

**DL 27.3.2026 no. 38 (so-called "Tax Decree")
amended by DL 3.4.2026 no. 42 -
Main changes**

1 INTRODUCTION

With Legislative Decree 27.3.2026 no. 38, published in the *Official Gazette no. 72* of 27.3.2026, numerous urgent provisions have been provided for in tax and economic matters (the so-called "Tax Decree").

Decree-Law 38/2026 entered into force on 28.3.2026, the day after its publication.

With the subsequent DL 3.4.2026 no. 42, published in the *Official Gazette no. 3.4.2026 no. 78* and entered into force on 4.4.2026, art. 8 of Decree-Law no. 38 of 27.3.2026 was amended, on the subject of tax credit for companies that have submitted communications for Transition 5.0 with exhaustion of resources.

The main changes contained in Decree-Law 38/2026 are analysed below, taking into account the amendments made by Decree-Law 42/2026.

Decree-Law 38/2026 is in the process of being converted into law and the related provisions are therefore subject to further amendments and additions.

2 TAX CREDIT FOR COMPANIES THAT HAVE SUBMITTED COMMUNICATIONS FOR TRANSITION 5.0 WITH EXHAUSTION OF RESOURCES

With reference to the Transition 5.0 tax credit, art. 8 of Decree-Law 38/2026, as amended by art. 1 par. 1 letter a) of Decree-Law 42/2026, provides for the recognition of a "new" tax credit to companies that:

- have submitted the communications referred to in art. 38 paragraph 10, first sentence, of Decree-Law 19/2024;
- have received from the GSE the communication that the investment is technically eligible pursuant to the Ministerial Decree of 24.7.2024, as well as the exhaustion of the available resources.

2.1 DETERMINATION OF THE TAX CREDIT

The new tax credit:

- is equal to 89.77% (instead of the previous 35% provided for by the original version of Decree-Law 38/2026) of the amount of the tax credit requested with the aforementioned communications with reference to the investments referred to in Annexes A and B to Law 232/2016, and to staff training expenses;
- is within the expenditure limit of €1,302.3 million for the year 2026 (instead of the previous limit of €537 million provided for by the original version of Decree-Law 38/2026).

The GSE will notify the interested parties of the tax credit that can be used by 30.4.2026, giving prior notice to the Revenue Agency.

2.2 HOW TO USE

The tax credit can be used:

- exclusively in compensation, pursuant to art. 17 of Legislative Decree 241/97;
- by submitting the F24 form by 31.12.2026, after five days from the communication to the interested parties of the usable credit;
- without the application of annual limits on compensations.

2.3 TAX IRRELEVANCE

The tax credit:

- it does not contribute to the formation of income and the taxable base of IRAP;
- is not relevant for the purposes of determining the *pro rata* deductibility of interest expenses and general expenses, pursuant to art. 61 and 109 par. 5 of the TUIR.

2.4 SPECIFIC CONTRIBUTION FOR SELF-PRODUCTION PLANTS AND CERTIFICATIONS

As a result of the amendments made by Decree-Law 42/2026, an ad hoc contribution is also provided for the aforementioned companies granted in proportion to the expenses, resulting from the communications, incurred for:

- investments in plants aimed at the self-production of electricity from renewable sources for self-consumption, including expenses for systems for the storage of the energy produced, in compliance with the principle of not causing significant damage to the environment (DNSH);
- certifications relating to accounting documentation and those necessary to demonstrate the reduction of energy consumption and compliance with the DNSH principle, issued by qualified parties.

This contribution may not exceed, for each application, the amount of the tax credit requested with the aforementioned communications for the same expenses.

However, the contribution is up to a maximum of €57.7 million for the year 2026, €80 million for the year 2027 and €60 million for the year 2028.

Implementing measure

The Ministry of Enterprise and Made in Italy provides for the disbursement of these contributions, on the basis of the information provided by the GSE in relation to the expenses incurred, according to the procedures that will be identified with its own subsequent decree.

3 HYPER-DEPRECIATION - ELIMINATION OF THE TERRITORIAL REQUIREMENT FOR THE PRODUCTION OF GOODS

Art. 7 of Decree-Law 38/2026 eliminates the requirement of the geographical origin of the goods that was required by art. 1 co. 427 of Law 199/2025 (2026 Budget Law), making investments involving capital goods produced outside the countries of the European Union and the countries adhering to the Agreement on the European Economic Area also eligible for the hyper-depreciation facilitation discipline.

Effective date

The provision applies to investments made from 1.1.2026.

4 ELIMINATION OF THE PARTICIPATION THRESHOLD TO BENEFIT FROM THE DIVIDEND EXCLUSION REGIME AND THE PEX REGIME

Article 11 of Decree-Law 38/2026 eliminated the provisions that linked the exclusion from income of dividends received by entrepreneurs (Articles 59 and 89 of the Consolidated Income Tax Act) and the application of the *participation exemption* (Articles 58 and 87 of the Consolidated Income Tax Act) to the verification of the minimum shareholding threshold of 5% or the minimum tax value of the shareholding of 500,000.00 euros.

The repeal takes effect retroactively from 1.1.2026, making the aforementioned participatory thresholds that had been introduced by Law 199/2025 (2026 Budget Law) essentially ineffective.

4.1 REPEALED RULES

The rules introduced by Law 199/2025 and now repealed by Decree-Law 38/2026 established that entrepreneurs could benefit from the exclusion from income of dividends to the extent of 95% (or

60%, 50.28% or 41.86% for sole proprietorships and partnerships) only if the shareholding in the issuer:

- was at least equal to 5% in terms of participation in the capital;
- alternatively, it had a tax value in absolute terms of at least € 500,000.00.

The participatory thresholds were to be applied to the distributions of profits and reserves approved from 1.1.2026.

For the purposes of applying the *participation exemption*, the additional condition of the participation threshold would have concerned the shares or quotas acquired from 1.1.2026.

4.2 RECALCULATION OF ADVANCES FOR 2026 - ELIMINATION

With the elimination of the participatory threshold in question, the obligations to recalculate the 2026 advance pursuant to art. 1 paragraph 55 of Law 199/2025, which essentially provided for the redetermination of the historical tax of 2025 assuming, only for these specific purposes, that the provisions introduced on dividends and capital gains were already in force; From this point of view, therefore, the determination of advances with the historical method will follow the ordinary rules.

5 RULES ON NEGATIVE GOODWILL FOR IRES AND IRAP PURPOSES - INSTALMENTS

Article 3 of Legislative Decree 38/2026 regulates the tax regime of the so-called "negative goodwill" (so-called "*Net Negative Goodwill*") for IRES and IRAP purposes, introducing respectively paragraph 5-ter to Article 86 of the TUIR and paragraph 4-nonies to Article 11 of Legislative Decree 446/97.

The two provisions are of the same tenor and provide that the negative difference between the consideration and the value of the assets and legal relationships that make up the business or business unit, limited to the portion recognised in the income statement, contributes on a straight-line basis to the formation of income or, with regard to IRAP, to the determination of the value of net production, in the same year and in the following four years.

The Explanatory Report to Decree-Law 38/2026 states that the new rules supplement the favourable regime already provided, for indirect tax purposes, for the same transactions, in relation to the transfer of instrumental real estate that is not susceptible to different use except for radical transformations (Article 1, paragraph 237 of Law 234/2021).

5.1 SUBJECTIVE SCOPE OF APPLICATION

The new rules on negative goodwill apply only to entities that adopt international accounting standards.

In the Explanatory Report to Legislative Decree 38/2026, the limitation to IAS/IFRS-adopters is motivated by the different accounting treatment of negative goodwill provided for by international accounting standards compared to that established for entities that adopt national accounting standards.

5.2 OBJECTIVE SCOPE OF APPLICATION

The regulations in question are applicable:

- to the sale of a company or business unit that guarantees the continuation of the activity and maintenance of the employment structure, pursuant to art. 1 co. 237 of Law 234/2021;
- to the negative goodwill recognised in the income statement.

5.3 EFFECTIVE DATE

Pursuant to art. 3 paragraph 3 of Decree-Law 38/2026, the new provisions apply from the tax period in progress to 31.12.2024 (therefore from the year 2024 for "solar" subjects).

According to what was stated in the Explanatory Report to Decree-Law 38/2026:

- the aforementioned retroactivity aims to allow access to as many subjects as possible among those who, at the time of entry into force of the Decree, have not yet submitted their tax return;
- for most subjects whose financial year does not coincide with the calendar year, the change therefore already has effect when determining the income to be carried out with the next tax return;
- taxpayers whose financial year coincides with the calendar year, on the other hand, in order to comply with the new provisions, will have to submit a supplementary return pursuant to art. 2 co. 8 of Presidential Decree 322/98.

6 COMMISSIONS OF TRAVEL AND TOURISM AGENCIES - APPLICATION OF THE WITHHOLDING TAX FROM 1.5.2026

Article 1, paragraphs 140 - 142 of Law 199/2025 (Budget Law 2026) provided for the repeal of the exemption regime from the application of withholding tax (referred to in Article 25-bis, paragraph 5 of Presidential Decree 600/73) for commissions received:

- travel and tourism agencies;
- agents, agents and sea and air brokers;
- by agents and commission agents of oil companies for the services rendered to them directly.

Effective date

As a result of the amendments introduced by art. 6 par. 1 of Decree-Law 38/2026 to art. 1 par. 142 of Law 199/2025, the abolition of the exemption regime and the consequent obligation to apply the withholding tax will apply from 1.5.2026 (instead of the previous 1.3.2026).

6.1 COMMISSIONS TO BE WITHHELD

Since the exemption regime is eliminated with reference to commissions paid from 1.5.2026 and that the withholding must be made at the time of payment, commissions paid to the aforementioned subjects from that date will be subject to the same, even if the commissions have accrued earlier.

6.2 DIRECT RETENTION OF COMMISSIONS BY RECIPIENTS

If commissions, due to regulatory provisions or contractual agreements, are directly withheld from the amount of the sums collected, travel and tourism agencies, agents, agents and sea and air brokers, as well as agents and commission agents of oil companies are required to remit to the principals the withholdings that are understood to have been made from 1.6.2026.

6.3 COMMUNICATION FOR THE APPLICATION OF THE REDUCED WITHHOLDING TAX

In the presence of the requirements (continuous employment of employees or third parties), the request for the application of the reduced withholding tax (4.6% of the entire commissions), drawn up on the declaration form referred to in Ministerial Decree 16.4.83, must be sent to the customer via PEC or registered mail with acknowledgement of receipt by 16.5.2026.

7 WITHHOLDING TAX ON PRIZES PAID TO ATHLETES AND TECHNICIANS

Art. 9 of Decree-Law 38/2026 reintroduced the exemption from withholding tax of 20% with respect to prizes paid by CONI, the Italian Paralympic Committee (CIP), national sports federations, associated sports disciplines, sports promotion bodies, amateur sports associations and clubs to their members, as athletes and technicians in the area of amateurism, for the results obtained in sports competitions.

The measure is operational in relation to the sums paid:

- from 28.3.2026 to 31.12.2026;
- within the overall limit of 300.00 euros per subject.

If the total amount allocated in the aforementioned period is greater than € 300.00, the sums are subject entirely to withholding tax (it is therefore not a deductible).

8 NON-CUMULATION OF THE REGIME OF REPATRIATES WITH THE REGIME OF NEW RESIDENTS

Art. 2 of Legislative Decree 38/2026 updated the regulatory references contained in art. 1 co. 154 of Law no. 232 of 11.12.2016, a provision concerning the incompatibility of the regime of new residents (art. 24-bis of the TUIR) with the regime of repatriates, which now also affects the new regime provided for by art. 5 of Legislative Decree 209/2023.

8.1 REGULATORY EVOLUTION

Before the amendment, art. 1, paragraph 154 of Law no. 232 of 11.12.2016 prescribed the incompatibility expressed only with the repealed art. 16 of Legislative Decree 147/2015 (as well as with art. 44 of Legislative Decree 78/2010, concerning incentives for teachers and researchers).

In view of this, the Italian Revenue Agency (answer to ruling no. 16 of 28.1.2025) admitted the cumulation of the new regime for repatriates (art. 5 of Legislative Decree 209/2023) and incentives for teachers and researchers (art. 44 of Legislative Decree 78/2010) in the same tax period, provided that the subsidized income is not the same.

Based on the unpublished answer to the Revenue Agency's ruling of 19.12.2025, as part of the new regime referred to in art. 5 of Legislative Decree 209/2023, the principle of cumulation should have had general validity.

On the other hand, Decree-Law 38/2026 also expressly establishes the incompatibility between the regime of new residents and the new regime of repatriates referred to in art. 5 of Legislative Decree 209/2023.

8.2 EFFECTIVE DATE OF THE AMENDMENT

The new prohibition of cumulation operates from transfers of tax residence in Italy that will take place from the 2027 tax period.

9 EFFECTIVE DATE OF CHANGES TO THE VAT TAXABLE BASE FOR EXCHANGE TRANSACTIONS

Art. 1 of Decree-Law 38/2026 redefines the time start date of the amendments, made by the 2026 Budget Law, with regard to the VAT taxable base of exchange transactions and payments in payment.

9.1 EXCEEDING THE NORMAL VALUE

Art. 1, paragraph 138 of Law 199/2025 (2026 Budget Law) amended the criterion for determining the VAT taxable base relating to exchange transactions and payments in payment. It is no longer

necessary to refer to the normal value of the goods and services that are the subject of each transaction, but to the total amount of all costs referable to the goods and services (Article 13 paragraph 2 letter d) of Presidential Decree 633/72).

9.2 NEW EFFECTIVE DATE

Art. 1, paragraph 139 of Law 199/2025 established that the regulatory change described above applied to transactions carried out after the date of its entry into force (1.1.2026).

In order to preserve the negotiation structures that had been formed according to the previous regulations, this time start date is now amended by providing that the aforementioned provisions on the VAT taxable base apply to transactions carried out in execution of contracts entered into or renewed as of 1.1.2026.

9.3 SALVATION OF PREVIOUS BEHAVIORS

This is without prejudice to previous conduct adopted:

- previously all'1.1.2026;
- from 1.1.2026 to 28.3.2026 (date of entry into force of Decree-Law 38/2026), in accordance with art. 1 co. 138 of Law 199/2025.

In any case, there is no tax refund or adjustment with respect to the tax previously paid.

10 INCREASE IN STAMP DUTY ON CURRENT ACCOUNTS IN THE NAME OF PERSONS OTHER THAN NATURAL PERSONS

Article 12 of Decree-Law 38/2026, through the amendment of Article 13 paragraph 2-bis letter b) of the Tariff, Part I, attached to Presidential Decree 642/72, provided for an increase in stamp duty, to the extent of 18.00 euros per year, due by subjects other than natural persons:

- on account statements sent by banks pursuant to art. 119 of Legislative Decree 385/93 (Consolidated Banking Act);
- as well as on savings account statements, including postal ones.

In fact, it goes from the previous amount of 100.00 euros per year, applied as a levy on communications on an annual basis, to the higher sum of 118.00 euros per year.

Impact on IVAFE

By virtue of the reference to the amended Article 13, paragraph 2-bis of the Tariff, Part I, annexed to Presidential Decree 642/72 contained in Article 19, paragraph 20 of Legislative Decree 201/2011, the amount of IVAFE due on foreign current accounts and savings books of persons other than natural persons also increases to €118.00.

10.1 EFFECTIVE DATE

The increase in stamp duty operates with reference to account statements and statements issued from the date of entry into force of Decree-Law 38/2026.

Consequently, with regard to communications sent to customers other than natural persons, the stamp duty, due annually, amounts to:

- €100.00, for account statements and statements issued until 27.3.2026;
- €118.00, for account statements and statements issued from 28.3.2026 (date of entry into force of Decree-Law 38/2026).

10.2 AMOUNT OF TAX ON COMMUNICATIONS SENT PERIODICALLY DURING THE YEAR

For communications sent periodically during the year, the stamp duty due is "*related to the period reported*" (Note 3-bis to paragraph 2-bis of art. 13 of the Tariff, Part I, attached to Presidential Decree 642/72).

Therefore, as a result of the increase provided for by Decree-Law 38/2026, the amount of stamp duty applied to account statements and statements, communicated to parties other than natural persons by banks or account managers, will be equal to:

- € 59.00, for mailings made every six months;
- €29.50, for mailings made on a quarterly basis;
- 9.83 euros, for mailings made on a monthly basis.

10.3 STAMP DUTY ON CURRENT ACCOUNTS AND SAVINGS BOOKS IN THE NAME OF NATURAL PERSONS

No amendment has been made to letter a) of art. 13 co. 2-bis of the Tariff, Part I, attached to Presidential Decree 642/72.

Therefore, individuals will continue to pay the stamp duty on communications in the amount of €34.20 (always referring to the case of annual periodicity), if the average value of stock resulting from the extracts and passbooks is greater than €5,000.00 overall.

11 DEFERRAL AND DEFERRAL OF CONTRIBUTION DEBTS - REDUCTION OF THE INTEREST RATE

Art. 14 par. 1 of Decree-Law 38/2026 intervenes on the interest rate in the event of deferral and deferral for the regularization of contribution debts in installments, redetermining in two points the increase referred to in art. 13 co. 1 of Legislative Decree 29.7.81 n. 402.

In particular, the aforementioned Article 13, paragraph 1 of Decree-Law 402/81 provides that the deferral and deferral interest for the regularisation in instalments of debts for contributions and accessories required by law, due by employers to the managing bodies of compulsory social security and assistance, is equal to the rate of interest income provided for by the interbank agreements for cases of more favourable treatment, increased by five points (increase subsequently increased to 8.50 points by Article 1, paragraph 7 of Decree-Law 688/85, to 12 points by Article 2, paragraph 12 of Decree-Law 338/89 and finally established in 6 points by Article 3, paragraph 4 of Decree-Law 318/96).

With the redetermination of the increase in two points, the aim is to encourage the spontaneous fulfilment of contribution obligations and improve the recovery rate of social security credits through a facilitated instalment plan (cf. Explanatory report to DL 38/2026).

11.1 NEW INTEREST RATE MEASURE

INPS, with Circ. 2.4.2026 no. 39, taking into account that the interest rate on the main refinancing operations of the Eurosystem (formerly TUR) is currently equal to 2.15% and that the applicable increase is now two points, clarified that the deferred interest rate for the regularization of contribution debts in installments is now equal to 4.15% per annum.

11.2 EFFECTIVE DATE OF THE NEW INTEREST RATE MEASURE

The new measure takes effect from 28.3.2026 (date of entry into force of Decree-Law 38/2026).

Therefore, as clarified by the aforementioned INPS circular 2.4.2026 no. 39:

- the new rate of 4.15% per annum applies with reference to instalments submitted as of 28.3.2026, while amortisation plans already issued and notified on the basis of the interest rate previously in force will not undergo any change;

- In cases of authorization to postpone the deadline for payment of contributions, the new rate of 4.15% per annum applies starting from the contribution for the month of March 2026.

12 POSTPONEMENT OF THE APPLICATION OF THE CONTRIBUTION ON "SMALL PACKAGES"

Article 5 of Legislative Decree 38/2026 postpones by six months, from 1.1.2026 to 1.7.2026, the application of the contribution of 2.00 euros, provided for by art. 1 co. 126 - 128 of Law 199/2025 (2026 Budget Law), on shipments of low value from non-EU countries.

Specifically, this is the contribution introduced to cover administrative costs related to customs obligations relating to shipments from non-EU countries with a declared value not exceeding 150.00 euros.

According to the initial forecasts, the levy should have applied to declarations of release for free circulation registered from 1.1.2026 (see Circ. Agenzia delle Dogane e Monopoli 30.12.2025 n. 37). Now, Decree-Law 38/2026 establishes that the contribution does not apply to shipments of goods imported before the date of 1.7.2026.

The deferral of the measure would respond to the need to proceed with a technical adaptation of the information system of the Customs and Monopolies Agency, to allow the assessment and collection of the contribution.

13 INTEREST ON BONDS PAID TO DEPOSITOR GUARANTEE SCHEMES

With art. 4 of Legislative Decree 38/2026, interest and other income deriving from investments in bonds and similar securities made by depositor guarantee schemes operating in Italy are excluded from the objective scope of application of the substitute tax referred to in Legislative Decree 239/96, in order to avoid a reduction in the resources available for the performance of their institutional activities.

Time scope

The aforementioned provision applies to interest and other income paid from 28.3.2026 and until 31.12.2028.