Decree 117/2017 established that, with the effectiveness of the relevant Title X, the reference to such entities contained in the aforementioned arts. 3 and 10 of Presidential Decree 633/72 should have been replaced with the reference to "non-commercial *third sector entities*".

Art. 3 of Legislative Decree 186/2025 now provides for the deletion of art. 89 par. 7 second sentence of Legislative Decree 117/2017 and, at the same time, amends art. 3 and 10 of Presidential Decree 633/72, referring the benefits no longer to non-commercial Third Sector entities, but to the generality of ETS, excluding only social enterprises established in corporate form.

Specifically, this change in the subjective scope concerns:

- advertising dissemination services excluded from VAT *pursuant to* Article 3, paragraph 3, first sentence, of Presidential Decree 633/72;
- the free supply of goods to charities, exempt from VAT *pursuant to* Article 10 no. 12) of Presidential Decree 633/72;

- hospitalization and care services *pursuant to* Article 10 no. 19) of Presidential Decree 633/72;
- educational services exempt from VAT *pursuant to* Article 10 no. 20) of Presidential Decree 633/72;
- social welfare services provided to disadvantaged persons exempt from VAT *pursuant to* Article 10 no. 27-ter) of Presidential Decree 633/72.

An exception is the exemption provided for by art. 10 no. 15) of Presidential Decree 633/72 for the transport of the sick or injured by means of vehicles equipped for this purpose. In this case, the reference to non-profit organizations is replaced with the reference to the generality of Third Sector entities, including, therefore, corporate social enterprises.

Effective date

According to art. 3 paragraph 3 of Legislative Decree 186/2025, the amendments relating to art. 3 and 10 of Presidential Decree 633/72 will apply with the same effective date as provided for the provisions of Title X of Legislative Decree 117/2017, i.e. starting from the tax period following 31.12.2025 (therefore from the year 2026).

9 EXTENSION OF THE 5% VAT RATE TO SOCIAL ENTERPRISES ESTABLISHED IN CORPORATE FORM

Art. 4 of Legislative Decree 186/2025 extends the VAT rate of 5% to certain services provided in the educational, social-health and welfare sectors by social enterprises established in corporate form.

In particular, no. 1) of Table A, part II-bis, annexed to Presidential Decree 633/72, which already provided for the reduced VAT rate for the services referred to in nos. 18), 19), 20), 21) and 27-ter) of art. 10 co. 1 of Presidential Decree 633/72, when rendered by social cooperatives and their consortia in favor of certain categories of disadvantaged individuals (e.g. the elderly, disabled adults, drug addicts).

As a result of the amendment, the subjective scope of the 5% rate is extended to social enterprises constitutedin company form.

The following benefits are affected by the benefit when rendered in favour of the disadvantaged persons referred to in no. 27-ter) of art. 10 co. 1 of Presidential Decree 633/72:

- diagnosis, treatment and rehabilitation services rendered to the person in the exercise of the health professions and arts;
- hospitalization and treatment services, including the administration of medicines, health devices and food;
- educational services for children and young people and teaching services of all kinds, including for training, updating, retraining and professional reconversion, including services relating to accommodation, food and the supply of books and teaching materials;
- services of orphanages, orphanages, kindergartens, retirement homes for the elderly and the like, sea, mountain and country colonies and hotels and youth hostels referred to in Law 326/58, including the provision of food, clothing and medicines, curative services and other ancillary services;
- social and health services, home or outpatient care, in the community and the like.

Effective date

Since no specific effective date is indicated, the rule should be considered effective from 13.12.2025, as is the generality of the provisions of Legislative Decree 186/2025.

10 AMENDMENTS TO THE RULES ON VAT DEDUCTION FOR NON-COMMERCIAL ENTITIES

Article 10 of Legislative Decree 186/2025 entirely replaces Article 19-ter of Presidential Decree 633/72, which regulates VAT deduction for non-commercial entities.

According to what can be read in the explanatory report to the Legislative Decree scheme, the intervention does not involve substantial changes in the exercise of the deduction, but is aimed only at the formal improvement of the regulatory text.

10.1 SUBJECTIVE SCOPE

In the reformulated text, art. 19-ter of Presidential Decree 633/72, in order to identify the scope of application of the deduction rules, no longer refers to the entities referred to in the previous art. 4 par. 4, but refers in a more general way to "*subjects who carry out economic activity on a non-exclusive basis*".

Moreover, the reference to "economic activity" rather than "commercial or agricultural activities", denotes the use of terminology more in line with that of art. 9 of Directive 2006/112/EC.

10.2 PROMISCUOUS PURCHASES

It is understood, at a substantive level, that the tax paid for the purchase of goods and services used partly for economic activity and partly for purposes unrelated to it is deductible only for the portion attributable to the former. However, compared to the previous text, it is made explicit that:

- among the acquisitions affected by the discipline there are also intra-community ones;
- The deductible portion must be determined "*according to objective criteria, consistent with the nature of the goods and services purchased*".

10.3 SEPARATE ACCOUNTING

The new text of art. 19-ter of Presidential Decree 633/72 provides that public and private entities and companies that are among the subjects that carry out economic activity on a non-exclusive basis (simple companies), for the purposes of deducting VAT on mixed purchases, must adopt separate accounts.

The need to separate the accounts in the case of mixed purchases is therefore confirmed. It is no longer indicated, however, that such accounting must comply with art. 20 and 20-bis of Presidential Decree 600/73.

In addition, it is more clearly established that the separation must concern:

- the activities for which the institutions are taxable persons;
- activities for which institutions are not taxable persons.

However, the provisions concerning the consequences of the omitted or irregular keeping of compulsory accounts are deleted, since the general rules must be considered valid in such cases.

Finally, the law confirms that for certain entities (e.g. Regions, Provinces, Municipalities and their consortia, universities and research institutions, etc.) the accounting separation between economic and non-economic activities must be carried out within the framework and with the methods provided for compulsory public accounting by law or bylaws.

11 CHANGES TO THE ADJUSTMENT OF THE VAT DEDUCTION

Article 9 of Legislative Decree 186/2025 repeals paragraph 3 of Article 19-bis2 *of Presidential Decree 633/72, with effect from 13.12.2025.*

The repealed provision governed the adjustment of the VAT deduction with regard to changes "*in the tax regime of active transactions*" or changes "*in the regime of deduction of tax on purchases or activities*" that involved a deduction of the tax to an extent different from that already made.

The adjustment of the deduction referred to in art. 19-bis2 *par. 3 of Presidential Decree 633/72 was exercised only for goods and services not yet sold or not yet used and, for depreciable assets, was carried out if four years have not elapsed since their entry into operation.*

With the repeal of the aforementioned provision, the adjustment of the deduction, even in cases of change in the VAT regime of active transactions or change in the deduction regime, must be carried out, on an analytical basis, pursuant to art. 19-bis1 *par. 1 and 2 of Presidential Decree 633/72.*

The adjustment of the deduction is, therefore, due "*if the goods and services themselves are used to carry out transactions that give rise to the right to the deduction to an extent other than that initially made*". For this purpose, the first use of the goods or services shall be taken into account.

For depreciable assets, the adjustment of the deduction is made in relation to the different use that occurs in the year of their entry into operation or in the following four years and is calculated with reference to as many fifths of the tax as there are years missing to the completion of the five-year period (in the case of buildings, the adjustment period is set at ten years).

As indicated in the explanatory report to the draft Legislative Decree, the amendment in question was intended to "*rationalize the regulatory text, eliminating a redundant provision with respect to the overall content of the article (19-bis2), which already fully regulates the mechanism of adjustment of the deduction for goods and services used, in whole or in part, for transactions that give the right to a deduction different from the one initially made*".

12 VAT EXEMPTION REGIME FOR INTERNATIONAL TRANSPORT

Art. 12 of Legislative Decree 186/2025, with effect from 13.12.2025, amends the VAT exemption regime for the international transport of goods referred to in art. 9 co. 1 n. 2 of Presidential Decree 633/72.

Pursuant to art. 9 paragraph 3 of Presidential Decree 633/72, the non-taxability regime applies to international transport of goods for export, transit, temporary importation or import (if the fees are included in the VAT taxable amount), provided that the services are provided to the exporter, the holder of the transit procedure, the importer, the recipient of the goods or the person who provides the shipping services.

With the amendments made by art. 12 of Legislative Decree 186/2025, on the other hand, it is provided that the non-taxability regime is excluded, for services rendered to parties other than those just mentioned, even if such services are rendered by intermediaries.

13 OBLIGATIONS OF PAYMENT SERVICE PROVIDERS - AMENDMENTS

Art. Article 11 of Legislative Decree 186/2025 intervenes in the rules governing the obligations of payment service providers ("PSPs"), modifying the subjective scope and redefining the notion of "payment service" and "payment transaction", so as to align domestic legislation with EU legislation.

The new Article 40-bis of Presidential Decree 633/72 excludes from the definition of "PSP":

- the ECB and the central banks, even if they do not act as monetary authorities;
- public entities (public authorities and state, regional and local public administrations), even if they do not act as public authorities.

On the other hand, subjects registered in the register of payment institutions exempted, pursuant to art. 114-sexiesdecies of Legislative Decree 385/93 (Consolidated Banking Act, TUB), from the obligations referred to in Title V-ter of the TUB are included among the "PSPs".

With regard to the notion of "payment service", according to the new wording of Article 40-bis of Presidential Decree 633/72, it includes (pursuant to Article 1, paragraph 2, letter h-septies.1) no. 3), 4), 5) and 6) of Legislative Decree 385/93):

- the execution of payment transactions, including the transfer of funds to a payment account with the user's payment service provider or with another payment service provider (execution of direct debits, including *one-off* direct debits; execution of payment transactions using payment cards or similar devices; execution of credit transfers; including standing orders);
- the execution of payment transactions when the funds are part of a credit line granted to a payment service user (execution of direct debits, including *one-off* direct debits; execution of payment transactions using payment cards or similar devices; execution of credit transfers, including standing orders);
- the issuance of payment instruments and/or the contracting of payment transactions;
- the remittance of money.

Finally, compared to the previous version, cases in which Legislative Decree 11/2010 does not apply are excluded from the definition of "payment transaction" (including, by way of example, payment transactions carried out exclusively in cash directly from the payer to the beneficiary, without any intermediation), while cash remittances are included, thanks to an explicit reference.