DOING BUSINESS IN ITALY

INVEST IN ITALY

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INVEST IN ITALY

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INVITALIA

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STARTING A BUSINESS IN ITALY

Several and different options are available in order to conduct business in Italy. A number of reforms have been made to streamline and simplify the procedures required to start and operate a business in Italy, for example by reducing the minimum capital requirements and the paid-in minimum capital requirement as well as by streamlining registration procedures.

A business may be operated either as a sole trader or as a company. Both entities are governed by the Italian **civil code**.

A person may conduct a business either as an individual, or through the setting up of a new company or through the purchase of shares/quotes in an existing company.

Such opportunities are available both for **European and non-European citizens**.

- Individuals or legal persons from **EU** countries and countries included in the European Economic Area (Iceland, Liechtenstein, Norway) are treated as Italian nationals for the purpose of investing in a new/existing company, without limitations on their capacity to conduct a business.
- Individuals from countries **outside the EU** and the European Economic Area must have a valid residence permit or be citizen in a country where reciprocal treaties are applied.

All relevant information is available online at the Foreign Office website:

https://www.esteri.it/mae/en/servizi/stranieri/condizreciprocita/ .

1. Establishing a representative office in Italy (local office)

Representative offices - unlike branches of a foreign company in Italy - **can be established in line with the requirements of the OECD Convention on Mutual Administrative Assistance in Tax Matters**:

- a local **presence to promote the company** and its products/services **and to perform other non-business activities**;
- the local unit **does not possess power-of-attorney** (it does not represent the foreign company vis-a-vis third parties).

Rep offices must be registered with the Economic and Administrative Register (**REA**, "Repertorio Economico Amministrativo") at the **Chamber of Commerce**, attaching the **following documents**:

- if the company is incorporated in an **EU country**: corporate charters and by-laws;
- if the company is incorporated in a **non-EU country**: a certificate of good standing. This statement can be issued in front of a local notary or by the Italian Embassy in the country where the company has its registered office. In case of issuing by the Italian Embassy the legalization through apostille is not required. In any case, documents in foreign languages must be translated into Italian by a sworn translator.

Tax issues

If the representative office is used only for the following purposes:

- storage, display or delivery of goods belonging to the foreign company;
- purchasing goods or obtaining information for the foreign company;
- conducting preliminary activities assisting the business activities of the foreign company;

it would not be considered a permanent establishment from a tax perspective.

A representative office is not required to keep books, publish financial statements or file income tax or VAT returns. It is, however, required to keep ordinary accounts in order to document the expenses (e.g. personnel costs, office equipment, etc.) to be covered by the foreign company.

2. Establishing an Italian branch of a foreign company

The Italian **branch/secondary registered office** does not possess separate legal personality; hence the parent company is responsible for its business however the branch office it is subject to taxation in the foreign country where the economic activity is carried out.

The definition of permanent establishment (PE) is provided by article 5 of the OECD model tax treaty and by article 162 of the Italian tax code (TUIR).

In particular, according thereof, "the term permanent establishment means a fixed place of business through which the business of an enterprise is wholly or partly carried on".

The term PE includes especially:

a) a place of management;
b) a branch;
c) an office;
d) a factory;
e) a workshop;
f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

Therefore, the definition contains the following conditions:

- the existence of a "place of business";
- this place of business must be "fixed";
- the carrying out of the activity through this fixed place.

According to the above Law, due to the fact that a PE is not easily identifiable, the Italian Authorities (e.g. Revenue service) can assume the presence of a de facto permanent establishment in Italy of a foreign company if some conditions are not (an office in Italy, Italian employees, Italian contracts, Italian managers).

Details of the branch office must be registered with the Business Register ("Registro delle Imprese").

The registration of a branch office is **governed by the Italian civil code** ("Codice Civile").

In order to set-up a branch, the following are necessary:

1) Minutes of shareholders Meeting (or of the Board of Directors Meeting according to the By-Laws) of the foreign parent company, resolving:

a) to set-up a branch (including the address of the legal office of the new branch, the business activity that will be performed and the financial period of the Italian branch);
b) to appoint a legal representative or "preposto" (including his personal data);
c) to grant the legal representative with the required powers (power of attorney);

2) obtain an Italian tax code for the legal representative of the Italian branch ("preposto");
3) sign the set-up papers in front of an Italian Notary public;
4) submit the papers to the Chamber of Commerce;
5) submit the commencement activities declaration to the Italian Revenue Service;
6) INPS (Workers' Welfare Contributions and Pension): following the Branch registration.

The deed of appointment, the certificate of incorporation, the articles of association and the registration details of the foreign company must be registered with the Business Register in the area in which the branch office is located.

If foreign companies have more than one branch office in Italy, the publication requirements only apply to the first Italian branch.

For all the aforementioned documents **it will be necessary to provide a certified translation in Italian**. Besides all the documents need to be certified by a Notary public (or issued by a public authority: different authorities could be involved from country to country) in the foreign country and sealed with legalization or apostille. Documents must be legalized before being sent to Italy unless a bilateral treaty is applicable on the same terms as the multilateral Brussels Convention of 25 May 1987 (https://www.consilium.europa.eu/it/documents-publications/treaties-agreements/agreement/?id=1987011#), or the apostille provided for under the Hague Convention of 5 October 1961 (http://www.hcch.net/). All the above mentioned documentation must be filed with an Italian Notary (or with a District Notarial Archive). The notary will draw up a specific notarial deed with the documents listed above as annexes, to be registered by the Notary him or herself and filed with the Business Register.

In the absence of registration, directors or anyone acting in the name and on behalf of the company will have unlimited liability for all company contractual obligations.

The foreign company and its directors will be liable for company's obligations contracted in Italy in its name (except for European companies given the European principle of freedom of establishment).

An Italian branch office is not the same as a subsidiary. Neither it is the equivalent of a doing cross-border business. The branch office is thus a body based on a permanent establishment possessing decision-making powers. The Italian branch office has no autonomous identity in relation to the foreign company and hence cannot transact business with it. The branch office is an outpost, directly representing its interests and part of the same entity.

Details of the branch office always have to be published by means of registration with the Business Register as required by EC Directive 89/666/EC 63, governing the position for both European and non-European companies, with some differences between the two. There is a strict obligation on Member States to register the documents of European companies. On the other hand, for non-European companies additional obligations may have to meet in every Member State. The registration of a branch office is governed by the Italian civil code.

Tax issues

The overall income of a permanent establishment in Italy of a foreign company is determined according to the rules governing the determination of company's income, as if it were a company domiciled in Italy. As established by the OECD's attribution report, the procedure in order to allocate costs and revenues to a permanent establishment is a two-step process. During the first step, a functional and factual analysis is performed, in which the operations and responsibilities of a permanent establishment are determined so that the permanent establishment can be assessed for taxation as an independent, separate entity. During the second step, the arm's length profit of the permanent establishment is determined by means of a comparability analysis.

In order to better define the criteria adopted for the cost (and revenues) allocation between the parent company and the branch in Italy, it could be useful to draft a transfer pricing agreement. In this regard, it could be appropriate to consider the method recommended by the OECD guiding principles and guidelines used by the Italian tax authorities.

3. Setting up a company (independent company or subsidiary of a foreign company)

The setting up of an Italian company (including for foreign nationals), is the best way to initiate either a "simple" activity (such as the sale-purchase of goods) or a more complex model (involving a number of different activities within the same business).

Firstly, investors should seek advice from a local professional, a notary (find the italian web page: http://www.notariato.it/it/trova-notaio) in order to identify the kind of company best suited to achieve the client's objectives in terms of organization, liability and targets. A company has legal personality and a balance sheet. The company itself is able to conclude contracts, to hold assets and is liable for taxation. Companies are liable for income tax (Corporation tax), production tax and social security contributions.

The company operates through two or three bodies: the Shareholders Assembly whose powers are limited to decisions of greatest importance, the Board of Directors, which is responsible for managing the company and conducting its business . Companies may choose to appoint a Board of Statutory Auditors, which is responsible for the control and supervision of the directors' activities.

Italy offers a wide range of choices of legal forms for setting up companies depending on the company's organizational model, its commercial objectives, the level of capital to be committed, extent of liability and tax and accounting implications.

Companies: main types *(limited liability company – joint stock companies)*

There are two main types of companies in Italy:

- **Società a responsabilità limitata** ("S.r.l. ") – limited liability company;
- **Società per Azioni** ("S.p.A. ") – joint stock companies (company limited by shares).

The liability of the shareholders/quotaholders is limited to the amount of their contributions to the company.

The company's certificate of incorporation must be signed in front of a public notary and the company does not officially exist until it has been registered with the Business Register.

At least 25% of the capital must be paid in on the signing of the Articles of Association (the remainder may be paid later) although contributions in kind must be paid in full.

Both types of companies can be incorporated by a sole shareholder/quotaholder. In this case, in order to benefit of the limited liability, the corporate capital must be fully paid-in.

Article 2328 and following of the Italian Civil Code (for S.p.A) and Article 2463 (for S.r.l.) list the information needed in order to incorporate a company in Italy.

The main differences between the two legal forms are related to:

- As about **Corporate Capital**, the Law establishes different minimum thresholds for each kind of company.
- In the **S.p.A.**:
  - the capital consists of shares. The minimum share capital of a S.p.A. is equal to € 50,000.00 (at least 25% to be paid into the hands of the directors).
  - the amount of the share capital must be stated in the certificate of incorporation. Shares do not have to reflect shareholders' overall investment in the company.
  - the shares are freely transferable. It is normal practice to issue physical share certificates although in listed companies it is also permissible for shares to be in book-entry form.
  - the company limited by shares is the main type of trading company best suited to substantial investments with a large number of shareholders. It is also the compulsory type for those companies wishing to be listed on the stock exchange.
- In the **S.r.l.**:
  - the capital consists of quotas. The minimum capital of a S.r.l. is equal to €1:
  - when setting up limited liability companies with capital equal to or greater than €10,000, at least 25% of the capital must be paid to the directors as previously indicated;
  - when the value of the capital is between €1 and €10,000, contributions may only be in cash and must be paid up in full on subscription;
  - the transfer of quotas may be limited and even prohibited; in which case, each shareholder will be entitled to withdraw from the company, obtaining a reimbursement for his/ her quotas.
- As about **equity contributions**, in both S.p.A. and S.r.l., the equity contribution can be made in cash as well as in kind subject to independent appraisal. Whereas, in the S.p.A. the expert is appointed by the Court, except in some specific cases, and the evaluation reviewed by the company's directors.
- As about **voting rights** and special rights:
  - the voting rights in S.p.A. might not be proportional to the percentage of corporate capital subscribed by the shareholders and the by-laws can be provide different typologies of shares.

- in the S.r.l. the voting rights are proportional to the percentage of corporate capital subscribed by the quotaholders. Even if the by-laws may reserve some special rights to some quotaholders (e.g. administrative rights or the right to the distribution of profits), no different classes of quotas are allowed.

- As about **Governance**:
  - the S.p.A. can establish different governance models:
    a) traditional system (shareholders' meeting, Board of Directors and Board of Statutory Auditors);
    b) one tier system (Board of Directors and management control committee appointed among the members of the board) and two tier system (Management Board and a Supervisory Board).
  - the S.r.l. provides different forms of management that include appointing a Sole Managing Director, a Board of Directors, or even a form of management where Directors are not appointed as a board and where they can exercise their powers jointly or separately, or, depending on the corporate governance model, jointly and others separately.
- In the **S.r.l.**, in order to make the best use of the flexibility of this legal form, it is important to pay attention to the preparation of the "articles of association" with the close assistance of a public notary who is then required to file them at the Business Register: it is only following the registration application that the limited liability company comes into existence.
- A **S.p.A.** will pay its expenses and debts with its own assets, with its own capital and economic resources generally. Shareholders are not liable for the debts with their personal property and are not obliged against the company. A joint stock company will be formed on the basis of a public deed drawn up by a notary. The Company's existence will only be recognised if it is registered at the Business Register. The notary will be required to upload the Deed of Formation and other necessary or appropriate company documents in the competent office of the Business Register as part of the registration process.

In addition, the two following subcategories are provided by the Italian civil code:

- Società a responsabilità limitata semplificata (S.r.l.s.) – simplified limited liability company;
- Società in accomandita per Azioni (S.a.p.A.) limited liability partnership.

Società a Responsabilità Limitata Semplificata – Simplified limited liability company ("S.r.l.s.")

The **simplified limited liability company** (S.r.l.s.) is a form of S.r.l. introduced to encourage young entrepreneurship.

The shareholders of an S.r.l.s. may only be individuals (natural persons), not companies or other bodies. The S.r.l.s. may also be composed of a single shareholder.

Unlike the ordinary S.r.l. there is a minimum share capital of €1, up to a maximum of €9,999.99.

The capital must be fully paid in cash to the administrative body at the time the company incorporation.

The incorporation deed must be drafted as a public deed by a notary in accordance with a standard model prescribed by law. Therefore, there are no "articles of association" in a technical sense; there are only standard clauses indicated in the fixed standard model (prescribed by law).

No notarial fees are due to the notary for the incorporation of the Srls.

Società in accomandita per azioni - Limited liability Partnership ("S.a.p.A.")

There are two categories of partners in a **Limited liability Partnershhip**:

- **general partners** who have the responsibility of directors in law and have unlimited personal liability ("accomandatari");
- **limited partners** who are excluded from taking part in the administration and whose liability is restricted to their capital contributions ("accomandanti").

In addition to the companies, other entities can be established as follows.

Partnership: nature and main types

The **partnership does not have a legal personality** although it is still a corporate body ("società") under Italian law.

A partnership is characterized by the **personal commitment** of each partner to their work as a whole within the partnership. The individual partners are personally liable for the liabilities of the company (including their private assets) and each acts for the whole business. Possibilities for imposing limitations on individual partners' liability are restricted.

The main types are:

- **Società semplice** ("S.S." – simple partnership)

A simple company can only be used for non-commercial businesses and is thus confined mostly to agriculture. It has to be formed by written deed. There is no requirement for a minimum share capital and the members have unlimited liability for company obligations unless otherwise agreed.

- **Società in nome collettivo** ("S.n.c. " - general or unlimited partnership)

The company's **business name** must contain the name of at least one of the partners and an indication that it is an unlimited partnership.

The **members** have **unlimited liability** for partnership obligations and there can be no agreement to the contrary. When seeking repayment of debts owed by the partnership, creditors must first enforce them against the partnership before applying to the members. The unlimited partnership is subject to bankruptcy law with the contemporaneous bankruptcy of all partners.

The partners generally have separately exercisable powers of administration and representation. If agreed, powers of administration may be reserved to some members only.

- **Società in accomandita semplice** ("S.a.s." - limited partnership)

The limited partnership has two categories of partners:

  - **general partners** ("soci accomandatari"), who are responsible for the administration and management of the company and who have unlimited liability for the fulfillment of partnership obligations;
  - **limited partners** ("soci accomandanti"), who are not directors and will be liable for partnership debts within the limits of the investment made in the partnership, subject to certain exceptions governed by law.

The partnership **name** (business name) must contain the name of at least one general partner and an indication that it is a limited partnership. If a limited partner's name is included in the partnership name, he or she will have unlimited liability, jointly and severally with the general partners, for partnership debts.

Limited partners cannot perform acts of administration or negotiate or do business in the name of the partnership, except when granted a special power of attorney for specific business activities. Any limited partner who disregards this prohibition will take on unlimited liability for all partnership debts and may be excluded from the partnership itself.

Innovative Startup

The innovative startup is a new kind of company with a high technological content, with strong growth potential and therefore represents one of the key points of Italian industrial policy.

In 2012, the D.L. 179/2012 introduced some specific measures, strengthened over time, to facilitate the set-up and growth of companies, in the form of one of the joint-stock companies described above, with a high technological content.

Companies in possession of the requisites established by law, which can be assessed by the notary and entered in the Business Register, can access the status of innovative startup from the onset and enjoy benefits (in the "corporate", fiscal and contributory fields, being able to use equity crowfunding) by registering in the special dedicated section of the Business Register. For the various incentives, the MISE (Ministry of Economic Development) has also a specific website (https://www.mise.gov.it/index.php/it/impresa/competitivita-e-nuovo-imprese/start-up-innovative#agevolazioni).

	S.p.A.	S.r.l. - S.r.l.s.	S.n.c.	S.a.s.
Type of company	Medium-sized and large companies / listed companies	Small and medium-sized companies with a limited number of shareholders	Partnerships set up to conduct commercial and non-commercial activities	Partnerships set up to conduct commercial and non-commercial activities
Minimum share capital	€ 50,00	€ 1	No minimum	No minimum
Liability for company obligations	Limited to the company assets	Limited to the company assets	Unlimited for all shareholders	Unlimited for general partners Limited for sleeping partners
Board of Statutory Auditors/ Auditor	Compulsory	Optional / Compulsory according to art. 2477 c.c.	N/A	N/A

4. Purchase of assets

As an alternative to the previous options, a foreign enterprise may acquire an existing business or assets.

A purchase of a business is realized when it concerns a complex of assets (material and juridical items such as movable and immovable property, equipment, trademarks, patents, etc.) functionally connected to each other and likely to become an instrument for carrying out a business activity.

The purchase of a business is generally a single transaction and it can only be out incentives by notarial deed or a private deed certified by a notary.

The transaction may involve the entire organization, different businesses owned by the same vendor or a single business unit.

Except as otherwise agreed, the transfer of a business involves what follows:

- in case of a commercial undertaking, within five years from the sale, the seller is barred from starting up a new business whose objects, location or other features is likely to divert customers;
- the transfer of receivables and debts related to the transferred company, resulting from the accounting books;
- the succession in contracts for the exercise of the business activity which are not of a personal nature.

5. Accounting and audit requirements

Accounting requirements

All companies and partnerships are required to keep **books** and **records of accounts**, as well as keep in order all original documents sent and received for each concern.

The accounting documents **must be kept for no less than ten years**.

Accounting records may be kept directly by the business at their premises, or by third party appointees outside the company offices.

There are two main compulsory accounting systems available depending on the company's nature and size: one ordinary and one simplified (suitable for small entities with a simple organization).

The ordinary accounting scheme is compulsory:

- for company providing services with a turnover exceeding EUR 400,000 yearly;
- for the other companies with a turnover exceeding EUR 700,000 yearly .

The following **registers** and **corporate books** can be compulsory on the basis of the size and of the activity performed:

- the journal;
- the general ledger;
- the VAT registers;
- the inventory register;
- the shareholders/quotaholders meeting books;
- the BoD meeting book (if applicable);
- the Board of Auditors meeting book (if applicable).

Books and records of accounts are kept according to the provisions of the Italian Civil Code and the tax regulations.

Accounting books can also be kept electronically.

Companies with share capital are also required to prepare their annual Financial Statements and to file them with the Companies Register, within 30 days from its approval by shareholders.

In addition to the ordinary FS form provided by the Civil Code, a short form and a reduction in the amount of the

information required are established for “small” and “micro” companies.

Partnerships, instead, are required to draw up an annual report indicating profit and loss for tax purposes, although there is no filing obligation with the Register of Companies.

Annual accounts must be presented to and approved by the shareholders’ annual general meeting within 120 days from the company’s financial year end (180 days in specific situations and under certain conditions).

Audit requirement

Auditing is required for:

- S.p.A.;
- S.r.l. exceeding two of the following limits for 2 consecutive years:
  - total assets of EUR 4,400,000;
  - sales and services revenues of EUR 8,800,000;
  - average number of employees during the year: 50;
  - or, if the S.r.l. controls a company subject to statutory audit;
- All companies suject to consolidated Financial Statements;
- Listed companies;
- Banks, stock broking companies, fund management companies, regulated financial institutions.

The audit of the financial statements (“revisione legale dei conti”) shall be performed in accordance to **Italian Law** and Italian **auditing standards**.

In Italy, the statutory audit can be assigned to a Board of Statutory Auditors (“Collegio Sindacale”), a sole auditor (“Sindaco Unico”), an audit firm (“società di revisione”) or an external auditor (“revisore”).

Under some conditions the audit can be performed by the “Collegio Sindacale” which may be in charge of both Supervisory activities, including the compliance with the law and the charters, and on the **statutory audit** of the **financial statements**.

Alternatively, the statutory audit on the financial statements (including the quarterly checks on the accounts) can be assigned to an audit firm or an external auditor.

The assignment to two different bodies is compulsory for listed companies and companies required to prepare consolidated financial statements.

Term of the audit assignment

The auditors are appointed for a 3 year-term for non-listed companies and for a 9 year-term for listed companies.

The audit firm cannot be appointed for more than one 9-year term, while the external auditor cannot be appointed for more than 7 years. The audit firm engagement as well as the external auditor one should guarantee a cooling-off period of 4 years.

6. Dissolution and liquidation of business entities

The **dissolution** of a company follows a **four-step process**, as follows:

- determining and acknowledging the motivation for winding up the company;
- carrying out of the liquidation activities, including the appointing of a liquidator;
- cancellation of the company from the Business Register;
- filing of corporate books at the Business Register.

Reasons for dissolution are common to all types of companies and are provided by article no. 2484 of the Italian civil code:

- The duration term has expired;
- The company purpose is finally realized, or, ascertained impossibility of its realization, unless the shareholder's meeting is convened without delay to resolve upon the necessary amendments to the company's bylaws;
- It's impossible for the company to operate or the shareholder's meeting is inactive for a prolonged period of time;
- The corporate capital is reduced below the minimum required by the law;
- For other reasons provided by the Law;
- The shareholder's meeting resolves upon the termination of the company;
- Other reasons for winding up may be provided for in the incorporation deed and in the charters.

The directors without delay shall ascertain the occurrence of a reason for the dissolution and shall proceed with the required actions.

When the directors omit the required actions, the court, upon request from a shareholder or director or statutory auditor, shall ascertain the occurrence of the reason for the termination.

Until the appointment of the liquidators, the directors maintain their powers to manage the company, for the sole purpose of the conservation of the corporate assets' integrity and value.

The appointment of the liquidators and the dissolution of the relevant powers shall be entered in the Companies Register by the liquidators.

Particular provisions apply to:

- the drafting of the interim financial statements during the liquidation period and for the final financial statements at the end of the procedure;
- for the submission of the tax returns and related payments in case of corporate or indirect taxes.

Except for situations when the winding up of the company takes place on its natural expiry date and for the reasons stated in its charters, the winding up becomes effective only from the date of the publication in the Business Register ("Registro delle Imprese") of the Directors' statement setting out the reasons for the liquidation, or from the publication date of the shareholders' resolution for the liquidation of the company, passed at the shareholders' meeting.

Once the final liquidation FS is approved, the liquidators shall ask the cancellation of the company from the Companies Register.

After the liquidation, the assets distribution or the deposit at the bank (of the sums due to the shareholders not collected) are accomplished, the corporate registers shall be filed and kept for ten years at the Companies Register.

7. Additional notes on the Business Register and the Notaries

The Business Register or Companies Register ("Registro delle Imprese") is part of an extensive information system containing all the main information relating to companies (name, statute, management, headquarters, etc.) and all the subsequent events that have occurred to them after registration (for example changes to the statute and to company officers, changes in registered address, liquidation, insolvency proceedings, etc.).

The Business Register is managed by the **Chambers of Commerce**.

It is a single system of publication for the entire Country although it is managed through provincial offices.

The objective of the Register is to publish consistent and reliable quality information, making it available to all the stakeholders and the businesses operating in Italy.

Indeed, information not included in the Business Register cannot be used against third parties in a Court of Law, unless it is possible to prove that the latter had knowledge of such facts.

A search within the Business Register database (https://italianbusinessregister.it/) will provide sufficient details to confirm the existence of an enterprise.

Following registration and the payment of fees, a more detailed search can be conducted and **Company report** ("Visura"), available both in Italian and English language, downloaded.

It is only possible to update the Business Register online, that is a task undertaken in case of larger companies by more than five thousand Italian notaries, all of which can be found online at the following Italian page: http://www.notariato.it/it/trova-notaio. These details are updated yearly by both the **National Council of Notaries** ("Consiglio Nazionale del Notariato"), recognised as the national official body representing Italian notaries, and by the Local Councils of Notaries. A Notary public in Italy has the position of a public officer and has authority to act in corporate matters. In Italy many acts need to be drafted in front a notary, who is a public officer. Notaries are independent professionals whose work quality is safeguarded by important guarantees being subject to an essential public oversight.

As about other professionals, notaries are legally bound to carry out checks on their clients, including non-Italian nationals, confirming the completion of formalities required by the Italian law on money-laundering (Legislative Decree no. 231, 21st November 2007, transposing EU Directive 2005/60 into Italian law e modificato dal D.Lgs. 4 ottobre 2019,

n. 125). Details of these procedures can be found on the Italian pages of Ministry of Finance website , http://www.dt.mef.gov.it/it/attivita_istituzionali/prevenzione_reati_finanziari/prevenzione_riciclaggio/ ; http://www.dt.mef.gov.it/it/attivita_istituzionali/prevenzione_reati_finanziari/prevenzione_riciclaggio/normativa_riferimento.html

Other intermediaries or representatives have authority to upload documents on the Business Register such as accountants. Entrepreneurs or company managers are able to upload a limited number of documents on the Business Register using a smart card with an electronic signature, issued by the Business Register Office. Notaries are able to use their own dedicated connection with the Chamber of Commerce and other Public Offices (such as Tax Offices or Regional Agencies) to send documents to the Business Register. All the documents filed at the Business Register can be downloaded in ".pdf" format.

8. Real Estate Purchases in Italy by Foreign Parties

The purchase of real estate in Italy by a foreign party (person, company or entity) must be made with the assistance of a notary who, in the real estate sector, can be considered a "one stop shop".

Just as for setting up a company, for foreigners residing in Italy with a residence permit or residence card (which can be obtained from the Police Headquarters responsible for the territorial district and in some cases also from an Italian Post Office), their family members and stateless persons in Italy for less than three years, there are no limitations. They are equivalent to Italian citizens and the matter is governed by Legislative Decree no. 286/1998 (Consolidated Law on Immigration) and Presidential Decree 394/1999 (Implementation Regulation) and subsequent amendments. For foreigners not legally resident in Italy, as well as for foreign entities and companies, the existence of the *condition of reciprocity*[1] is required. Where a foreign natural person or foreign entity is a shareholder in an Italian company purchasing real estate there are no restrictions and it is treated just like other Italian companies.

In order to purchase real estate, as well as to take corporate offices on, it is always necessary to have an Italian tax code (tax file number). When applying for entry into Italy at an immigration office a tax code is issued. For natural persons residing abroad (EU citizens or foreigners residing abroad), the Italian diplomatic consular authorities of the country of residence are now also authorised to issue tax codes, since they are electronically connected with the national tax registry. For foreign companies and entities, on the other hand, the request for a tax code can only be made at the Italian offices of the Taxation Office.

To purchase a property of any kind and to finance it with a mortgage loan in Italy, as well for foreigners it is necessary to contact a notary public, a professional who specialises in this area and who, as a public officer almost exclusively authorised to do so, will update the real estate registers (transaction and land registries) which in Italy provide evidence (and legal notice) of the status of each real estate asset. The notary public will verify, using privileged access to these registers, all the conditions for a valid and safe purchase, ensuring that the purchase and the loan take place in compliance with all provisions of the law and in the interests of the parties, with particular attention to the purchaser's interests. It is useful to contact the notary even before signing the *preliminary contract* (called a "*compromesso*") although a notary is not legally required for this.

1 To be intended an Italian party must also be allowed to purchase real estate in that foreign country under similar conditions.

The notary will carry out all the necessary checks to ensure a safe and worry-free property purchase. In summary, he will verify that:

- the vendor is the true owner and has the authority to transfer the property, including consideration of the property regime of the parties, with particular attention to foreign sellers and buyers;
- the property is not encumbered by mortgages or other constraints that could lead to expropriation or claims relating to the property by third parties;
- the property is not subject to special conditions, e.g. regarding public housing (existence of subjective requirements for the purchaser, or price constraints), or a right of first refusal in favour of certain parties, or conditions concerning assets of historical, artistic or archaeological interest;
- the previous owner has paid all common property charges;
- the cadastral plan, which will be directly downloaded by the notary public from the cadastral database, corresponds with the actual state of the property, thus ensuring the conformity of the cadastral data and plan with the true state of the asset;
- building and urban planning conformity checks have been carried out, i.e. that the property has not been built or renovated without observing local regulations;
- the correct tax regime is applied by the parties. Italian real estate taxation takes into account different parameters and for foreign citizens and entities, just as for Italian ones, the tax regime applicable to the specific case must be identified according to information provided by the parties such as the existence of the requirements for any tax benefits (for example, assistance for the purchase of a first home, or tax credit or tax exemptions or reductions that are valid for citizens as well as for foreigners). The notary, being so required by law and under the control of various Authorities, will collect from the purchaser the sums necessary for the payment of taxes and duties and at the time of registration of the deed will remit them to the Tax Office, lodging proof of the sale with the competent public offices. He may also, in compliance with the law and the controls to which he is subject (that are aimed at guaranteeing the security of the sums), receive in trust (escrow) sums of money for various reasons connected to the sale in addition to the obligatory transfer taxes;
- the energy rating of buildings is certified in accordance with the relevant national and regional regulations;
- the rules on anti-money laundering, traceability of payments and commissions paid by way of intermediation to any real estate agencies have been observed.

All these checks, as for the establishment of a company, are subject to the intervention and responsibility of the public notary and result in the *notarial deed* which constitutes the means for making the transfer of ownership definitive and effective between the parties and also in the eyes the State and the public authorities concerned.

HIRING AND MANAGING STAFF

In the current decade, Italy has implemented a number of substantial reforms of labor law system aiming at creating a modern, competitive and non-discretionary environment based on which:

- since 2015, reinstatement has been substantially limited to cases of discrimination proven by the concerned employees and, on the other hand, the amount of the indemnity possibly due in case the dismissal is considered as invalid by Court is less discretionary for the judge;
- according to the new reform, should the dismissal be declared unfair, the employee may be entitled to an indemnity up to 2 months' salary per each year of seniority, up to 24 months maximum;
- however, the new law on dismissal encourages the parties to find a prompt and amicable out of court settlement. As a matter of fact, should the employee accept an offer of 1 month per year of seniority, up to a maximum of 12 months, a substantial tax exemption applies;
- the court litigation rate has dramatically fallen (approx. 70% reduction of court cases concerning dismissals and end of fixed term);
- the length of first-degree Labor Court dispute is: 1-1.2 years on average at Italian level and 7 months before the Court of Milan.

1. Main sources of the employment law

Basic rules regarding rights and obligations of employer-employee relationship in Italy can be found in the **Constitution**, the **Civil Code** ("Codice Civile") which includes a special section on employment matters, and the **Workers' Statute** ("Statuto dei Lavoratori"), i.e. Law no. 300/1970 as modified by subsequent legislation. Terms and conditions of employment are also fixed by **national collective agreements** ("**NCAs**", "**Contratti collettivi**") signed periodically between the trade unions and the employers' associations of the same business sector.

These collective bargaining agreements usually regulate the working conditions and establish the minimum wage and salary scales for each particular sector.

2. Hiring

Employment contracts are governed by the general rules set out in the **Civil Code**.

Given the existence of a large number of NCAs and their extensive use by the employers, employment agreements in Italy normally consist of simple **hiring letters** which refer to the **items required by the law** including identity of the parties, place of work, employment start date, trial period (if any), duration of the employment (in case of fixed-term employment) and enrollment, employee's duties and to the **provisions** set forth by the **applicable NCAs**.

Individual employment contracts also specify the employee's "**category**" as established by the Civil Code, under article 2095.

There are four categories of employees:

- executives ("Dirigenti");
- middle managers ("Quadri");
- white collar employees ("Impiegati");
- blue collar employees ("Operai").

Despite the fact that national collective agreements normally define general principles that regulate the employment relationship of *Dirigenti*, general and specific conditions are often negotiated through individual agreements. *Quadri* are defined as employees who, while non-top executives, are continuously engaged in duties that contribute significantly to promoting the company's growth and achieving its goals. According to a limited number of collective agreements, employers are required to insure *quadri* against claims for negligence brought by third parties.

At the **beginning** of the employment relationship, the employer must inform the employee of the main **terms and conditions** of his/her contract.

Italian law does not provide any particular form for employment contracts; they may be communicated orally, although most contracts are proven in writing. Having said that, some specific provisions as well as specific information concerning the employment relationship are required by law to be in writing (for example: trial period, non-compete clause, fixed-term, if any). Also, certain types of contracts are required by law to be in writing (for example: part-time contracts).

Employment contracts can be agreed upon in any language, provided that both parties are able to fully understand the content of any provision therein.

The age of majority is 18 years old. The minimum age required for validly entering into an employment relationship is 16 years old with the worker's parents' consent (15 years old for apprenticeships contracts).

3. Employment relationship

Formal fulfillment

Upon the establishment of any employment relationship, the employer must notify the competent public employment service ("**Centro per l'Impiego**") at least 24 hours prior to commencement. This notification also fulfills the obligation to notify the relevant social security institutions (i.e. **INPS** and **INAIL**). If provided for by law, the employer must also stipulate insurance policies against risks and damage suffered by third parties caused by employees fulfilling their employment duties.

Trial period (Probationary)

The **statutory trial periods** are the following:

- **3 months**, for employees not assigned to managing functions;
- **6 months**, for all other employees.

However, the probation period is commonly set in the relevant NCAs depending on the category/level of the employee.

During the trial period, either party may freely terminate the working relationship at any time, without any notice, obligation or payment of the relevant indemnity in lieu.

Pay

Italian law does not provide for any statutory measure of "wages" and "salary".

For income tax and social security purposes, any compensation granted to the employee within the scope of the employment relationship, including compensation in kind, is considered wages (this does not include a few limited exceptions, such as expenses reimbursement).

There is **no statutory minimum wage** in Italy. Minimum wages for each contractual level are usually set forth by the relevant national collective agreements (NCAs). A minimum wage is being introduced for workers not currently covered by NCAs, although they account for less than 3% of the total workforce.

There are **no statutory bonuses**. NCAs may provide for collective performance bonus ("premi di risultato") or individual performance bonus. There are **no statutory allowances**, although NCAs provide for transportation allowances or indemnities for certain working arrangements such as on-call work.

Under Italian law, compensation is granted in **thirteen (13) monthly installments**. The additional 13th installment ("tredicesima") is paid out each year along with the December salary.

Some NCAs provide for a 14th monthly installment, normally paid in June.

The NCAs also normally set the payment date and the calculation basis of the contractual items (e.g. notice period, compensation during illness).

Employers frequently grant certain employees **fringe benefits** (for example: a company car and mobile phone to top/middle management and sales positions, luncheon vouchers and internal or external training and education). Employers are required to fund **severance payments** for all employees ("Trattamento di Fine Rapporto - TFR"), amounting to 1/13.5 of the annual overall compensation, payable on termination of employment for any reason.

Working hours

Maximum statutory daily hours	13 hours
Statutory weekly hours	40 hours (on yearly basis)
Maximum statutory weekly hours	48 hours (generally on a four-month basis, but NCAs can set the reference period up to 12 months)

Executives are not subject to the rules governing working hours. Some NCAs provide for a working week of less than 40 hours. Employees must be granted **at least one weekly rest day** (normally on Sunday).

Exceptional and temporary business activities may need employees working on weekly rest days or legal holidays.

Overtime work is considered as the hours worked exceeding the 40 hours per week and may not exceed 8 hours on a weekly basis and 250 hours on a yearly basis. NCAs set specific additional rates to be applied to overtime work and can also replace overpay with additional rest days.

Holidays and vacations

Public holidays	Date
New year's Day	1st January
Epiphany Day	6th January
Easter Monday	Variable
Liberation Day	25th April
Labor Day	1st May

Public holidays	Date
Republic Day	2nd June
Assumption Day	15th August
All Saints' Day	1st November
Immaculate conception	8th December
Christmas Day	25th December
St. Stephen's Day	26th December

A local Saint's day (depending on the local tradition of each city) is also considered as public holiday for the relevant territory.

Public holidays that fall in the weekend do not entitle absence from work on the nearest weekday, but employees are entitled to their normal pay.

Statutory annual vacations amount to **4 weeks**.

The employer normally decides when workers can take vacation based on company and production related needs and taking into account (where possible) employees' interests. In addition to the statutory minimum, NCAs normally provide for further period of paid vacation that it is increased with seniority service.

Italian law states that at least two weeks have to be taken in the same year. Up to two weeks of unused vacation may be postponed, but it must be taken within 18 months following the year of accrual.

Employees are entitled to be paid in lieu of unused vacation only upon employment termination.

Sick leave

Employees are entitled to **3 days of paid sick leave charged to the employer**.

Pay replacement benefits (in a percentage of the normal wage) are provided by the social security institute from the 4th day to the 180th day of illness. Certain NCAs require employers to top up social security benefits to 100% of salary.

During sickness, the contract is suspended and the employees' seniority is protected. Employees cannot be dismissed before the end of a minimum period prescribed by the applicable collective agreement. After that period, the employer may terminate the contract.

Maternity leave

Pregnant employees are entitled to **5 months' maternity leave**, from the second month prior to the due date to the third month after birth. The last 3 months can be extended to 7 months in specific cases. Pay replacement benefits are provided by social security. Any duties that might be considered as harmful is forbidden during pregnancy. During maternity leave the employment is suspended and seniority is protected.

Other leaves

There are other leaves provided for by law and the applicable NCA's, for example: adoption leave, paternity leave, parental leave and short-term leaves, such as wedding leave or leave linked to public and jury duties, family circumstances or education.

Contract amendments

The parties cannot modify the individual contract terms and conditions, unless the relevant amendments provide for a more favorable treatment of the employee. The Jobs Act has amended the provision regarding the change of an employee's task and duties. Unless agreed otherwise with employers, employees are entitled to maintain their salary - with the exception of task-related indemnities - even if their tasks are reduced.

Non-competition clause

According to Article 2125 of the Civil Code, **written non-compete covenants** are allowed provided that:

- adequate compensation is granted to the employee;
- duration of the agreement does not exceed 3 years for normal employees and 5 years for executives;
- it is circumscribed from a business and territorial standpoint.

Italian law does not provide for specific criteria with regard to identifying adequate compensation and the scope of activity or territory.

Therefore, in case of disputes, such criteria are determined by the Court on a case by case basis.

Teleworking

Teleworking must be voluntarily agreed with the employee. Teleworkers are entitled to the same rights as employees performing the same tasks and duties at the company's premises, including with respect to training and career opportunities.

The general regulatory framework concerning employees working from home can mostly be found in several NCAs. More specific rules may be agreed at local and/or company level.

Smart working

Smart working is considered as "a way of implementing an employment relationship" carried out in part at the premises of the company and partly at a different location, without a fixed workplace, but within a maximum duration limit of the daily and weekly work hours established by law and the collective bargaining agreement. Smart working must be agreed upon in writing, also through organization by phases, cycles and objectives, with the possible use of technological means to carry out the working activity.

State funded workers' furlough plans

In the event of a **temporary crisis**, the employer may use the "State funded workers' furlough" ("Cassa Integrazione Guadagni", CIG) which is a **collective suspension** from work of blue and/or white collar employees, allowing the employees to continue receiving up to 80% of the normal wage charged on a special fund held by the social security institute.

Compulsory hiring of disabled workers

Headcount	Obligation
15 to 35 employees	Company must hire at least 1 disabled worker
From 36 to 50 employees	Company must hire at least 2 disabled workers
51 employees and over	Disabled employees must represent at least 7% of the workforce

Companies in breach of these obligations are subject to administrative sanctions. To encourage the compliance with the rules, employers can enter into conventions with the competent authorities for the hiring of disabled workers. Companies that are experiencing financial or business difficulties can apply for a temporary suspension of this obligation.

Companies staffed with more than 35 employees which, due to the nature of their business (e.g. dangerous and strenuous works), cannot fulfill their quota may be eligible for a partial exemption from this obligation.

4. Employment of foreign workers

EU/EEA and Swiss nationals

According to the principle of free movement of persons, goods, services and capital, **EU (European Union)** and EEA nationals can be employed in Italy without any authorization by the Italian authorities being required.

Should an EU national choose to work in Italy for a period in excess of 3 months, he/she should apply for a so called "Stay card" ("**Carta di Soggiorno**"), which is normally issued by the local State Police office ("**Questura**") upon a simple request. This permit is renewable. Swiss citizens have the same right of entry, residence and access to work applicable as EU countries nationals.

Non EU/EEA nationals - the quota system

The admission of non-EU foreign workers is subject to a mechanism of quantitative **selectivity** based on **quotas** for new entries on a **yearly basis**.

They are meant to regulate the admission of third country nationals and their access to Italian labor market, by combining a purely quantitative selectivity with some elements of qualitative selectivity.

The determination of annual quotas of new inflows is established by the government, which sets the quota through a Prime Minister Decree (known as "Decreto Flussi"). The quota decree is published in the Italian Official Journal and starts some days after the implementation phase.

The whole **implementation process** of the quota system is basically made up of **three main steps**:

- authorization requests presented by employers to the Immigration Single Desk (ISD);
- visa request by prospective migrants in their country of origin;
- request and delivery of the stay permit for working purposes.

Authorization ("nulla osta") request

Employers must request the ISD for authorization to hire a foreign worker living abroad.

In the application file, the applicant employer is expected to submit a so called "Stay contract" ("**Contratto di soggiorno**") in which she/he commits him/herself to guarantee adequate **lodging** for the relevant worker and to fund

travel costs for his/her repatriation in case of expulsion before the expiry of the contract.

In addition, the contract has to include the **employment contract details** that must comply with NCAs for the specific sector/occupation in which the relevant worker will be employed.

Upon termination of the relevant checks by both Labor authority ("Direzione Territoriale del Lavoro") and local State Police office ("Questura"), the authorization ("**nulla osta**"), may be delivered to the applicant employer. The whole procedure should take **40 days** from the application.

Visa issuance

Once the nulla osta is delivered to the employer, he/she is required to forward it to the foreign worker to be recruited who must present him/herself at the Italian diplomatic representation in his/her country of origin and request a **visa for working purposes**.

The nulla osta will have a 6 month-validity, and during this period the visa may be issued.

Stay permit ("permesso di soggiorno") issuance

Within eight days of his/her arrival, the foreign worker must sign the **stay contract** presented by the employer at the ISD and simultaneously apply for the stay permit ("**Permesso di soggiorno**") for working purposes. The stay permit will be issued by the Questura. The stay permit has the same duration as the employment contract with a **maximum of 2 years** and it is **renewable**.

Exemptions - extra-quotas entries

The admission of some categories of workers is explicitly exempted from the quantitative limits set forth by the quota system.

In particular, **specific professional profiles** can be admitted without any quantitative cap (for example, **managers or highly skilled staff members of multinational/foreign companies**, university lecturers and professors, translators and interpreters, professional nurses, etc.).

Despite the lack of explicit quantitative limitations, the admission of workers pertaining to these categories is still subject to the authorization ("nulla osta") granted by the territorial ISD, even if a specific admission procedure has been further simplified for certain categories.

Stay permits have a maximum duration of two years, in case of fixed term contracts, or unlimited duration in case of **permanent contracts.** Professionals not hired have a maximum stay varying from 3 to 5 years. With EU Blue Card VISA they can renew residence permit for five years of continuous residence in Italy and then can ask for a permanent residency card (no expiry date).

Visas for investors

Italian law provides for a special, easier and faster procedure for foreign individuals who intend to invest in Italy. This new visa opens the door to the recognition of a two-year residence permit, renewable for further three years, provided that the foreign investor (not EU citizen) demonstrates that he intends to:

- buy Italian government bonds for at least 2 million euros or
- invest in the capital of an Italian company (at least 500 thousand euros) or in a startup (minimum 250 thousand euros).

The investment must, in any case, be maintained for at least two years.

Alternatively, this procedure will be applicable in case of relevant philanthropic donations in cultural assets, immigrant management, education and research, for a minimum of one million euros.

This rule is aimed at facilitating the release of VISAS to potential investors and allows their stay for periods of more than three months with no application of the quota system.

The investor must file the request to a specific Committee that was set up for this purpose by the Ministry of Economic Development. In the committee sit, among the others, representatives of Ministry of foreign affairs, of Internal Affairs, Financial Intelligence Unit (Central Bank of Italy), Security Guard, Revenue and Italian Trade Agency.

In particular, the Committee will evaluate the documents based on which the investor will demonstrate that she/he is the holder or beneficiary of the amounts to be invested and the certification of the legality of the funds, as well as the absence of definitive penal convictions or any other pending criminal charges.

A specific Decree released by the Ministry of Economic Development in July 2017 (http://www.sviluppoeconomico.gov.it/images/stories/normativa/decreto_interministeriale_21_luglio_2017_ingresso_e_soggiorno_investitori.pdf) defines the procedure for the establishment of such requirements by the Committee to which the following documentation (via the online platform) must be submitted:

1) a copy of a valid travel document with an expiration date of at least three months later than the length of the required visa;

2) documentation by which the applicant proves to be the beneficial owner and beneficiary of the amounts to be invested and that these amounts are available and transferable to Italy;
3) certification attesting to the legal origin of the funds constituted by:

   a) a statement made by the requesting party indicating the source of the funds;
   b) certification of non-existence of definitive criminal convictions and pending criminal charges issued by the competent authorities of countries other than Italy where, during the 10 years prior to the submission of the application and after the age of 18 years, the applicant has stayed for a period of more than 12 consecutive months;

4) a statement under which the applicant undertakes to use the funds within three months of entering Italy for the investment or donation and maintaining the investment for at least two years. The statement must me filed together with a description of the characteristics and recipients of the investment or donation.

For further information please visit https://investorvisa.mise.gov.it/index.php/en/

5. Specific types of employment contracts

Part-time contract

Part-time employment contracts must be **in writing** and specify the **working hours** (e.g. by day, week, month and year).

Pay and other entitlements of part-time employees are normally pro-rated to those applicable to full-timers performing same duties.

Ancillary clauses to part-time contract can be added, which allow employer a wider **flexibility**:

- so-called "elastic clauses" (clausole elastiche) that allow the employer to increase working time;
- so-called "flexible clauses" (clausole flessibili) that allow the employer to vary working hours during the day, week, year.

Fixed-term contract (legislative decree no.81/2015)

Employers can hire employees on a **fixed term** basis for arrangements limited by time.

Fixed-term contracts can last **up to 24 months**, including any extension.

Quantitative limits are normally set forth by NCAs; alternatively, law provides that the overall number of fixed term contracts may **not exceed the 20%** of the work- force hired on permanent basis.

Fixed term contracts cannot be used to replace workers on strike or employees temporarily included in workers' furlough ("Cassa integrazione guadagni") or involved in collective dismissals in the past few months.

"On call" jobs ("lavoro a chiamata o intermittente" legislative decree no.81/2015)

"**On call**" job contracts provide that an employee declares his/her availability to work over a certain period of time, during which he/she can be called in - even for a few days only - with short-term notice.

The individual contract may provide that the employee is bound to work if called by the employer. In this case, in addition to the normal remuneration paid for the working activity actually carried out, the employee may be entitled to an additional 20% of the wage set by the NCAs. This contract must be agreed upon in writing.

Apprenticeship (“apprendistato”, legislative decree no.81/2015)

Apprenticeship is an open-end contract with a **vocational training content**.

The employer can hire apprentices within certain quantitative thresholds depending on the number of employees hired and is required to ensure that the apprentice acquires professional skills and qualification.

Staff supply contract (“contratto di somministrazione di lavoro”)

Temporary contracts, on fixed-term or open-end basis, can only be agreed with qualified **employment agencies**. Workers must benefit from the same legal and economic conditions applied to employees of the user company. Employers may not use staff supply contracts to replace workers on strike or to replace employees temporarily included in workers’ furlough plans (“Cassa integrazione guadagni”) or involved in collective dismissals in the previous few months.

6. End of employment

General principles

Dismissal should always be provided by **written notice**. Individual dismissals of employees are subject to certain restrictions.

Permanent contracts can be terminated **without any compensation** or additional penalty being required only where grounded on a **just cause** ("giusta causa") or subjective/objective **justified reason** ("giustificato motivo soggettivo/oggettivo").

Just cause means a very serious breach (e.g. theft, serious insubordination) or any other employees' misbehavior that seriously undermines the trust relationship on which employment is based. Justified reasons are either:

- subjective justified reason, consisting of a less serious breach of the employee (e.g. failure to follow important instructions, willful misconduct, repeated non-justified absences from work);
- objective justified reason, consisting of facts and events related to the employer's economic, organizational and production-related needs (such as bankruptcy of the employer, shutting down of the production department where the employee works, etc.).

Termination of fixed-term contracts

If one of the parties terminates the contract before its expiration date and without just cause, the other party may be awarded a proper compensation.

In the event of early termination by the employer, compensation would customarily amount to that which the employee would have accrued up to the contract expiration date.

Resignations

Most collective agreements require that this be in writing. According to certain NCAs, in case of resignation, the length of the notice period may be shorter than in the case of dismissal. Recently, the law provided that resignation as well as termination of the employment contract by mutual consent must be validated through a specific online procedure (please visit: https://servizi.lavoro.gov.it/Home/login?retUrl=https://servizi.lavoro.gov.it/Dimissioni/&App=mdv).

Notice and termination payments

Upon termination of employment relationship, employees are entitled to:

- the payment of severance payments (TFR);
- the payment of some minor termination indemnities (payment in lieu of unused holidays and permits, accrued pro-rata 13th and 14th monthly installments etc.);
- payment in lieu of the **notice period**, the duration of which varies according to the employees' seniority and professional level as established by national collective agreements (where the employee is not required to perform working activities during the notice).

The **payments** under points (i) and (ii) above are **always due** in the case of dismissal, while the notice period (or the relevant indemnity in lieu) would not be due in the case of dismissal for just cause.

With respect to point (iii) above, it is worth noting that the employer is anyway entitled to **exempt** the employee **from working during the notice period**. In such case, the employee would be entitled to receive the corresponding indemnity in lieu, which would be equal to the normal salary (plus social security contributions) that would have been due during the notice period.

Unfair dismissals

Jobs Act has introduced a new regime of consequences for individual and collective unfair dismissals, remarkably reducing the instances of reinstatement and establishing a transparent framework for possible disputes. The new provisions apply to:

- employees hired on an open-ended basis after 7th March 2015;
- employees hired before 7th March 2015 on a fixed-term basis whose contracts were converted into an open-ended contract after 7th March 2015;
- apprentices hired before 7th March 2015 whose contracts were converted into an open-ended contract after 7th March 2015.

(a) Unfair dismissals consequences for employee hired before 7th March 2015

Should the dismissal be deemed unfair by a Court, the employer would be required to do either of the following:

1) if the reasons of the dismissal are considered **unlawful**: reinstatement and payment of an indemnity equal

maximum to maximum 12 months' salaries (plus social security contributions). The employee may waive his/her right to reinstatement, opting to receive an additional compensation equal to 15 monthly wages;

2) if the reasons of the dismissal are considered **concrete**, but insufficient to justify the dismissal: payment of an indemnity ranging from 12 and 24 monthly wages of the last annual salary.

Employees of small companies (less than 15 employees) are entitled to receive a compensation ranging from 2.5 to 6 months' wages.

In case of discriminatory and void (e.g. oral) dismissals, regardless from the number of employees, point (i) above applies.

(b) Unfair dismissals consequences for employees hired after 7th March 2015

In the event the dismissal based on economic or disciplinary reasons is declared unfair by the Court, the employee is entitled to an **indemnity** equal to 2 monthly wages for each year of employment, with a minimum of 4-6 months up to a maximum of 36 months. Please also note that the Italian Constitutional Court (Corte Costituzionale) has lately (Judgement no. 194/2018) held as against the Italian Constitution the fixed parameter connected only to seniority in identifying the indemnity for unlawful dismissal. Therefore, from now on, the Labour Court will identify the measure of indemnity at its discretion (taking into account the condition of the parties to the employment etc.) within the range set by law.

The Court may condemn the employer to reinstate the employee only in the case of void and discriminatory dismissal or should the Court find that the allegation for dismissal on subjective reasons was not based on fact. In smaller companies (less than 15 employees), the indemnities will be halved and cannot in any case exceed 6 months wages. Reinstatement is foreseen only for void and discriminatory dismissals.

In order to prevent possible disputes, a **fast and convenient lout-of-Court settlement procedure** has been established, allowing the employer to offer the worker an indemnity equal to 1 month's wage per year of service, with a minimum equivalent to 2 months wages up to a maximum of 18 months wages. Acceptance of this transaction prevents any further challenge by the employee. The sum paid is not subject to social security contribution or to taxation.

Dismissal of executives

Though similar principles apply, **dismissal of executives** is not regulated by the same statutory provisions governing termination of lower-level employees. Given the high-level engagement, **fairness** of an executives' dismissal is normally assessed unless it is shown to be a violation of correctness and good faith principles. The High Court

("Corte di Cassazione") has indeed repeatedly confirmed that concept of "fairness" of an executive's termination does not coincide with the notion of "just cause" and/or "justified reason" (applicable to lower level employees), but that it includes any reasonable ground for termination not limited to a breach of the correctness and good faith rules which underpin an employment relationship.

7. Collective dismissals

The union procedure

Pursuant to Art. 24 of Law no. 223/1991, a mandatory procedure must be started whenever an employer staffed with more than 15 employees intends to **dismiss 5 or more employees** in the same business unit, **within a timeframe of 120 days**, due to a **reduction/reorganization/closure** of the company's business.

The collective dismissal applies to all employees, including executives.

The procedure begins with the employer submitting a written notice to the works councils (if any) or to the Trade Unions representatives at a national level to inform them about its intention to carry out a collective dismissal.

The notice must include the following information:

- the **reasons** for the collective dismissal;
- the technical, organizational and productive reasons for which such dismissal cannot be avoided;
- the **number of concerned employees**, their duties and characteristics;
- the **date** on which the dismissal shall be implemented;
- the measures, if any, that will be taken in order to reduce the **social impact** of the dismissal.

unfair collective dismissals

Regime	Action	Consequences
Old regime (a)	- Void dismissal (e.g.oral) - Breach of the mandatory procedure - Non-compliance with the selection criteria Breach of the mandatory procedure Non-compliance with the selection criteria	- Reinstatement (or payment of indemnity in lieu) - Payment of an indemnity ranging from 12 to 24 months' salary - Reinstatement (or payment of the relevant indemnity in lieu) Reinstatement (or payment of indemnity in lieu)
New regime (b)	- Void dismissal (e.g.oral) - Breach of the mandatory procedure and/or non-compliance with the selection criteria	- Payment of an indemnity equal to 2 months' salary per each year of service, with a minimum of 4 and a maximum of 24 months

Note that with reference to the same collective dismissal, employers may face different outcomes, depending on the date of hiring of the employees involved.

8. Safety at workplace in Italy

A Consolidated **Act on Workplace Safety** (Legislative Decree no. 81/2008) unifies all legal provisions regarding health and safety at the workplace and is enforceable in all sectors. The Act provides an exhaustive explanation of the **rules** on safety, including **powers, responsibilities and functions** that may be delegated.

Employees are entitled to elect a representative to deal with health and safety related matters, and to be trained on the peculiar risks to which the company is exposed.

The Constitution and the Civil Code impose a general obligation on employers to safeguard the physical integrity and moral personality of their employees.

9. Labor proceedings

Ordinary proceeding

Special provisions of the Italian Code of Civil Procedure (Art. 409 and subsequent) apply to labor proceedings and provide for **special and fast resolution** of individual disputes. A first instance decision is normally issued within 12 months, on average.

The main features of the special procedure of individual labor disputes are the following:

- a fast proceeding compared with an ordinary civil proceeding;
- a mandatory conciliation attempt by the Judge at the first hearing;
- wide powers granted to labor Courts, including the faculty to introduce on its own initiative new evidence and to order one of the parties to pay sanctions, indemnities and compensation during the proceedings for the amount that has already ascertained to be due;
- prohibition on changing the parties' initial pleading.

Judgment in the first instance may be challenged before the Court of Appeal, further appeal may be made to the Supreme Court.

"Fornero" special proceeding

The "Fornero" reform (Law no. 92/2012) introduced an even **faster procedure** restricted to **unfair dismissal disputes** in companies with more than 15 employees or other types of unfair dismissals that may entitle the employee to be reinstated (discriminatory dismissals etc.).

Judges are in this case obliged to schedule the first hearing within 40 days of the complaint.

Within 10 days of the first hearing the judge must issue a judgment to reject or uphold the claim. The judgment is immediately enforceable before the same Court. The parties may appeal this second judgment before the Court of Appeal, which may in turn be challenged before the Supreme Court.

The "Fornero" procedure does not apply to workers engaged under the new "Jobs Act regime".

10. Employee representation bodies & Employee participation

Overview

The **sources** of Italian regulatory system for employee representation bodies are twofold: legal and contractual.

With regards to **legal sources**, the basic right to establish and join a Trade Union association in the workplace or perform Union activity, is granted to all workers and is protected by a network of anti-discriminatory provisions (Articles 14-17 of Law no. 300/70, i.e. "Workers' Statute"). "**Rappresentanze Sindacali Unitarie**" (hereinafter RSU) were established by national agreement in 1993 reformed in 2014. RSUs are formed by a general **election among the workforce**. The Unions compete in the election and are represented in proportion to the votes they have received.

Alternatively, to take part in the election of RSU, a union can establish its own **Rappresentanza Sindacale Aziendale** (RSA) in the framework of the specific business unit.

Rights and obligations

Both types of works council, RSA and RSU, are involved in **collective bargaining** and the verification of the correct application of laws and collective agreements at workplace. They exercise **information** and **consultation** rights, as laid down both by collective bargaining and by law. They should be consulted on issues such as overtime levels, employment policies, hiring policy or corporate restructuring.

11. Social security and assistance system

The social security system provides **retirement**, **survivor and disability pensions**, as well as **healthcare**, **unemployment benefits** and **family allowances**.

Benefit amount is generally based on accrued social security contributions and length of service.

All employees and wage earners, including executives and self-employed workers are obliged to take part in the Italian social security scheme.

- **social security contributions** are paid to Italian social security administration (so called "**INPS**"). Employees can join certain supplementary pension funds (provided by NCAs) to increase social security benefits.
- the national **work accident insurance** institute (so called "**INAIL**") covers almost all employees for accidents at workplace and occupational diseases.

12. Employment incentives

Employers can benefit from a number of incentives aimed at the sustainable inclusion of young people, female workers over 50, disadvantaged and disabled workers in the employment markets. Employment incentives are also granted in relation to unemployed and workers who have been drawing of the wage fund guarantees. Incentives consist of a partial or total exemption from social security contributions.

13. Productivity bonus

Productivity bonus paid by the employer in the framework of a collective agreement executed with the trade unions are subject to a reduced taxation equal to 10%. The bonus must be applied to the whole eligible workforce (or homogeneous categories of them) grounded on objective, fair, predetermined, and materially valuable performing criteria.

The productivity bonus amount cannot exceed EUR 3,000 per year or, alternatively, EUR 4,000 per year in case of equal involvement of the employees within the company's structure.

IP REGULATION

Italian Law sets forth a specific regulation for Industrial Property rights under Decree no. 30 of February 10, 2005, as converted and amended by Law no. 27 of March 24, 2012 (i.e. “Industrial Property Code”, hereinafter “IPC”).

Such rights can represent an important asset of the business value; therefore, with reference to each category of rights, the law grants the entitled subjects with the faculty to obtain a specific protection.

The most relevant IP rights’ categories are:

1) trademarks;
2) patents;
3) designs and models;
4) software and database.

1. Trademarks

Through the protection granted by the registered trademark, the manufacturer, the distributor or the retailer can distinguish their products or services from those of all other traders, consequently increasing commercial reputation, trustworthiness by the consumers and economic value of the firm. In fact, the protection arising from the registration procedure prevents all third parties in the relevant territory from using in the course of the trade the same sign or a similar sign for equal or similar goods or services if, in case of mere similarity, there exists a likelihood of confusion by the consumers, including the likelihood of association.

Italian application can be submitted with reference to a limited geographic area and a specific class of goods or services. With the exception of some restrictions pursuant to article 7 of IPC, these as follow fall under the trademark regulation: all signs that are susceptible of being graphically represented, with particular regard to words, including names of persons, drawings, letters, numbers, sounds, the shape of the product or the packaging design thereof, chromatic combinations or tonalities, provided they are suitable to be used in order to distinguish goods or services of a company from goods or services of other companies. In order to register a trademark, the following requirements shall be met: (i) Novelty – article 12 of IPC, (ii) Distinctive character – article 13 of IPC, (iii) Lawfulness – article 14 of IPC.

Peculiar categories of trademarks are:

- Shape trademark: is a three-dimensional trademark corresponding to the product shape, provided that such shape meets the requirements of distinctiveness and unobjectionable content (unless, according to article 9 of IPC, the shape is the one resulting from the nature of the goods considered or if the shape is that necessary to obtain a technical result or if it gives substantial value to the goods to which refers);
- Collective trademark: according to article 11 of IPC, public subjects, including authorities, institutions or bodies governed by public laws, and Associations of manufacturers, producers, suppliers of services, or traders, may apply for collective marks which may serve, in trade, to designate the geographical origin of the goods or services. These subjects may have the right of allowing the use of such trademarks to producers or traders;
- Certification trademark: according to article 11 bis, persons, corporations, institutions whose function is to guarantee the origin, the nature or the quality of certain products or services may obtain the registration of certification provided that such subjects don't carry on a business involving the supply of goods or services of the kind certified.

The application to obtain a registered trademark can be filed to any Italian Chamber of Commerce or, alternatively, to the Italian Office for Patents and Trademarks: “Ufficio Italiano Brevetti e Marchi” - www.uibm.gov.it

EU application grants the petitioner the possibility to gain the protection arising from the EU trade mark, which, beside all other features required by the European regulation, shall have a unitary character and, consequently, equal effect throughout the Union, unless otherwise provided. It is important to underline that the regulation has recently been amended with Reg. (EU) 2015/2424 coming into force as at October 1st, 2017.

EU trademark registration application can be submitted to the competent EUIPO (European Union Intellectual Property Office) - www.euipo.europa.eu

2. Patents

Patent provides the owner with a legal mean to prevent others from exploiting the protected invention. Therefore, patent is a very important commercial tool for companies, allowing them to return on the investment in research and development that led to the creation of that new technology.

Actually, patents represent a potential way to protect intangible assets' value, though the decision to file the application for an invention is a strategic choice to be carefully evaluated, since a patent may be difficult and expensive to obtain and to manage.

An application for patent in Italy can be submitted by the author of the invention, nonetheless when an industrial invention is made in the performance or fulfillment of a contract or of an employment relationship (under which the inventive activity is contemplated and remunerated), the rights related to the invention activity belong to the employer (i.e. property rights – article 62 of IPC), without prejudice to the right for the inventor to be acknowledged as the author (i.e. moral rights – article 63 of IPC).

According to article 45 of IPC, patents may be granted for inventions in all technical sectors which (i) are New, (ii) imply an Inventive activity, (iii) are suitable for Industrial application and (iv) are Lawful. Pursuant to article 82 of ICP utility models, conferring particular effectiveness or ease of application or use of machinery or parts thereof, instruments, tools or objects of general use, are patentable as well.

The duration of a patent for an industrial invention is equal to twenty years as from the date of the filing of the application and may not be renewed nor extended (article 60 of IPC).

Patents applications can be filed to the Italian Office for Patents and Trademarks: "Ufficio Italiano Brevetti e Marchi" - www.uibm.gov.it

The European Patent (regulated by the 16th Edition, June 2016 of the EPO Convention) is a special form of protection for industrial inventions or utility models which enables the applicant to obtain a patent valid within the territory of the specifically elected European Patent Organization Member States through a unified and centralized procedure of filing, examination and granting. A European patent shall confer on its proprietor from the date on which the mention of its grant is published in the European Patent Bulletin, in each Contracting State in respect of which it is granted, the same rights as would be conferred by a national patent granted in that State.

The application shall be filed to the EPO (European Patent Office) in one of its official languages (English, French or German) - www.epo.org

The European Unitary Patent (regulated by Reg. (UE) 1257/2012) system is in force starting from the second half of 2019 together with the Unitary Court. Such unitary patent, issued by EPO, will offer owner a protection for up to 26 EU participating Member States through a sole application at the European Office and the payment of a comprehensive fee.

3. Designs and Models

The design or model protection has a crucial relevance in respect of a wide range of products in industry, fashion and handicraft.

An application for the registration of designs (bi-dimensional) and models (three-dimensional) is filed by the author, unless designs or models are created by employees and to the extent that the task is included among their duties; in such case, the employer, without prejudice to the employee's right to be acknowledged as the author and to have his name entered in the certificate of registration (article 38 of IPC), can obtain the registration.

Registrations as designs and models may be granted to the appearance of the whole or a part of the product, resulting in particular from the features of the lines, contours, colors, shape, texture or materials of the product or its ornamentation. The registration certificate is issued under the following conditions: (i) Novelty – article 32 of IPC, (ii) Individual character – article 33 of IPC, (iii) Lawfulness – article 33 bis of IPC.

The duration of the registration is equal to five years starting from the date of the filing of the application, nonetheless the owner may obtain an extension of the duration for additional periods of five years until a maximum of twenty-five years.

The application to obtain a registered model or design can be filed to any Italian Chamber of Commerce or, alternatively, to the Italian Office for Patents and Trademarks - www.uibm.gov.it

The European application can be filed to EUIPO (European Union Intellectual Property Office - www.euipo.europa.eu) and grants the applicant the faculty to exercise exclusive rights within the territory of all EU Member States. Conditions for registration are the same provided under the national law.

4. Software and Database

Software can be protected under the Copyright Law (Law no. 633/1941), with particular regard to articles 64 bis to 64 quarter, since the law does not set forth any particular protection to be granted to such programs under IPC; nonetheless in some peculiar cases it could be recognized the patentability, provided that the software solves a technical issue. In any case, even though protection under Copyright Law arises automatically from the creation and no type of administrative fulfillment is needed, to furnish the author exclusive rights, a software already published can be registered in the Public Register of Software.

The copyright on the program has a duration equal to the author's whole life plus 70 years after his/her death. In case of assignment of the economic rights, the duration will be calculated considering the life of the author independently from the buyer.

A database can be protected by referring to Italian Law on copyright as well pursuant to articles 64 quinquies and 64 sexies. Therefore, related rights of the author arise automatically on the creation and are not conditioned upon any formal requirement such as registration.

The exclusive right of the maker, who is not necessarily the author, shall come into being on the completion of the database, and shall expire 15 years from January 1st of the year following the date of the said completion.

TAXATION IN ITALY

The **Italian tax system** is mainly based on the following taxes:

- Corporate Income Tax (IRES);
- Regional Tax on Productive Activities (IRAP);
- Value Added Tax (IVA);
- Excise duty (Accisa);
- Personal Income Tax (IRPEF);
- Inheritance and Gift Tax;
- Local taxes: National Tax on Real Estate (e.g. IMU, etc.);
- Registration tax and other indirect taxes on property transfers.

1. Corporate income tax (i.e. "IRES" – "Imposta sui Redditi delle Società")

All income produced by companies and institutions is subject to a corporate income tax known as IRES.

IRES is due on all income produced within the scope of the company.

The **tax rate has been reduced from 27.5% to 24% starting from January 1st, 2017** and it is applied on the taxable income (tax assessment basis). The relevant payments are made up of two initial payments, one on accounts and one balance payment. There is a 3.5% surtax for bank and financial entities.

The **tax period** is generally 12 months and corresponds to the calendar year.

Withholding taxes are normally fully deductible from IRES. If the sum of the payments on account and withholding taxes exceed the tax payable, such excess may be carried forward and deducted from the tax payable relating the following tax period, reimbursed or used to offset any other tax and social security debts.

Entities liable for tax

The following **entities** are liable to pay IRES:

- limited liability companies, joint stock companies, cooperatives and mutual insurance companies, as well as European companies referred to in Regulation (EC) no. 2157/2001 and the European cooperatives referred to in Regulation (EC) no. 1435/2003 resident in the territory of the State;
- public and private entities other than companies, as well as trusts, resident in the territory of the State, which have as their sole or main object the conduct of commercial activities;
- public and private entities other than companies, trusts that do not have as their sole or main object the conduct of commercial activity as well as collective investment bodies, resident in the territory of the State;
- companies and entities of all types, including trusts, with or without legal personality, not resident in the territory of the State.

Companies and institutions are considered to be **resident** when one of the following conditions is met for most of the tax period:

- the registered office is located in Italy;

- the administrative office is located in Italy;
- the main object of the activities is located in Italy.

Tax assessment basis

The **profit chargeable to corporation tax** (PCTCT) is determined on a **worldwide basis** by applying increases and reductions to profit as stated in the statutory financial statements or annual accounts, prepared in accordance with Italian accounting standards.

From 2011, tax losses may be **carried forward** for an indefinite period of time but may be used to offset only 80% of PCTCT (100% of PCTCT if incurred in the first 3 years of business).

Income produced abroad contributes to the creation of the PCTCT; however, in order to avoid double taxation any foreign tax withheld at the source may be deducted, with specific limitations, from the net Italian tax due.

There is no tax relief for foreign underlying tax. Specific anti-abuse rules have been provided for.

Deductibility of expenses

In order to calculate the taxable income, wide range of expenses can be deducted from the profit as indicated in the profit and loss accounts. Some of those expenses are fully deductible, some of them are partially deductible and others are not deductible.

As a general principle, all the **expenses incurred to carry out the company activity** are eligible to be fully deducted from the profit. However, if some of these costs are incurred both for company and for private purposes, the percentage of deductibility is less than 100%. Only the costs booked in the P&L statement can be deducted for tax purposes.

The following list provides some examples of deductible costs and the extent of their deductibility:

- **depreciation**: they are deductible pursuant to a Ministerial decree (Min. Decree 31.12.1988) which establishes the different percentages of annual deductible depreciation for specific assets;
- **cost of labor**: all the costs related to wages, social and health contributions paid by the company are deductible;
- **other taxes**: apart from IRAP (deductible only up to 10% of the amount paid), other taxes are deductible in the fiscal year they have been paid;
- **provisions**: most provisions cannot be deducted for tax purposes since they are not relevant from a tax perspective;
- **telephone costs**: 80% of their amount is deductible;
- **costs related to cars**: if a car is used exclusively for business purposes, the costs are entirely deductible, otherwise

they can be deducted in different percentages (70% or 20%) depending on the user and the conditions for use;
- **gifts**: they are entirely deductible if their value is less than EUR 50 each (gross of VAT);
- **entertainment expenses**: deductible within the following limits:
  - 1.5% of the annual sales value (for annual sales up to EUR 10 million)
  - 0.6% of the annual sales value (for annual sales within EUR 10 million and EUR 50 million)
  - 0.4% of the annual sales value (for annual sales of more than EUR 50 million)

Controlled foreign company (CFC)

According to CFC rules contained in Article 167 of Italian Tax Code (ITC), the income realized by a non-resident company, entity, (or non-resident permanent establishment of such entities), which is controlled directly or indirectly by a resident person (individual, company, etc.) or by a permanent establishment in Italy of a non-resident entity, is imputed for transparency directly to such resident person or PE, in proportion to the participation held, when the following conditions are met:

- the effective tax rate to which the foreign subsidiary is subject in the Country of location is lower than 50% than that applicable in Italy;
- CFC's proceeds are made up for over 1/3 of passive income (dividends, royalties, etc.).

The application of the CFC rules may be avoided if the resident person proves that the non-resident controlled entity performs an effective economic activity through the use of personnel, equipment, assets and premises.

The CFC income is computed according to the ordinary rules governing IRES (with some few exceptions, such as for "shell" or systematic loss-making companies) and it is attributed to the resident taxpayer subject to separated taxation in tax return, by applying the ordinary Italian corporate tax rate, equal to 24%.

From the tax due the taxes paid abroad are deductible.

The dividends subsequently distributed by the subsidiary will be treated as exempted up to the taxed income.

Transfer pricing

Transfer pricing rules in line with OECD Guidelines are applicable in Italy. In particular, the rules apply to:

- foreign companies which control the Italian enterprises they perform transactions with;
- Italian enterprises which control the foreign companies they perform transactions with;

- Italian or foreign companies which control both entities (Italian enterprises and foreign companies) involved in the transaction.

"**Foreign companies**" are defined in practice as any kind of business entity, legally recognized in the foreign country, even if it has only one partner.

"**Italian companies**" are defined as companies with share capital, partnerships, sole traders and permanent establishments of foreign companies set up in Italy.

The inter-company transactions subject to Transfer pricing rules are taxable/deductible on the basis of the **Arm's Length principle**, which is the principle recommended by the OECD Guidelines, according to which the intercompany prices negotiated should be the same as those agreed between independent parties operating in conditions of free competition and under comparable circumstances.

There are **no legal obligations** in terms of documenting the price policy used within the international group; however, it is advisable for the Italian Company to have the proper documentation that can explain the transfer pricing method adopted within the group. It is provided a penalty protection regime for companies filing proper TP documentation. A simplified approach is also provided for SME (small or medium-sized enterprises) opting for TP documentation, with reference to the information provided in the Country specific documentation. Avoiding transfer pricing issues is also possible by using one of the means provided by the tax authorities, such as:

- advanced pricing agreement (APA);
- simplified approach for low value-added intragroup services;
- International standard ruling.

An annual tax return must include the following information:

- the kind of control (see the above points) applicable to the company;
- the amount of the transaction relating to the transaction subject to the Transfer pricing rules;
- if the company has the documentation to prove the transfer pricing method adopted within the group.

In relation to the above documents, the Italian regulations make explicit reference to the **OECD Guidelines,** and the documentation requirements broadly replicate the recommendations of the **EU Code of Conduct** on transfer pricing documentation for associated enterprises in the EU - the *'European Union Transfer Pricing Documentation*' or '**EU TPD**'. This includes the Master File and the Country specific documentation (Local File), although with some points of difference, towards a more comprehensive informative package.

Furthermore, CbC (country-by-country) reporting rules have been introduced. As for CbCR legislation, the Ultimate Parent

Entity, resident in Italy, of a MNE Group having total consolidated group revenue of not less than € 750,000,000 must file CbCR. It must be filed for each reporting fiscal year within 12 months from the last day of the reporting fiscal year.

Dividends

Dividends received by Italian entities are subject to taxation as follows:

- dividends received by resident companies are taxed at 5% of their amount;
- dividends received by companies located in countries with a preferential tax system are fully taxable. In order to avoid full taxation, the recipient can prove the existence of one of the two conditions for exemption provided for by tax legislation (Article 47-bis of the ITC):
  - performance, by the foreign subsidiary, of an effective economic activity, through the use of staff, equipment, assets and premises: in this case 50% of the dividend is excluded from taxation and, if the shareholding is controlling, an indirect tax credit is also due for taxes paid by the subsidiary;
  - holding equity interests in the foreign company does not have the effect of locating the income in States or territories with a preferential tax system (that is such income is subject to an adequate taxation): in this case the dividends are taxed for 5% of their amount.

Dividends paid to companies based in member states of the European Union (EU) and in members of the European Economic Area (EEA) that allow a suitable exchange of information with Italy, are subject to a 1.20% withholding tax rate at source.

As per Budget Law 2021 (L.178/2020), starting from 1st January 2021, 50% of the dividends received by non-commercial entities (as well as by permanent establishments of non-commercial entities) are excluded from the IRES tax base, provided that such non-commercial entities carry out, exclusively or principally, activities of general interest for the pursuit of civic purposes, solidarity and social utility, and that the tax savings obtained are intended to finance the above-mentioned activities, setting aside the amount not paid in an indivisible and non-distributable reserve for the duration of the institution.

According to Law 178/2020, as of 2021, in relation to the tax treatment of dividends and capital gains, the same exemption scheme provided for investment funds established in Italy is extended to foreign investment funds, established in EU States or States of the European Economic Area that allow an adequate exchange of information.

Participation exemption (“Pex”)

Capital gains on the transfer of shareholdings, under certain conditions, are **95% exempt** from taxation.

The legal **conditions** for exemption are the following:

1) uninterrupted holding from the first day of the 12th month preceding that of the transfer; holdings acquired more recently will be deemed to be transferred first (LIFO basis);
2) classification of holdings as fixed asset investments from the first balance sheet closed during the period of ownership;
3) tax residence of the subsidiary in a country or territory other than those with a preferential tax system, such condition must be met, without interruption, from the first period of possession; however, for transfers made to counterparties not belonging to the same group, it is sufficient that the condition exists, without interruption, for the five tax periods prior to the transfer;
4) carrying out of actual commercial activities by the subsidiary; this condition must be met without interruption at least from the beginning of the third tax period prior to the one of the transfers.

Capital losses on shares that met the abovementioned conditions are not deductible.

Deducibility of interest payable

Interest expense and similar financial charges are deductible in each tax period up to the total amount of:

- interest income and similar financial income referred to the tax period;
- interest income and similar financial income reported from previous tax periods.

Any excess of interest expense and similar financial charges - with respect to the total amount of interest income and similar financial income (for the period or carried over from previous tax periods) - is deductible within the limit of the amount resulting from the sum of 30% of the ROL of the tax period and the unused ROL carried over from the previous 5 tax periods.

ROL means the difference between the value and the costs of production referred to in Article 2425 of the Italian Civil Code, letters A) and B), with the exclusion of depreciation of tangible and intangible assets as well as leasing fees for instrumentalities; these items are covered in the amounts resulting from the application of tax provisions for the determination of corporate income.

Interest expense and similar financial charges that are not deductible in the tax period - as they exceed the sum of interest income (for the period or carried over from previous tax periods) and 30% of the ROL for the period as well as the non-taxable ROL carried forward from the 5 previous tax periods - are deducted from the income of the subsequent tax periods, without time limits, if in these periods the relevant interest expense is fully deducted and to the extent that there is an excess of interest income and / or ROL.

Tax transparency option

Tax transparency is a tax regime by which the **company is** not taxed on the PBT (Profit Before Tax) realized, but the PBT is **attributed to each shareholder**, in proportion to their share in the profits and independently from distribution of dividends.

Such an option can be used if formally chosen by all the shareholders.

The requirements for exercising the option are as follows:

- the shareholders must all be joint stock companies, cooperative companies or mutual insurance companies, European companies and European cooperative companies resident in Italy;
- each shareholder must hold a percentage of voting rights and profit-sharing of a minimum of 10% and a maximum of 50%.

These conditions must be met from the very first day of the tax period of the subsidiary in which the option is exercised and remain in force until the end of the option period. The option lasts for 3 fiscal year. Under certain conditions, this regime may also be applied if one or more shareholders are non-resident. In the event of the distribution of dividends, consisting of profits matured during the periods included in the period under the transparency regime, those dividends will not be taxed.

This system is also applicable to limited liability company or cooperatives provided that:

- all the shareholders are individuals, up to 10 for a limited liability company or 20 for cooperative companies;
- the company has an income not exceeding the thresholds provided for the application of ISA (Synthetic index of tax reliability);

Domestic and world tax consolidation

Companies belonging to the same group may opt for the consolidation of their income.

Domestic tax consolidation

Domestic tax consolidation is an **optional regime that lasts for a 3-year period** (irrevocable), to which company groups may opt in. In order to benefit from the regime, the law provides for the controlling company to participate directly or indirectly in an amount exceeding 50% of the share capital and profits of the subsidiary for the year.

The regime consists in the **consolidation of the taxable income**, calculated separately by each company, irrespective of the percentages of participation of the different companies which take part to the consolidation.

For this purpose, the holding company must:

- submit the consolidated earnings return, calculating the overall global income based on the algebraic sum of the overall net income declared by each of the companies participating, without making any consolidation adjustment;
- proceed with payment of the group taxation (IRES).

Any excess interest expense and similar non-deductible costs generated for a member belonging to the tax consolidation can reduce the overall group income if, and to the extent that, other members participating in the consolidation have an excess portion of ROL and / or an excess of interest income and similar financial income. These rules can be applied to excesses carried forward, excluding any excess borne prior to entering the National Tax Consolidation that must be used for the sole purposes of each company elected for this regime. The option is exercised by forwarding suitable notification to the Tax Authorities.

Companies belonging to the group and using IRES rate reductions may not exercise the option.

The following **conditions** must also be met:

- all the companies participating in the group must have the same year-end;
- election of domicile by each subsidiary with the controlling company.

The possibility to opt for this regime is also granted even if the controlling company is not resident in Italy. This is the case of the so called “Horizontal consolidation”, known also as “consolidation between sister companies”, according to which it is possible to consolidate the tax base of “sister” companies and their permanent establishments, after the election of a resident subsidiary or of a permanent establishment of a resident subsidiary in EU / EEA countries to fulfil the role of consolidating company.

World Tax consolidation

World tax consolidation is an **optional regime** with a **5-year period** (irrevocable), based on which a controlling company resident in Italy may consolidate the income made by all ("all-in, all-out" principle) non-resident subsidiaries proportionately, for which the control requirement exists, based on the percentage of participation held in the subsidiaries by the Italian ultimate parent company.

The following conditions must be met:

- residence of the controlling company in Italy;
- all the companies participating in the group must have the same year-end, unless not permitted by foreign legislation;
- inspection of the balance sheets of the controlling and subsidiary companies;
- compulsory consolidation of all foreign subsidiary companies;
- certification by non-resident subsidiaries of their consent to the audit of the balance sheet and undertaking to provide any collaboration required to establish the tax assessment basis and to comply with the requests of the Tax Authorities.

A suitable appeal should be made to the Tax Authorities to check the requirements for the valid exercise of the option.

2. Withholding taxes

Withholding taxes are applied to various payments. The following are the most important.

Dividends

Dividend income received by resident individuals not carrying out business activities is subject to personal income tax (IRPEF) as follows:

- 26% substitutive final tax withheld at source from the total amount, related to **qualified and non-qualified participations** (profits gained from 2018).

Dividends of foreign source from **black list countries** are subject to ordinary tax on 100% of their amount. 26% advance withholding tax applies, being final if the shareholdings are traded on regulated markets.

Dividends paid to **non-residents** (other than EU companies) are subject to a 26% final withholding tax. Reduced rates and reimbursement may apply in application of a Double Taxation Agreement (see below). Dividends paid to **EU companies** are subject to a 1.20% final withholding tax.

Payments to a **qualifying EU parent company** are exempt from withholding tax, under the Parent-Subsidiary Directive, according to specific conditions.

Interests

Interest on bank deposits and on current accounts is subject to a 26% substitutive final tax withheld at source. Other interests on loan, deposits and current accounts are also subject to a 26% advance withholding tax.

Interests on bonds and other financial assets are subject to 26% advance or final withholding tax according to various conditions.

Under the regime provided for by Legislative Decree 239/96, interest on government securities and on bonds issued by banks, listed companies, securitization of receivables companies, as well as unlisted and non-resident companies under certain conditions, are subject to a 26% substitute tax, if deposited with a resident intermediary (the substitute tax rate is 12.5% for government securities and bonds of foreign countries in “white list”).

Interests paid to **non-residents** are subject to the same rates applied to resident individuals; the withholding tax is applied on a final basis. Interest paid to non-residents on deposit accounts with banks and post offices is exempt. Under the said regime provided for by Legislative Decree 239/96, interest on government securities, bonds issued by banks, listed companies, securitization of receivables companies, as well as unlisted and non-resident companies under certain conditions, is exempt from withholding or substitute tax, if the recipient is resident in a country ensuring an adequate exchange of information with Italy ("white list" Country).

Interest on medium/long-term loans granted to resident companies is exempt from withholding tax if the recipient is a credit institution, a EU insurance company, or a foreign white-list institutional investor which is subject to regulatory capital provisions.

Payments to **associated EU Companies** are exempt under the EC Interest and Royalties Directive, provided that certain conditions are met.

The withholding tax can be lower under provisions of a Double Taxation Agreement in force between Italy and the investor's State.

3. Regional tax on production activities ("IRAP", "Imposta Regionale sulle Attività Produttive")

The regional tax on production activities (IRAP) is a **local tax** collected by the Region where the **production activities** liable for tax are carried out.

If taxpayers perform their activities in establishments and offices situated on the territory of several regions, the distribution of the taxable income, and, therefore, of IRAP, is made **in proportion to the cost of the employees** working in the various regional establishments and offices.

Entities subject to IRAP

IRAP is due by those subjects regularly engaged in an **independently run activity** in the **production of goods or services** in the Region.

In particular, the following entities are subject to IRAP:

- entities subject to IRES: resident commercial companies and institutions, and non-resident companies (at least 3 months permanent established) and institutions of any type with or without legal status;
- joint-name partnerships, limited partnerships and those equivalent to simple partnerships practicing arts and professions and professional associations;
- public and private non-commercial institutions (non-resident with at least 3 months permanent establishment) and public administrations;
- individuals receiving company income; and individuals receiving income from self-employed work.

IRAP does not apply to mutual investment funds, pension funds, European economic interest groups (EEIG – "Gruppi economici di interesse europeo") and door-to-door salesmen and persons engaged in agricultural activities according to Article 32 of ITC.

For subjects **not resident** in Italy, IRAP only applies when the activities are conducted over a period of at least three months through a permanent establishment (for USA companies a partial "foreign tax credit" on IRAP is applied).

Tax assessment basis and rates

The **determination of the tax base** differs, depending on whether the taxpayer is a commercial company, an agricultural producer, public or private non-commercial institutions or public administration offices.

If the taxpayer realizes a negative IRAP tax base, this is not relevant for the purposes of offsetting with positive tax bases of future years or for the purposes of offsetting with positive tax bases possibly realized in the same year by the same taxpayer if different activities have been carried out.

IRAP applies to the **net production value**, which is the difference between:

- **positive** components, consisting of the income from sales or provision of services, variations in stocks (if positive) and other operating income and revenues, and
- **negative** components, consisting solely of the cost of purchasing goods and services, the cost incurred for using third party goods, variations in stocks (if negative), depreciation, and amortization of fixed assets and sundry management charges and the cost for permanent employees.

Costs, costs deriving from the provision of temporary self-employed work and financial charges are not deductible for IRAP purposes.

The **general rate** applied is equal to **3.9%**. In some regions this rate may be higher or lower.

Special rules apply to establish the taxable assessment basis of **specific entities** such as: banks, financial institutions (4.65%) and companies and insurance companies (5.9%), and, in some cases, different rates are applied as well.

4. Value added tax (VAT – "IVA", "Imposta sul Valore Aggiunto")

VAT is a general tax on consumption applied on the '**value added**' on goods and services, in particular tax is due on the increase in value of goods or services in the different phases of production and trade, until it reaches the final consumer who incurs the full cost of the tax.

Tax assessment basis and rates

The transactions are subject to VAT if the following requirements are met:

- objective requirement: there must be a transfer of goods or provision of services;
- subjective requirement: the operations must be carried out within the running of business or the practicing of arts and professions;
- territorial requirement: the operations must be carried out within the Italian territory.

For VAT purposes, the "Italian territory" is considered to be the territory of the Italian Republic, excluding the Municipalities of Livigno, Campione di Italia and the waters of Lake of Lugano included in the Italian territory.

VAT substantially applies to the following operations:

- transfer of goods made in Italy while running business or practicing arts and professions;
- provision of services in Italy while running business or practicing arts and professions;
- intra-EU purchases of goods from another EU member state while running businesses or practicing arts and professions;
- purchases made by foreign countries of some services carried out in Italy while running businesses or practicing arts and professions;
- imports of goods from non-EU countries, made by anyone.

However, VAT does not apply to all the aforesaid operations carried out in the Italian territory. Some operations are, in fact, tax exempt, while others fall outside the scope of VAT.

The transactions "VAT exempt" are operations in compliance with the three above requirements, but they are excluded from VAT application by express provision of law, such as financial expenses, medical services, insurance premiums, etc. While the operations out of VAT scope are not compliant at least with one of the requirements.

Applicable rates

The ordinary rate is 22%.

In addition to the ordinary rate, there are three reduced rates, 10%, 5% and 4%, and the "zero" rate which applies to certain so-called "non taxable" operations (exports of goods, provision of some international services or services relating to the international trade, transfers of goods to another EU Member State, provision of some services connected to transfers of goods to another EU Member State).

Registration for vat purposes

If a person (individual person, partnership, company with share capital or institution) intends to carry out an operation relevant for VAT purposes while running a business or practicing an art or profession, he/she/it is required to apply for an Italian VAT number before implementing the operation. VAT is applied through the **reverse charge mechanism** by the **recipient of the goods or services**.

If the foreign operator has a permanent establishment in Italy, he/she/it should apply for an Italian VAT number and comply with all legally required provisions, as if he/she/it were a national person.

If the foreign operator does not have a permanent establishment in Italy, he/she/it may also:

- appoint an Italian **VAT tax representative**, i.e. an individual person or institution resident in Italy, responsible for fulfilling the obligations and exercising the rights laid down by the regulations on VAT; or
- identify itself **directly for VAT purposes** in Italy, directly fulfilling the obligations and exercising the rights laid down by the Italian regulations, if resident in one of the EU countries or in one of the non-EU countries with which Italy has reciprocal assistance agreements on indirect taxation.

The appointment of the tax representative or direct identification should follow a special procedure and should be notified to the other contracting party before making the first relevant operation for the purposes of Italian VAT.

In the event goods or services are supplied directly from abroad, the transaction shall be taxable in Italy through the reverse charge mechanism by the recipient (purchaser) if it is a taxable person in Italy for VAT purposes (so called B2B transactions**).**

However, notwithstanding the non-resident has been identified for VAT purposes, the Italian operator shall comply with all the obligations through the above mentioned reverse charge mechanism.

This scheme is applicable even if a foreign operator has a permanent establishment in Italy, when the goods or services have been provided by the non-resident entity.

Where goods or services are supplied directly from abroad to a final consumer (so called **B2C transactions** a VAT identification through their Italian VAT number (VAT Rep, Permanent establishment or direct identification) will be necessary.

The **VAT position** of a person remains valid until the termination of all activities.

Taxpayers' obligations

Italian regulations lay down very detailed rules on the following:

- procedure and timing for the issue of invoices;
- content of invoices;
- procedure for the registration of invoices issued and received;
- procedure for the issue of credit and debit notes;
- calculation of VAT payable[2];
- periods for settlements and payments of VAT;
- procedure for the completion and submission of VAT returns;
- procedure for the completion and submission of Communication of VAT settlements return;
- procedure for the completion and submission of the Communication of data of the invoices received.

Other vat systems

Customs warehouses and VAT warehouses

Special rules establish the conditions for creating and using:

- "customs warehouses" where products are kept **without paying custom duties and VAT** until they are removed from the warehouse;
- "VAT warehouses" where products are kept **without paying VAT**.

2 The VAT accounting of an operator could be handled under the special regime of "bookkeeping carried out by third parties" - so called "contabilità presso terzi" (according to article 1, paragraph 3, of the Italian Presidential Decree no. 100 of March 23rd, 1998). Under this special regime, VAT due is calculated with reference to two months before, instead of the month immediately before (Ministerial Circular no. 29 of June 10th, 1991).

Special VAT systems

There are several special VAT systems that apply to anyone operating in particular sectors (e.g. agriculture, publishing, travelling, tourism, etc.).

Group VAT settlement

Groups of national companies are able to make group VAT payments, offsetting the VAT debits and credits of the various companies. In certain circumstances an EU holding is also eligible to the above indicated procedure with reference to its Italian subsidiaries.

5. Excise duty (“Accisa”)

The excise duty is a single-phase tax, harmonised within the EU, which is levied on certain specific products, at the time of their production or importation:

- Energy products (fuels)
- Electricity
- Alcohol and alcoholic beverages
- Tobacco products (cigarettes and similar products)

The tax is due by the producer or importer of the products concerned at the time they are released for consumption, and it is shifted, included in the sale price, to the final consumer who actually bears the whole tax burden.

Tax assessment basis

The tax base on which the excise duty is applied is the amount of goods produced, imported or consumed.

Applicable rates

The rates are laid down in relation to each relevant product (diesel, petrol, natural gas, alcohol, etc.); such rates may vary depending on the type of use of each product (motor vehicles, individual heating, commercial transport of goods or passengers, agricultural uses, etc.). For some of the products subjected (typically electricity and natural gas) the rate is set differently in relation to the place of consumption (as for electricity consumed in private households or in other places).

Reduced rates of excise duty are provided for particular uses; there are also specific uses of energy products for which no charge is due (uses of energy products in metallurgical and mineralogical processes, use of electricity in electrolytic processes, etc.) as well as no charge is due when such products are used for non-energy purposes (e.g. production of plastics or paints from energy products).

In order to determine the tax due, the relevant rate shall be applied by multiplication to the amount of product concerned which is produced, imported or consumed.

Registration

In order to start manufacturing of products subject to the excise duty regime, it is in general necessary to register in advance with the offices of the Customs and Monopolies Agency.

For certain activities it is provided that the Agency's offices issue a specific licence. Prior registration or the issue of a licence by said offices may also be required for storage or sale of the relevant products .

Taxpayers' obligations

The Italian legislation provides for different rules in relation to the products to be produced or marketed. The national rule provides for, in particular, the obligation to keep accounts of the products concerned and, in relation to certain products (electricity and natural gas), the obligation to submit an annual return for the settlement of the excise duty due in respect of the relevant fiscal year. The tax payment is generally made on a monthly basis taking into account the amounts of product released for consumption in the previous month.

6. Municipal tax on property ("IMU", "Imposta Municipale Unica") and other local taxes

IMU is the **municipal tax** charged on the **ownership** of **buildings**, **buildable areas** and **agricultural lands** situated within the Italian territory, intended for any use, including property used to performing business activities.

The holder of the property rights, or beneficial right such as usufruct, use, residence, emphyteusis, or surface right, or the concessionaire in the case of concession of state-owned areas, is required to pay the municipal tax.

In case of a financial lease, the lessee of a real estate is subject to pay this tax.

The **tax basis is computed** as follow**:**

- for **buildings**, it is equal to the value obtained multiplying the cadastral rent increase of 5% for a different multiplier (from 55 up to 160), based on the cadastral class;
- for **building land**, it is equal to the commercial value of the land as at January 1st in the FY;
- for agricultural land, it is equal to the cadastral rent, increased by 25%, and multiplied by 135.

Exemptions for IMU purposes:

- the **buildings** used as first home by the Taxpayer;
- according to the Law 208/2015, starting from FY 2016 the agricultural land, cultivated, owned and run by farmers and professional agricultural entrepreneurs;
- immovable property owned and used by public and private entities other than companies, by trusts which do not have as their sole or main object the exercise of commercial activity as well as by collective investment undertakings, resident in the territory of the State, intended exclusively for the non-commercial conduct of welfare, social security, health, scientific research, educational, hospitality, cultural, recreational and sports activities;
- according to Budget Law 2021 (178/2020), from the year 2021, the IMU due on the only property unit, not leased, owned in Italy by non-resident persons, who receive a pension accrued under an international convention with Italy, is reduced to 50%.

Please note that, under certain condition, verified by the municipality, or certified by the owner, 50% of the tax base of buildings unusable and uninhabitable is considered as IMU exempt until the buildings are reusable.

Following the amendments introduced by Law 160/2019, the tax is generally calculated by applying the basic rate of 0.8% to the tax basis.

However, the municipality in which the real estate asset is located, as part of its own statutory authority, may **increase** such a rate up to 1.14% or **decrease** it even to 0%.

The tax amount due is paid in two installments within June 16th and December 16th of each FY.

7. IMPi

Starting from 2020, a property tax on marine platforms (IMPi) has been introduced, which affects marine platforms, i.e. the emerged structures intended for the cultivation of hydrocarbons and located within the limits of the territorial sea.

The determination of the tax base is similar to that provided for IMU in relation to properties belonging to cadastral group D, providing for the use of book values.

The IMPi is calculated by applying the rate of 10.6 per thousand; a share equal to the application of the 7.6 per thousand rate is reserved to the State, while the remaining revenue resulting from the application of the 3 per thousand rate is allocated to the municipalities.

IMPi replaces any other real estate tax previously applicable. Full deductibility is envisaged, albeit progressively, for the purposes of determining corporate income tax.

8. Registration tax

The Presidential Decree no. 131/1986 provides a list of documents subject to compulsory registration and documents that, **in the event of use, may be registered voluntarily**.

In particular with reference to the documents related to **real estate,** or **assets** drawn up in Italy, **corporate transaction papers** and documents stipulated abroad that have the purpose of **constituting** or **transferring real rights in intangible assets or companies** located in Italy, the **lease** or **rent** of such assets must be registered.

The law provides for a different expiry date with reference to the mandatory registration of each documents listed, while for the documents subject to registration **"in the event of use", no expiry date is provided.**

All the other documents can be voluntarily submitted for registration by anyone with an interest in doing so.

Tax is computed by the competent tax office by applying a tax rate determined by the value set out in the registered document, or by the service contained therein. All applicable rates are stated in the rates sheet attached to the Presidential Decree no. 131/86.

The applicable rate varies from 0.5% to 15%, with reference to the type of the relevant document for registration tax purposes, with a minimum payable of EUR 67. However, for the same type of documents a fixed tax equal to EUR 200 is due.

Please note that also on the documents relating to the sale of assets and provision of services subject to VAT (including non-taxable provisions due to the lack of territorial premises, as well as exempt provisions), a fixed tax equal to EUR 200 is always due.

A notable exception is the leasing of instrumental assets which, despite being subject to VAT, is subject to proportional registration tax (1%).

The tax must be **paid** to the **Tax Authorities at the time of registration**. Public officials who have drawn up, received or authenticated the document, those subjects for whom the registration is completed (contracting parties or assignees) and real estate agents are all liable for the payment of taxes.

9. Tax on digital services ("DST" – "Imposta sui servizi digitali")

According to Law 160/2019, a tax on digital services applies from 1st January 2020. The DST will be applied only until the entry into force of internationally agreed measures on taxation of digital economy.

Qualifying taxable persons are those enterprises that:

- report worldwide revenues of at least 750 million € whether on a stand-alone or consolidated basis; and
- realize revenues from qualifying digital services in Italy of at least 5.5 million €.

If an enterprise crosses these thresholds in a calendar year, it becomes subject to the DST in the following calendar year.

The DST applies to gross revenues derived from the supply of the following qualifying digital services:

- the placing on a digital interface of advertising targeted at users of that interface (First DS Category);
- the making available to users of a multi-sided digital interface which allows users to contact other users and interact with them, also in order to facilitate the direct supply of goods or services (Second DS Category); and
- the transmission of data collected from users and generated from the use of a digital interface (Third DS Category).

There is also a list of digital services that are excluded from the DST scope.

The DST, due on a yearly basis, is levied at a rate of 3% on revenues taxable in Italy.

Taxable persons must pay the DST by 16th February, and submit an annual return by 31st March, of the calendar year following the year in which they have supplied the taxable services. In the case of a group of companies, a single member must be appointed for the fulfilment of the DST obligations. Non-resident companies with no permanent establishment in Italy or Italian VAT identification number must request the tax authorities to be allocated an identification number for DST purposes, if they fulfil the conditions to be subject to DST in Italy. Taxable persons with no permanent establishment in Italy and resident in a country other than an EU Member State or EEA country that has signed a mutual assistance agreement with Italy must appoint a tax representative in Italy for filing the DST return and paying the DST.

On 15th January 2021, Italy has published Law Decree No. 3/2021 postponing the digital services payment and return filing deadlines for 2021. In particular, qualifying taxable persons must pay the amount of DST due with respect to supplies of qualifying digital services carried on in 2020 by 16th March 2021 and submit the related annual return by 30th April 2021.

10. Personal income tax ("IRPEF", "Imposta sul Reddito delle Persone Fisiche")

This tax is **personal** and progressive.

The requirement for this tax is the possession of **income**, in cash or in kind, falling into one of the categories provided by law. The **tax period** corresponds to the calendar year.

Persons liable for tax

The following **subjects** are liable for tax:

- natural persons resident in the Italian territory with reference to the entire income owned;
- natural persons not resident within the Italian territory only with reference to the income produced in Italy.

According to the Italian Law, Italian residents are natural persons who, for most of the tax period, meet at least one of the following conditions:

- they are registered in the registers of the population resident in the national territory;
- they are domiciled in Italy (domicile to be understood as the center of interests, including moral and company interests);
- they are resident in Italy (habitual abode).

Tax assessment basis

Tax is applied to the overall income, i.e. the sum of the items of income for each category that contributes to form it, minus any losses deriving from the practice of arts or professions and/or commercial businesses.

The relevant categories include:

- land income, relating to land and buildings located in the Italian territory;
- capital gain;
- income from employment;
- income from self-employed;
- company income;
- sundry income, included income earned from not usual activity of business, arts or professions.

Once the gross income has been determined, any deduction provided by law is applied in order to reduce the tax base.

Deductions (allowances/exemptions) which are equal to 19% of the charges incurred by the taxpayer, as listed in Article 15 of the Italian Tax Code, are applied to reduce the gross tax.

The **gross tax is computed by applying increasing rates on the taxable income, according to progressive income brackets.**

The **rates** currently in force (2021) are as follows:

Taxable Income (€)	Rate
Up to EUR 15,000	23%
From EUR 15,001 to EUR 28,000	27%
From EUR 28,001 to EUR 55,000	38%
From EUR 55,001 to EUR 75,000	41%
Over EUR 75,000	43%

Regional and municipal IRPEF surtax

In addition to the tax calculated, two additional payments have to be made in favor of the local authorities (Region and Municipality) in which the taxpayer is resident:

- a regional surtax varying between 1.23% and 3.33%, depending on the region. The basic rate of 1.23% is valid for all Regions and autonomous provinces of Trento and Bolzano. The maximum rate of 3.33% can be applied only by some ordinary statute Regions determined by law. The maximum rate applicable by Regions with special statute is 1.73 (under some circumstances such rate could rise by a further 0.5%);
- a municipal surtax comprising of a first rate established each year by the state and applied throughout the national territory and a second rate p.a. established by the individual municipality not exceeding 0.8% (or higher in cases expressly provided by law, as for “Roma Capitale” which, from the year 2011, can set a rate of up to 0.9%).

Regional surtax rates are established by regional laws.

All regional surtax rates applied by Italian Regions and Autonomous Provinces are accessible on the following page of the website of the Department of Finance, Ministry of Economy and Finance:

https://www1.finanze.gov.it/finanze2/dipartimentopolitichefiscali/fiscalitalocale/addregirpef/sceltaregione.htm?privacy=ok

Tax on income of non-residents

The personal Income Tax (IRPEF) is applied to resident and non-resident individuals. Resident individuals are taxed on a world-wide basis, while non-resident individuals are taxed on the income produced in Italy on a territorial basis.

The following income is deemed to be produced in Italy:

- income from land and buildings;
- income from capital (e.g. interest, dividends) paid by the State, resident persons (entities or individuals) or permanent establishment of foreign entities in Italy, except interest and other income derived from bank/post deposits and current accounts;
- income from employment produced in Italy;
- income from self-employment related to activities performed in Italy;
- business income from activities performed in Italy through a permanent establishment;
- other income from activities performed and assets located in Italy, capital gains derived from the sale of participation in resident entities (exceptions: e.g. non-qualified participations in listed companies; capital gains from the sale of listed bonds, other similar securities and derivatives);
- income from participation in transparent Italian entities (e.g. partnerships).

The Tax base is equal to the aggregate amount of the overall income produced in Italy as indicated above, excluding income exempt and income subject to substitute income tax, or final withholding tax.

It should also be noted that, the income as indicated above, produced in Italy by non-resident companies and other entities, including trusts, with or without legal personality, are subject to corporate tax (IRES).

The income realized by non-resident companies is qualified as business income and includes:

- capital gains and capital losses relating to assets used in business activities performed in Italy (even if not realized through permanent establishments);
- dividends paid by resident entities;
- income derived from activities performed and assets located in Italy;
- capital gains derived from the sale of participation in resident entities;
- land income, relating to land and buildings located in the Italian territory.

It shall be pointed out that the tax treaties override statutory provisions, therefore the taxpayer could require the related application when they are more favorable.

11. Tax obligations

Throughout the year, the taxpayer is required to comply with a set of obligations depending on the category of taxpayer and the tax applicable. It is important to note that, almost all tax returns and fiscal communications must only be sent by electronic filing.

Compliances relating to direct taxation

According to the Italian Law, for Personal and Corporate Tax purposes, taxpayers have to complete an annual tax return in order to compute and pay taxes for the applicable FY (fiscal year) and in advance for the current FY (fiscal year).

The tax return must be drawn up using a standard form yearly approved by the tax authorities.

Individuals and partnerships must file an annual tax return by the end of September of the following tax year, while **limited liability companies must** file the tax return within nine (9) months from the end of the relevant tax period (usually matching the Financial Statement date).

The tax **payments** are due into **two instalments, on account** and a **balance for the previous year.**

The first payment on account for FY and balance related to the previous FY must be paid by the last day of the sixth month following the end of the relevant tax period. It is possible to postpone the payment by the last day of the seventh month with an additional payment of an interest rate equal to 0.4%.

The **second payment on account** must be due within the last day of the eleventh month following the end of the relevant tax period.

IRAP (Regional tax on production activities)

For IRAP purposes, an annual return has to be drawn up and submitted by the same deadline as the income return.

VAT (Value added tax)

An **annual** Value Added Tax **return** relating to a calendar year must also be filed before the end of April of the following tax year: it must contain the total of incoming and outgoing operations, tax due, deductions, payments made, tax due as settlement or difference as credit.

Starting from January 1st, 2017 the Taxpayers have to submit to the Italian Tax Authorities the following VAT Communications:

- quarterly communication of VAT settlements return – the relevant deadlines for each quarter are:
  - 1° quarter: within the 31st of May;
  - 2° quarter: within the 16th of September;
  - 3° quarter: within the 30th of November;
  - 4° quarter: within the 28th (or 29th) of February of the following year.
- periodic communication of data of invoices received and issued in the course of the calendar year – the relevant deadlines are:
  - 1° quarter: within the 31st of May;
  - 2° quarter: within the 16th of September;
  - 3° quarter: within the 30th of November;
  - 4° quarter: within the 28th (or 29th) of February of the following year.

In general, settlement is carried out on a monthly, quarterly or infra-yearly basis.

Taxpayers who have to carry out monthly payments must pay any amount due by the 16th day of the month following the one to which the settlement relates or, in the case of quarterly settlement, by the 16th day of the second month following the end of the quarter.

For the last yearly quarter, the payment deadline is March 16th.

All credits will be deducted from the settlement in the following month or quarter.

By December 27th, the taxpayer is asked to provide a payment on account as last settlement of the year.

Offsetting

It is possible to **offset credits and debits** relating to the same tax (traditional offsetting), or credits and debits deriving from different taxes and social security contributions (horizontal offsetting). However, the Italian tax law provides some limits referred to the offsetting of tax credit and under certain circumstances a certification of the tax return is also required by a qualified professional.

IMU (Municipal tax on property)

The IMU (i.e. the Italian municipal tax on property) return has to be submitted to the municipal authority in case changes related to taxable status of buildings, buildable areas, agricultural lands and/or to the taxable status of the taxpayer liable to pay occur. In this last case the return has to be submitted by previous and new taxpayers. The filing must be made no later than June 30th of the year following the change. The return is effective for the following years as well, provided that no change in the disclosed information and elements entailing adjustment of the tax due occur.

The tax is payable in two annual installments, in advance on June 16th and balance on December 16th of every FY.

12. Tax Ruling ("Accordo/Interpello sui nuovi investimenti")

Ruling for non-resident companies

A new form of ruling is available for non-resident companies that intend to invest in Italy.

The new system, entered into force on October 7th, 2015 (Legislative Decree no. 147/2015) is aimed at providing a framework of certain and stable tax treatment, regarding their investment plan.

The investor, either resident or non-resident, shall forward its application to the Italian Tax Authorities by presenting a business plan, detailing the amount of the investment, the timing and implementation modalities, the expected number of new hires and the consequences of such investment on the Italian tax system.

The procedure applies to investments not lower than Euro 30 million, with significant and lasting impact on employment.

International ruling

In order to reach an agreement in advance with the Italian Tax Authority, valid for three tax periods, without prejudice to any change in the circumstances resulting from the agreement signed, "enterprises with international activity" may implement a suitable **international standard ruling procedure**.

The standard ruling procedure mainly regards:

- the correct transfer pricing methodology applicable to the transactions carried out with related parties;
- the proper tax treatment with reference to dividends, interest, royalties or other income paid to or received from non-resident persons in specific cases;
- the proper application of the provisions of the law, including tax treaties, to specific cases related to the attribution of profits or losses to permanent establishments of non-resident enterprises in Italy as well as to permanent establishments abroad of resident enterprises.

International agreements

Italy has concluded over 95 international bilateral treaties for the avoidance of double taxation of income (and of capital for some of them), in accordance with the OECD Model.

The complete updated list of such Double Taxation Agreements (DTA) in force for Italy, with all relevant references and texts, is available at the following link to the website of the Department of Finance, Ministry of Economy and Finance:

https://www.finanze.gov.it/opencms/it/fiscalita-comunitaria-e-internazionale/convenzioni-e-accordi/convenzioni-per-evitare-le-doppie-imposizioni/

FINANCIAL & TAX INCENTIVES IN ITALY

1. R&D, Innovation and Design Tax Credit

As of 2015 a tax-credit benefit has been introduced for any research & development ("R&D") investment activities carried out by companies, starting from the fiscal year following that ending 31 December 2014 and until June 2023. Such benefit is given to all companies irrespective of their legal status, their economic sector or accounting regime. With the Transition Plan 4.0 (2020) such relief has been extended to Innovation and Design.

The main characteristic(s)/requirement(s) of the above specified *R&D credit* are the following:

- facilitate personnel investments, "*extra muros*", industrial sole right, equipment and laboratory tools;
- tax rate to determine to R&D tax-credit equal to 20% applied to the whole stock of R&D expenses;
- maximum yearly amount of the tax-credit equal to MLN/€ 4 per taxpayer;
- credit to be used only to offset payments and starting from the fiscal year following that in which it was recognized.

The main characteristic(s)/requirement(s) of the above specified *Innovation tax credit* are the following:

- innovation aimed at creating new or substantially improved products or production processes;
- the tax credit is recognized in an amount equal to 10% of eligible expenses up to a maximum limit of € 2 million;
- the tax credit is recognized in an amount equal to 10% of eligible expenses (maximum limit of 1.5 million euros) in the case of technological innovation activities aimed at achieving an ecological transition or digital innovation 4.0 goal.

The main characteristic(s)/requirement(s) of the above specified *Design tax credit* are the following:

- conception and realization of new products and samples in the textile and fashion, footwear, eyewear, goldsmith, furniture and furnishings and ceramics sectors;
- the tax credit is recognized in an amount equal to 10% of eligible expenses up to a maximum limit of € 2 million.

Moreover, the benefit is:

- supplied as an automatic credit (subject to possible future verification);
- subject to a certification if there is no accounting supervision (if the certification is needed, a further amount of € 5,000 is given for such activity).

2. Patent Box Tax Regime

- ***Purpose***: Patent Box aims to promote investments in R&D related to intangible assets allowing an additional tax deduction from CIT arising from use or licensing of certain intangible assets.
- ***Eligible intangible assets***: relevant IA are software protected by copyright; patents, business and technical industrial know how; other legally protected IP, such as designs and models.
- ***Tax deduction***: the amount of tax deduction is 50%. This percentage is applied to the income linked to the use of the eligible intangible assets (or licensing).

The same tax deduction is also granted with reference to Regional Tax on Productive Activities.

Patent Box regime is also applicable to capital gain arising from selling of qualified IPs.

- ***Beneficiary*:** subjects involved for this tax regime are companies, non-resident taxpayers with a permanent establishment in Italy if they are resident in a country with which Italy has an effective tax information exchange agreement, individual entrepreneurs and other bodies carrying out business activities.
- ***Tax ruling*:** depending on the use of the eligible assets ("direct" for production or "indirect" by licensing) holders of IP rights are required to improve a tax ruling with the Italian Tax Authority. Indeed, in case of direct use this procedure is mandatory for determining the amount of benefited income arising from the direct exploitation of the eligible assets.
- ***Validity:*** the election shall be exercised annually and it is irrevocable for 5 years.

3. Notional Interest Deduction ("Aiuto alla Crescita Economica" – D.L. n. 201/2011)

The NID regime was introduced in Italy in 2011 to mitigate the difference in the tax treatment applied to companies funded with debt versus companies funded with equity and, in general, to encourage Italian businesses to strengthen their equity structure. While companies leveraged with debt would generally deduct accrued interest expenses, NID allows Italian companies and Italian branches of foreign companies funded with equity to deduct a notional expense computed as a percentage of the equity increases occurred after FY 2010. Such amount represents a tax deduction for CIT purposes (not IRAP).

From an operating standpoint, ACE allows the deduction from the overall taxable income of an amount correspondent to the notional return of the new equity capital according to the following rules:

- each year equity increases shall be computed compared to the equity as at 31.12.2010;
- for FYs 2019 and 2020 deduction is calculated as 1.3% of the equity increases;
- equity increases are triggered, mainly, by cash contributions and profits carried forward as well as renounce of credits by the shareholders;
- equity decreases consist of reductions of the equity through any kind of assignment in favor of the shareholders (i.e. dividends). Losses are not considered as equity decreases;
- each year, the deduction cannot exceed the amount of the equity of the company at the end of the FY (including the loss /profit of the year);
- the deduction cannot generate a tax loss. Therefore, if the deduction exceeds the taxable income for CIT purposes the difference can either be carried forward to the next FYs or converted into a credit to offset IRAP payments (if due) in the next FYs.

4. Favourable tax regimes applicable to expatriates or individuals moving to Italy

Expat regime (art. 16 D.Lgs. n. 147/2015)

Introduced in 2015 and in force as at 2016, the Italian Expat regime is a favorable tax regime which lowers the taxable base of professional income for expatriates moving to Italy. It aims at attracting in Italy highly qualified professionals.

It applies to individuals who hold a degree (university level) and are EU citizens or non-EU citizens whose country of origin has a double tax treaty in force with Italy (in 2016 it was limited to EU citizens only).

In order to be eligible for the regime, the individual must

- move in Italy and become tax resident of Italy according to domestic law (art. 2 TUIR);
- hold a degree (university level) and have worked as employee or self-employed outside of Italy for at least 24 months, or have studied (university level) and graduated abroad.

After arrival, the individual must carry out a professional activity in Italy, either as employee or self-employed, either in the private or in the public sector.

The expat regime is applicable also to individuals (both EU citizens and non-EU citizens as above) who do not hold a degree (university level), provided that they cover management roles or are highly-qualified or highly-specialized. In order to be eligible, the individual must:

- move in Italy and become tax resident of Italy according to domestic law (art. 2 TUIR);
- have not been a tax resident of Italy for 5 years prior to moving to Italy;
- have a professional activity in Italy for at least 183 days over each tax year;
- work for an Italian resident company (also as assignee in Italy from a foreign company);
- cover management roles or be highly-qualified or highly-specialized.

After arrival, the individual must carry out a professional activity in Italy, either as employee or self-employed, in the private sector only.

The application of the expat regime allows to benefit from a lower taxable base, which is, for the fiscal year 2016, 70% of employment income only and, for the fiscal year 2017 onwards, 50% of professional income (both employment and self-employed income).

The benefit lasts for 5 years starting from the first year of tax residency in Italy.

The applicability of the regime terminates if the individual breaks his tax residency in Italy prior to 2 years from the first year of benefit.

Substitute personal income tax regime for new Italian tax residents (art. 24-bis TUIR – income tax code)

This favorable tax regime has recently been introduced in the Italian tax law and is in force as from 2017. It aims at attracting in Italy high-wealth individuals.

It is an optional regime, and is applicable to individuals of any nationality, Italian or foreign, who

- move to Italy and become tax resident of Italy, and have been tax resident outside of Italy for 9 years out of the 10 preceding the applicability of the regime.

The requirements above are cumulative. It is given the possibility to extend the regime to family members of the eligible individual, if they meet the 2 conditions above.

The regime implies a taxation principle that is alternative to the principle of worldwide tax liability normally applicable to Italian tax residents. Under the regime, eligible individuals are taxed in Italy on Italian-source income according to domestic tax law, and on foreign-source income on a lump-sum basis. In particular, the regime foresees the application of a substitute personal income tax on any income of foreign source whilst any income of Italian source is instead taxable in Italy according to the regular progressive taxation on personal income. The substitute personal income tax is a flat tax of 100,000 euro per year, regardless the amount of income of foreign-source.

There is the possibility to extend the substitute flat taxation on foreign-source income to family members of the eligible individual. In such case, the flat tax on foreign-source income amounts to 25,000 euro per year.

The benefit lasts for a maximum of 15 years starting from the first year of option.

The option for the applicability of the regime has to be made through the filing of the personal income tax return. It is possible to request an upfront ruling with the Italian tax authorities to determine the eligibility to the regime, in particular with respect to the residency requirements (specific cases apply when prior residency is in black-listed countries).

It is possible to revoke the application of the regime through tax return.

The regime ceases to apply in case the substitute tax is not paid by the due date or in case the tax residency in Italy is broken.

5. Tax credit on Industry 4.0

With the Transition Plan 4.0 (2020-2022), Italy adopts a new industrial policy 4.0, more inclusive with the expansion of potential beneficiaries and attentive to sustainability.

Tax credit on Industry 4.0 tangible and intangible assets relief

The aim is to support and encourage companies that invest in new, tangible and intangible capital goods, functional to the technological and digital transformation of production processes destined for production facilities.

The credit applies to investments made starting from November 16th 2020 and until December 31st 2022, or until June 30th 2023, provided that by 2022 the relevant order is accepted by the seller and the down payments have been made at least equal 20% of the acquisition cost.

For investments in technologically advanced material capital goods (Annex A, Law No. 232 of 11 December 2016), a tax credit is recognized to the extent of:

2021

- 50% of the cost for the share of investments up to 2.5 million euros
- 30% of the cost for the share of investments over 2.5 million euros and up to the limit of total eligible costs of 10 million euros
- 10% of the cost for the share of investments 10-20 million euros, limit of total eligible costs.

2022

- 40% of the cost for the share of investments up to 2.5 million euros
- 20% of the cost for the share of investments over 2.5 million euros and up to the limit of total eligible costs of 10 million euros
- 10% of the cost for the share of investments 10-20 million euros, limit of total eligible costs.

For investments in **intangible capital goods functional to the transformation processes 4.0** (Annex B, law 11 December 2016, n.232, as supplemented by article 1, paragraph 32, of law 27 December 2017, n.205) a tax credit is recognized to the extent of:

- 20% of the cost within the maximum limit of eligible costs of 1 million euros. Expenses for services incurred through cloud computing solutions are also considered eligible for the portion attributable to the competence.

For investments in other tangible capital goods, other than those included in the aforementioned attachment A, a tax credit is recognized to the extent of:

2021

- 10% in the maximum limit of eligible costs of 2 million euros

2022

- 6% in the maximum limit of eligible costs of 2 million euros.

For investments in **other intangible capital goods**, other than those included in the aforementioned attachment B, a tax credit is recognized to the extent of:

2021

- 10% in the maximum limit of eligible costs of 1 million euros

2022

- 6% in the maximum limit of eligible costs of 1 million euros.

The tax credit can only be used for offsetting in five equal annual installments, reduced to three for investments in intangible assets, starting from the year following that of the interconnection for the assets referred to in Annexes A and B, or of entry into operation for other assets.

The tax credit can be combined with other concessions that have as their object the same costs within the maximum limits of reaching the cost incurred.

Subjects benefiting from “tax credit” relief are:

- companies and permanent establishment of foreign companies regardless of the legal nature, the size of the business or the economic sector in which they operate.

6. Other incentives

Program to relaunch areas affected by industrial crisis (Law 181/89)

The program is aimed at relaunching industrial activities, safeguarding employment levels, supporting investment programs and entrepreneurial development in areas affected by industrial and sector crises.

Companies set up as joint-stock companies, cooperative societies and consortium companies are eligible for benefits.

Initiatives that are eligible for facilitations are:

- Those that provide for the implementation of production investment programs and / or investment programs for environmental protection, possibly supplemented by projects for the innovation of the organization, with eligible expenses not lower than 1 million euros;
- Those that involve an increase in the number of employees of the production unit involved in the investment program.

Incentives are granted in the form of:

- contribution for the purchase of fixed assets,
- direct contribution to the expenditure;
- soft loan.

The soft loan is between 30% and 50% of eligible investments. The contribution for the purchase of fixed assets and the direct contribution to the expenditure is not less than 3% of the eligible expenditure.

Agreements for Innovation

Companies of any size and with at least two approved financial statements, which carry out industrial, agro-industrial, craft activity or industry services, as well as research activities, can have access to this procedure.

This incentive projects concerning industrial research and experimental development activities aimed at the creation of new products, processes or services or the significant improvement of existing products, processes or services, through the development of one or more of the technologies identified by the European Union Framework Program for research and innovation 2014 – 2020, “Horizon 2020”.

For the purposes of access to the incentive provided for by the Ministerial Decree of 24 May 2017 it is necessary that an Agreement for Innovation is defined between the Ministry of Economic Development and the Regions and the Autonomous Provinces involved and / or the proposing subject.

For the activation of the negotiation procedure aimed at defining the Agreement for Innovation, the proposing subject shall submit to the Ministry of Economic Development a project proposal containing at least:

- the name and the size of each proposing subject, as well as a description of the company's profile, with particular reference to the technical-organizational structure and to the presence at national and international level;
- an updated strategic business plan;
- the description of each project, indicating the objects, the start and ending dates, the production units involved and the expected costs;
- the type and the amount of the incentive required for the implementation of each project.

The above-mentioned documentation shall be sent electronically through certified mail at the address dgiai.segreteria@pec.mise.gov.it.

Once received the project proposal, the Ministry of Economic Development will start the interlocutory phase with the Regions and the Autonomous Provinces and to evaluate the strategic validity of the proposed initiative by analyzing the following elements:

- relevance of the initiative in terms of technological developments and degree of innovation of the expected outcomes;
- industrial interest in the realization of the initiative in terms of ability to encourage innovation of specific sectors or economic segments;
- direct and indirect effects on the employment level of the productive sector and / or of the reference territory;
- national value of the interventions from the point of view of the multiregional impacts of the initiative;
- possible ability to attracts foreign investments, also through the consolidation and expansion of foreign companies already present on the national territory;
- ability to strengthen the presence of Italian products in market segments characterized by strong international competition.

In the event that the evaluations are concluded with a positive outcome, the Agreement for Innovation is defined. The right to the benefit does not automatically follow the Agreement, but it is rather subordinated to the presentation of the executive projects and the subsequent evaluation by the Managing Entity.

More specifically, an application shall be submitted based on a specific form provided by the Ministry of Economic

Development, together with technical specs, a development plan, a declaration in substitution of an affidavit concerning the accounting data and a declaration in substitution of an affidavit regarding the requirements to access the benefit. The application can be submitted only electronically, through the procedure available at: http://fondocrescitasostenibile.mcc.it.

Once the Managing Entity has concluded his evaluation activity, the results are sent to the Ministry that – in case of positive outcome – notifies the proposing subject.

The incentive can consist of:

- a direct contribution to expenditure for a minimum percentage of 20% of eligible costs and expenses (to which a defined variable part may be added in relation to available regional financial resources);
- a soft loan, if provided for by the Agreement, up to a limit of 20% of the eligible costs and expenses (to which a defined variable quota can be added in relation to the available regional financial resources).

INVITALIA Development Contract

The so-called "Development Contract" (Contratto di Sviluppo[3]) is focused on supporting greenfield or expansion projects of more than EUR 20 million (or EUR 7,5 million for food processing). It can consist of one or more connected and functional projects (investment and R&D&I), also presented in joint form[4], in the following sectors:

- Manufacturing;
- Food processing;
- Tourism (no R&D&I projects)
- Environmental protection.

Eligible investments are:

a) creation of a new production plant;
b) expansion of an existing production plant;
c) reconversion of an existing production plant (manufacturing new products);

3 http://www.invitalia.it/site/eng/home/what-we-do/supporting-large-investments/development-contract.html

4 The Development Contract may also be jointly carried out by multiple parties with the network contract (Law 33 of 9 April 2009). In this case, the specially appointed joint body acts as the representative of the Contract participants and shall take on all obligations towards Invitalia.

d) restructuring of an existing production plant, with:

- a fundamental change in the existing production processes, introducing innovations, or
- significant improvement in the existing production processes, in order to increase efficiency and/or flexibility (cost reduction, increase in product quality and/or processes, environmental impact reduction and work safety conditions improvement);

e) acquisition of an existing production plant, located in a priority area and owned by a company not subjected to bankruptcy proceedings in order to safeguard jobs.

The available time to complete the investment is 36 months.

The size of the company size and the precise location of the plant affect aid intensity:

- in the Southern regions (Basilicata, Calabria, Campania, Apulia, Sardinia and Sicily): companies of any size (small, medium and large) can benefit from the incentive;
- outside the Southern Regions, large companies can benefit of the incentive only for the investments defined at above letters a), c) and e).

The incentives consist of grants and soft loans towards capital investment and towards research & experimental development expenses, and investors must contribute financially at least 25% of the eligible costs.

The incentives will be the result of a negotiation established between proposing companies and the managing authority (*Invitalia*).

Projects presented by foreign companies, providing a minimum EUR 50 million investment, gain access to the "Fast Track" procedure (time shortening, "ad hoc" resource…).

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