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Subject: **Statistical recording of Superbonus according to new legislation adopted in 2023**

Reference: Methodological advice on the statistical recording of Superbonus 110%, Transition 4.0 and other renovation tax credits of February 2023¹;
Your note on the new legislation on Superbonus 110% of 28 June 2023 and additional clarifications of 9 July 2023 and of 10 August 2023.

Dear Mr Chelli,

Following the bilateral exchanges on the subject, Eurostat would like to provide you with its opinion on the statistical recording of the Superbonus tax credit taking into account the legislative changes adopted in the beginning of 2023.

1. THE ACCOUNTING ISSUE FOR WHICH A CLARIFICATION IS PROVIDED

The issue for which an opinion is being provided is the statistical recording of the Superbonus tax credit, after Decree Law No.11 of 16 February 2023 (converted into Law No.38 of 11 April 2023 that took effect on 12 April 2023) introduced changes to the previous mechanism of this tax credit. This ex-post advice is therefore closely linked to the previous methodological advice provided by Eurostat in February 2023 mentioned above. The latter clarified the statistical recording of Superbonus 110% according to the legislation valid at the time, based on Decree Law No.34 of 19 May 2020 (*'Decreto Rilancio'*) converted to Law No.77 of 17 July 2020, and following amendments.

1.1. Documentation provided

In June 2023, ISTAT provided Eurostat with a note describing the legislative changes introduced by the new Law and proposed two approaches for the recording of the 2023 Superbonus in government accounts. ISTAT also explained the implications as regards the availability of data. Following questions raised by Eurostat, the Italian statistical authorities provided further details on the amended scheme in July and in August 2023.

¹ [Advice letter on Superbonus February 2023](#)

In addition to the above-mentioned additional details and information, Eurostat also bases its opinion on the documentation provided by the Italian statistical authorities that is referred to in the February 2023 methodological advice on the statistical recording of Superbonus 110%.

1.2. Description of the case

1.2.1. Initial features of the Superbonus 110% and related advice

Initial features of the Superbonus 110%

The features of Superbonus 110% tax credit were described in detail in the methodological advice provided in February 2023. They are summarised below.

The Italian government introduced the said tax credit in 2020 with the aim, amongst other, to mitigate the economic impact on households and businesses of the COVID-19 pandemic. The beneficiaries that carried out energy efficiency measures on their residential buildings could obtain a tax credit equal to 110% of the costs incurred. Superbonus 110% could be used in several ways.

First, it could be used by the original beneficiary, as a deduction (*'detrazione'*) from the tax liability in the tax return over four or five years, in equal annual instalments, and always within the limits of the beneficiary's tax liability of each year.

Second, as an alternative, the beneficiary could opt either for a discount on the invoice (partial or total) on the energy efficiency costs undertaken or for the transfer of the tax credit for amounts not yet used. The legislation has undergone several changes since 2020 in terms of deadlines, percentages of expenses eligible for the benefit, type of beneficiaries and numbers of possible transfers. Depending on the applicable legislation, the spectrum of potential transferees varied from not specified third parties (2020) to, exclusively, suppliers and financial institutions and insurance companies (2022). Suppliers and/or other transferees could use the tax credit to offset their total fiscal debt (i.e., including VAT and other taxes), but under the same time conditions set for the original beneficiary.

Methodological considerations

The ESA 2010 distinguishes tax credits depending on whether they are payable or not payable, based on whether they cannot or can be wasted. ESA 20.167 and 20.168 provide the references for the classification of tax credits in national accounts: either as a non-payable tax credit (which reduces government tax revenue at time the tax credit is used) or as a payable tax credit (recorded as government expenditure at time the tax credit is earned), with implications not only on the ESA measure of total revenue and expenditure but also, importantly, on the timing of the impact on the general government deficit (B.9).

The 2022 MGDD chapter on the recording of tax credits provides elements to better distinguish between tax credits for which a government expenditure/liability should be recognized (payable/non-wastable tax credits) and those that are to be recorded as a reduction in government tax revenue (non-payable/wastable tax credits).

Although ESA paragraph 20.167 states that "*Tax credits can be payable, in the sense that any amount of the credit that exceeds the tax liability will be paid to the beneficiary*", it was agreed that tax credit could also be deemed payable in an ESA 2010 sense, even if never to be paid

out to the initial beneficiary, in those circumstances where the tax credit granted will most likely be used at some point by the original beneficiary or by a transferee, either because the tax credit can be transferred to a significant number of counterparts or can be settled against one's total tax bill.

The MGDD part 2.2.2.4.3 paragraph 38 provides the following guidance on the transferability: *“When the tax credit can be transferred to any party (with the exception of related parties), the likelihood that it will be lost is very low and it is thus to be considered as a payable tax credit, unless there is evidence that a non-negligible amount will be wasted”*. The MGDD part 2.2.2.4.3 in paragraph 49 additionally describes the case of a tax credit that is used to reduce the total fiscal debt: *“By extending the scope of tax debts eligible for settlement by way of use of tax credits, e.g., from the underlying tax liability up to the total fiscal debt of the taxpayer, the government is providing support to companies. Such tax credits should be considered as payable tax credits, implying the recording of government expenditure for the amount of the tax credits earned”*.

Initial advice on Superbonus 110% (February 2023)

Eurostat agreed with ISTAT, based on the information provided by ISTAT, that the Superbonus 110% transferability feature as well as the possibility to deduct the tax credit from the whole fiscal debt should normally imply, overall, a very low expectation that non-negligible amounts could potentially be wasted (i.e., high likelihood that the tax credit will eventually be settled by government). Taking into account all these elements, Eurostat accepted ISTAT's proposal that the Superbonus 110% was to be recorded as a payable tax credit in government accounts for the years 2020-2022.

1.2.2. Superbonus modifications and new request for advice

The main changes introduced by the new legislation in 2023 concern the following:

- i. A reduction in the amount to be obtained as a tax credit from 110% to 90% of the cost incurred. An exception remained, however, for single-family villas and single dwellings, as those were still eligible for the 110% benefit until 30 September 2023, if at least 30% of the work was completed by 30 September 2022.
- ii. For the new tax credits, that originated after 17 February 2023, the possibility to transfer the tax credit or to use the invoice discount was seemingly eliminated altogether. Accordingly, these new tax credits can only be used by the original beneficiary to reduce its income tax liability within the limit of the income tax.
- iii. An extension of the deadline (to 30 November 2023) to communicate to the Revenue Agency the decision to transfer the Superbonus earned on the costs incurred in 2022 (*remissione in bonis*) was nonetheless granted. This option applies only to transfers to banks, financial intermediaries, companies belonging to a banking group or insurance companies. For using the possibility of the late communication to the Revenue Agency, the beneficiary has to pay a fee, however.
- iv. In case that tax credits were transferred before 31 March 2023, a transferee can use this tax credit in ten equal annual instalments, instead of four or five allowed by the previous legislation.
- v. In the case of Superbonus 110% earned on costs incurred in 2022 that will directly be used by the original beneficiary, the Law introduced a possibility to also use the tax credit

in ten equal annual instalments, instead of four. This option might be used in the tax return for the year 2023 submitted in 2024 under the condition that the instalment earned for the year 2022 is not already included in the relevant tax return.

- vi. Certain financial institutions that exceeded their tax capacity and will therefore be unable to use the acquired tax credits earned on expenditures incurred until December 2022, have a possibility starting from 2028 to use excess tax credits to subscribe to the issue of Treasury Bonds (BTP) with a maturity of not less than ten years. The subscription is however capped at 10% of the annual excess portion of the tax credits.
- vii. The purchase of tax credits by public administration was prohibited.

Even though, by the new legislation, the possibility to transfer tax credits was generally abolished, several exceptions were nevertheless introduced to this rule, in particular:

- i. The option remained to transfer the tax credit or to use it as an invoice discount for certain well-defined cases². In all these cases, the transferees can still use the Superbonus to offset their total fiscal debt.
- ii. A transition period was introduced during which the tax credit transfers are still allowed in relation to works that were in progress and were officially notified (*'comunicazione di inizio lavori asseverata'* - CILA) before 16 February 2023. In the case of interventions carried out by condominiums, the possibility to transfer the tax credits is allowed even in absence of a CILA, if the resolution approving the execution of works has been taken by the assembly before 16 February 2023. In both cases, however, works have to be concluded by 31 December 2023. Also in this case, the transferees can use Superbonus to offset their total fiscal debt.

2. METHODOLOGICAL ANALYSIS AND CLARIFICATION

2.1 Applicable accounting rules

The applicable accounting rules are the following:

- ESA 2010 chapter 4, paragraph 4.81 and chapter 20, paragraphs 20.167-20.168
- The 2022 Manual on Government Deficit and Debt (MGDD), Recording of tax credits in section 2.2.2.4.

2.2 Availability of national accounting analysis

In their analysis on the recording of the 2023 Superbonus, the Italian statistical authorities have considered that the new legislation has substantially altered the features of this tax credit and, therefore, according to them, it is now undoubtedly to be considered non-payable in nature (beyond the exceptions provided).

They take however also into account the two overlapping 2023 pieces of legislation and, in particular, the fact that the expenditures incurred in 2023 may refer to both 2022 provisions

² These cases are the following: building renovation projects involving autonomous social housing institutions (IACP) and indivisible-ownership cooperatives, interventions on buildings damaged by seismic events occurred after 1 April 2009, interventions on buildings located in the Marche Region damaged by weather events occurring after 15 September 2022 for which a state of emergency has been declared, demolition and reconstruction work in seismic zone for which the application for the acquisition of the permit has been submitted by 16 February 2023 and interventions related to architectural barriers.

(when Superbonus was transferable and could be used by transferees to offset the fiscal debt), as well as to 2023 provisions (when, in general, transfers are not allowed and the tax credit can be used only to reduce the income tax liability of the original beneficiary). In ISTAT's note, it is also considered that a number of exceptions introduced to the general principle of the non-transferability do not allow for a straightforward interpretation of the measure.

Based on these arguments, the Italian statistical authorities proposed in their note two recording approaches. The first option proposed to differentiate between tax credits only to be used by the original beneficiary and tax credits that could still be transferred due to the exceptions. Accordingly, all tax credits transferred and uploaded in a specific platform would be considered as referring to the previous legislation (i.e., tax credit equal to 110% of the costs incurred and the feature of transferability), although earned on 2023 expenditures, and thus to be recorded as payable tax credits, whereas the tax credits submitted in 2024 tax declarations (related to expenses incurred in 2023) and used to reduce the income tax liability of an original beneficiary would be considered as referring to the new legislation (90% of the costs incurred and abolished transferability) and thus would be recorded as non-payable tax credits.

The second option proposed in the note (being more convenient from the implementation and data availability point of view) would consider all tax credits earned on expenditures incurred in 2023 as payable and all tax credits earned on expenditures incurred in 2024 (when all currently existing exemptions will presumably not be applicable anymore) as non-payable.

2.3 Methodological analysis and clarification by Eurostat

The Superbonus 110% valid until the February 2023 Decree Law was recorded as a payable tax credit in the Italian government accounts. The parameters applicable at that time (transferability, deferability, possibility of reducing the total fiscal debt and negligible amounts expected to be wasted, according to information provided by ISTAT) were considered as sufficient indicators that there was a very high likelihood that any of the parties (original beneficiary or a transferee) will benefit from the entirety of the tax credit at a certain point of time so that it will not be lost.

Decree Law No.11 of 16 February 2023 converted into Law No.38 of 11 April 2023 eliminated, in general, the possibility for taxpayers to transfer the new tax credits originated after 17 February 2023 as well as the possibility of using them as an invoice discount. By this amendment, the use of the tax credit was narrowed and, currently, the new Superbonus can only be used for reducing the income tax liability of an original beneficiary within its limit. The amount of the tax credit exceeding the income tax liability cannot be paid to the beneficiary or used in other way (e.g., transferred as it was previously the case) and, therefore, the likelihood for it to be lost would seem to become significant.

The new Law however introduced a number of exceptions to the abolition of transfers, so it can be considered that the transferability of Superbonus in 2023 was not totally or mainly eliminated but only partly rather limited. The issue remains to evaluate whether the tax credits earned on expenditures incurred in 2023 relate, fully or mostly, to the previous Superbonus (payable tax credit) or to the new one that might have some features of a non-payable tax credit, mainly due to restrictions on its transferability and on the scope of its use.

First, it is still possible to apply the transfer/invoice discount, without any restrictions, in certain cases specified by legislation (e.g., autonomous social housing institutions, interventions on buildings damaged by seismic events, interventions on buildings located in the Marche Region,

etc.). The transferred tax credits can be further used to offset the total fiscal debt in four or ten annual instalments. Accordingly, the Superbonus earned in this case is fully consistent with the definition of payable tax credit.

Second, transfers are still allowed, on a provisional basis, in the cases where the renovation works already started and they were appropriately notified to authorities before 16 February 2023. Consequently, provisions of the previous legislation (the possibility to offset the total fiscal debt and to defer the use of the tax credit to four or ten years) are still applicable. Considering that the works have to be concluded in this particular case by 31 December 2023 at the latest, it implies that the tax credit valid according to the old legislation can still be earned on expenditures incurred in 2023 and it can be, under these conditions, considered as a payable tax credit.

According to the Italian statistical authorities, reliable data on the size of tax credits earned following the new and under the old legislation are not currently available. It can however be assumed that, after restricting the favourable conditions in February 2023, the tax credit earned on 2023 expenditures and covered by the exceptions allowing the transferability (i.e., a payable tax credit) would prevail in 2023 over the tax credit earned by original beneficiaries and usable only for reduction of the income tax liability (accepting thus a higher risk of losing it, if not used). According to the Italian statistical authorities, the dynamic of the tax credit transfers currently observed tends to signal that most of the 2023 tax credits processed continue to be covered by the old legislation. Hence, their proposal to continue to record the tax credits earned in 2023 as payable.

Concerning the amounts of tax credits that might be wasted, the Italian statistical authorities consider that the recent dynamics of used and transferred credits do not signal a higher probability of wasting the credits with respect to previous years, and that the amounts of the tax credit expected to be lost in the future on tax credits earned in 2023 should be considered as negligible.

Eurostat agrees with the Italian statistical authorities that the interpretation of the new Superbonus is not straightforward due to a number of exceptions allowed by the legislation and the practical difficulties to identify data on the tax credit earned according to the new and according to the old legislation. Nevertheless, it seems that a considerable part of Superbonus earned on 2023 expenditures can be assigned to the previous legislation.

Thus, based on the information provided by ISTAT, Eurostat can agree with the proposal of the Italian statistical authorities to record the Superbonus earned on the expenditures incurred in 2023 as a payable tax credit, i.e., as government expenditures with related liabilities (AF.8L/F.8L) in 2023.

As regards the treatment of Superbonus in 2024, Eurostat considers that the statistical recording of the tax credit will have to be re-examined at the latest before the end of the first half of 2024, also with regard to how the situation with currently stranded tax credits will evolve and with regard to the interventions that the Italian government will undertake in order to solve this problem.

In this context, it should be noted that significant concerns emerged at occasions, in the course of 2023, relating to significant difficulties in tax credit transfers (occasionally blocked/suspended), originating either from certain legal uncertainties (e.g., implication of cases of rejected tax credits by tax authorities) or from concerns that banks and other potential

purchasers may have reached their fiscal capacity. The issue apparently concerned all sorts of tax credits originated to date, and not only those originated in 2023. These developments raised the expectation at that time that the tax credits eventually wasted may not turn out negligible after all, contrary to what was stated by the Italian statistical authorities until now. Eurostat understands that ISTAT is currently confident that, due to measures taken so far and to new measures which will be taken by government, these problems will soon be resolved, and will not end-up in significant wasted amounts of tax credits. Eurostat raises the attention of ISTAT on the fact that, according to rules, if the amount of tax credits which will be wasted will not be considered as nil or negligible, this might result in a reclassification of the tax credits issued since 2020 as non-payable, as a payable nature of tax credits must necessarily imply that no or very negligible amounts will be lost. As specified above, the situation in this respect will be reassessed at the latest before the end of the first half of 2024 and Eurostat invites ISTAT to provide by that time the most precise and updated information on this issue in order to take a final decision, including the measures that will be presented by government in this respect.

3. CONCLUSIONS

Taking into account the elements above, Eurostat considers that the Superbonus amended by Decree Law No.11 of 16 February 2023 converted into Law No.38 of 11 April 2023, earned in 2023, is for the moment to be recorded in government accounts as a payable tax credit in 2023.

Regarding the recording of Superbonus earned in 2024, Eurostat requests ISTAT to re-examine the issue at the latest before the end of the first half of 2024, taking into account the development with stranded tax credits and the interventions that the government might undertake in order to solve the problem.

Eurostat stresses that both this advice as well as the initial February 2023 advice are based on the assumption that the amounts of tax credits that will eventually be lost, will turn out negligible (for 2020-2023 tax credits).

4. PROCEDURE

This view of Eurostat is based on the information provided by the Italian authorities. If this information turns out to be incomplete, or the implementation of the operation differs in significant ways from the information presented, Eurostat reserves the right to reconsider its view on this advice and possibly on the initial advice as well.

In this context, we would like to remind you that Eurostat is committed to adopting a fully transparent framework for its decisions on debt and deficit matters in line with Council Regulation 479/2009, as amended, and the note on ex-ante advice, which has been presented to the CMFB and cleared by the Commission and the EFC. Eurostat is therefore publishing all official methodological advice (ex-ante and ex-post) given to Member States on its website.

Yours sincerely,

(e-Signed)
Luca Ascoli
Director