



## Covid-Period Losses

### The Legal Issue

- **Reference framework:** Article 84 of the Italian Income Tax Code (TUIR), which regulates the carryforward of tax losses, and Article 10-bis of Decree-Law 137/2020, which states that Covid-related subsidies “do not contribute to the formation of taxable income.”
- **Tax Agency’s interpretation:** The Italian Revenue Agency (Agenzia delle Entrate) considers Covid subsidies as *tax-exempt income*, thereby reducing the amount of losses that can be carried forward.
- **Counterargument:** The law refers to *excluded* income components, not *exempt* income — a distinction that has different fiscal implications.

### Practical Implications

- Professionals treated Covid subsidies as *non-taxable*, in line with emergency legislation.
- The Revenue Agency argues that this classification creates a *double benefit*: no taxation in 2020 and the ability to use “inflated” losses in subsequent years.
- As a result, 2020 losses are being reduced, impacting future tax returns.

### Criticism of the Tax Authority’s Position

- **Confusion between exclusion and exemption:**
  - The Agency claims that *exclusion* serves a systemic function to avoid double taxation.
  - However, the *Participation Exemption (PEX)* regime — which is inherently systemic — shows that it is *exemption*, not *exclusion*, that fulfills this role, as

confirmed by the Agency's own circulars (No. 7/E of 2013 and No. 36/E of 2004).

- The Agency itself has stated that the rule is *clear and not open to interpretation*:
    - In Ruling No. 618/2021, it declared that there is no interpretative doubt — Covid subsidies are *excluded*, not *exempt*.
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## **Economic and Social Impact**

- Covid subsidies were *compensatory* in nature.
  - Reducing losses penalizes businesses that received these aids, effectively undermining support meant to address an unprecedented crisis.
  - Although the Agency is a technical body, it cannot disregard the *social consequences* of such an interpretation.
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## **Conclusions**

- The Agency's 2025 position (Ruling No. 35/2025), which denies tax exemption for *capital subsidies*, has already been strongly criticized.
- Ruling No. 35/2025 is cited as a clear example of how, in attempting to *reclassify* Covid-related subsidies, the Agency has adopted an *illogical, restrictive interpretation* inconsistent with the legislative text — thereby reinforcing criticism of its stance.