

# DOING BUSINESS IN ITALY

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INVESTMENT GUIDE

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THE ITALIAN HOUSE OF BUSINESS



Ministero degli Affari Esteri  
e della Cooperazione Internazionale



Ministero delle Imprese  
e del Made in Italy

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ITALIAN TRADE AGENCY  
ICE - Agenzia per la promozione all'estero e  
l'internazionalizzazione delle imprese italiane

INVITALIA 

Contenuti a cura dell'Ufficio Attrazione investimenti esteri in collaborazione con il Consiglio Nazionale del Notariato, il Ministero del Lavoro e delle politiche sociali, l'Ufficio italiano brevetti e marchi (Mimit), il Ministero dell'Economia e delle Finanze, il Ministero del Made in Italy, Invitalia.

Si desidera ringraziare il Ministero degli Affari esteri e della Cooperazione Internazionale.

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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/en/politica-estera-e-cooperazione-allo-sviluppo/diplomazia-giuridica/condizreciprocita/>



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

**Representative offices** - which are not legal entities of a foreign company in Italy - **are characterized by two elements:**

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

**Local offices must be registered** with the Economic and Administrative Index (**REA**, “Repertorio Economico Amministrativo”) at the **Chamber of Commerce**, attaching the **following documents:**

- if the company is incorporated in an **EU country**: a certificate indicating the company’s details and the legal representatives of the company issued by the foreign equivalent of the Register of Companies in Italy;
- if the company is incorporated in a **non-EU country**: a statement of the existence of the company issued by the Italian Embassy in the country where the company has its registered office.

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** is not a separate legal entity and the parent company is responsible for its initiatives, although 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 to aforementioned articles, “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 on 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 agency) can assume the presence of a hidden permanent establishment in Italy of a foreign company if some conditions occur (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 incorporate a branch, it will be necessary to:

1. draft the Minute of shareholders Meeting (or of the Board of Directors Meeting according to the By-Laws) of the foreign parent company, resolving:
  - a. to open 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. open an Italian fiscal code for the legal representative of the Italian branch (“preposto”);
3. draft the act of incorporation in front of an Italian Notary public;
4. submit the incorporation act to the Chamber of Commerce;
5. submit the commencement activities declaration to the Italian Revenue Agency.

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 involving the filing of the abovementioned documents only need to be satisfied for 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 apostilled by a Notary public** of the country in which the parent company is located (or issued by a public authority). Documents must be legalized before being sent to Italy unless a bilateral treaty is applicable drawn up in 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 case of failure in the 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 should be distinguished, firstly from the setting up of a completely new company used by the foreign party to conduct its business in Italy indirectly, and secondly from the conduct of a business in Italy without a permanent establishment. The branch office is thus a body based on a permanent establishment possessing decision-making powers. The setting up of a branch office is not the same as the formation of a new subsidiary company in Italy (called "filiale" in Italian, a kind of separate division). The Italian branch office has no autonomous identity in relation to the foreign company and hence cannot entertain separate legal relations with the latter. The branch office will always be seen as a mere extension of the foreign company, 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, there being a substantial difference 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 there is no list of the documents which have to be registered with Member States and the latter are given wide powers of autonomy in relation to the imposition of any additional obligations. 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 company residing abroad is determined according to the rules governing the determination of the 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 cost/revenue 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: <https://www.notariato.it/en/find-notary/> ) 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 is economically autonomous. 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 three bodies: the General 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 and the 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.

As of 1 January 2025, company directors will have to be provided with pec (certified electronic mail).

### Companies: main types (limited liability company – stockholding 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. ") – stockholding 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 incorporation deed 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 made in full.

Both types of companies can be incorporated (and, successively, the relevant corporate capital may entirely be held) 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 memorandum of association. 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 the form of simple accounting records, defined as "dematerialized shares".
  - 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 with-draw 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 evaluation of an expert. 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 categories 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 answerable for the debts with their personal property and are not obliged to pay their money to the company. A stockholding 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 partnership (“partnership limited by shares”).

## **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 - Partnership with shares (“S.a.p.A. “)**

There are two categories of partners in a **Partnership with shares**:

- **general partners** who have the responsibility of directors in law and have unlimited personal liability (“accomandatari”);

- **partners with limited liability** who are excluded from taking part in the administration and whose liability is restricted to their investment in the share capital (“accomandanti”).

As in the company limited by shares, investments are delineated by shares while, like a limited partnership, the management of the company is conducted by directors with unlimited liability (albeit secondary) for the company’s obligations.

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 form of company (“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 birth 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 birth and enjoy the benefits (in the "corporate", fiscal and contributory fields, being able to use equity crowdfunding) by registering in the special dedicated section of the Business Register. For the various concessions, the MISE (Ministry of Economic Development) has also dedicated a specific website

<https://www.mimit.gov.it/it/impresa/competitivita-e-nuove-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	€50,000	€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 carried on by means of public 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 the customers;
- the transfer of receivables and debts related to the transferred company, resulting from the compulsory 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 parties outside the company offices.

There are two main compulsory accounting systems available depending on the company's features and the amount of income declared in the previous year: 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 drawing up 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 the **Italian Law** and the 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 Articles of Association, 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 Articles of Association.

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 at the care of the liquidators.

Particular provisions are stated for:

- 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 incorporation deed, 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.

When 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, 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 company 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/) ;

[http://www.dt.mef.gov.it/it/attivita\\_istituzionali/prevenzione\\_reati\\_finanziari/prevenzione\\_riciclaggio/normativa\\_riferimento.html](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 (natural 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*<sup>1</sup> 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. A main police station can also issue a tax code to foreign citizens. 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.

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

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

- 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 of the State and the public authorities concerned.

## HIRING AND MANAGING STAFF

Over the past ten years, Italy has implemented several substantial reforms of the labor law system aimed at creating a modern, competitive and non-discretionary environment:

- since 2015, reinstatement has been substantially limited to cases of discrimination proven by the concerned employees and, on the other hand, the judge has less discretion regarding the amount of the indemnity potentially due if the dismissal is considered invalid by the Court;
- according to the new reform, should the dismissal be declared unfair, the employee may be entitled to an indemnity of 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 fallen dramatically (approx. 70% reduction of court cases concerning dismissals and end of fixed-term contracts);
- the length of a first-degree Labor Court dispute is 1-1.2 years on average at the national level, and 7 months before the Court of Milan.



## 1. Main sources of employment law

Basic rules regarding rights and obligations of employer-employee relationships 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 n. 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 working conditions and establish the minimum salaries and salary scales for each specific 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 employers, employment agreements in Italy usually 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 employment (in case of fixed-term employment) and enrollment, and employee's duties, as well as 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 usually define the 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, though they are 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 civil liability brought by third parties as a result of negligence in their duties performance.

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 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 apprenticeship 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

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 of notice.

#### Pay (remuneration)

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 bonuses. 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, usually 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

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 day of rest (usually 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-hour 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

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

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

Statutory annual vacation amounts to 4 weeks. The employer usually decides when workers can take vacation based on company and production related needs and taking into account (where possible) employees' interest. In addition to the statutory minimum, NCAs normally provide for a further period of paid vacation that is increased with seniority of service.

Italian law states that at least two weeks must be taken in the same year. Up to two weeks of unused vacation may be postponed, but 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 (as 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 are forbidden during pregnancy.

During maternity leave employment is suspended and seniority is protected.

## Other leaves

There are other leaves provided for by law and the applicable NCAs, 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 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 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;
- and
- 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/Working from home**

Teleworking/Working from home 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 be found principally in several NCAs. More specific rules may be agreed at the local and/or company level.

## **Remote Work**

Remote work is considered “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 applicable collective bargaining agreement.

Remote work 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 work activity.

## **State funded workers' suspension plans**

In the event of a temporary crisis, the employer may use the State funded workers' suspension plans (“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**

Companies in breach of these obligations are subject to administrative sanctions. To encourage compliance with 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 who, 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 (European Economic Area) nationals can be employed in Italy without requiring authorization by the Italian authorities.

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 “Sojourn card” (“Carta di Soggiorno”), which is normally issued by the local office of the State Police (“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 selection 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 the Italian labor market, by combining a purely quantitative selection with some elements of qualitative selection.

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 sojourn permit for working purposes.

### Authorization request (“nulla osta”)

Employers must a request to 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 “Sojourn 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 must 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 the Labor authority (“Direzione Territoriale del Lavoro”) and the local State Police office (“Questura”), the authorization (“nulla osta”) can 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 office 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.

## Sojourn permit (permesso di soggiorno) issuance

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

Sojourn permits have a maximum duration of two years, in case of fixed term contracts, or unlimited duration in case of permanent contracts.

## Visa for investors

Italian law provides for a special, simpler 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 1 million euros) or in a startup (minimum 500 thousand euros).

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

Alternatively, this procedure will be applicable in the 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. The committee includes, amongst others, representatives of the Ministry of Foreign Affairs, of Internal Affairs, of the Financial Intelligence Unit, Security Guard, the Revenue and Italian Trade Agencies.

In particular, the Committee will evaluate the documents on which the investor demonstrates 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](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 with 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 by 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 be 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 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 a part-time contract can be added, which allow the employer 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 n. 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, the 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’ suspension plans (*Cassa Integrazione Guadagni*) or involved in collective dismissals in the past few months.

### **“On call” jobs (“lavoro a chiamata o intermittente” legislative decree n. 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 – on a 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 n. 81/2015)**

Apprenticeship is an open-ended contract with 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 qualifications.

### **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' suspension 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 when based 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:

- a 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);
- an 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 of payments

Upon termination of employment relationships, 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 13<sup>^</sup> and 14<sup>^</sup> 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 period).

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

The Jobs Act has introduced a new regime of consequences for individual and collective unfair dismissals, specifically 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 7<sup>th</sup> March 2015;
- employees hired before 7<sup>th</sup> March 2015 on a fixed-term basis whose contracts were converted into an open-ended contract after 7<sup>th</sup> March 2015;
- apprentices hired before 7<sup>th</sup> March 2015 whose contracts were converted into an open-ended contract after 7<sup>th</sup> March 2015.

### (a) Unfair dismissals consequences for employees hired before 7<sup>th</sup> 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 totally unlawful: reinstatement and payment of an indemnity equal maximum to 12 months' salary (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. verbal) dismissals, regardless from the number of employees, point (i) above applies.

## **(b) Unfair dismissals consequences for employees hired after 7<sup>th</sup> 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 6 months up to a maximum of 36 months. Please also note that the Italian Constitutional Court (Corte Costituzionale) has recently (Judgement n. 194/2018) held as unconstitutional the fixed parameter connected only to seniority in identifying the indemnity for unlawful dismissal. Therefore, from now on, the Labor 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 out-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, the fairness of an executives' dismissal is usually assessed unless it is shown to be a violation of correctness and good faith principles. The High Court (Corte di Cassazione) has repeatedly confirmed that the 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 labor councils (if any) or to the Trade Union 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 employees concerned, 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.

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. Workplace safety in Italy

A Consolidated Act on Workplace Safety (Legislative Decree n. 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

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

- a rapid 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 new evidence on its own initiative 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 Appeals, a further appeal may be made to the Supreme Court.

### “Fornero” special proceeding

The “Fornero” reform (Law n. 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.).

In this case, Judges are 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 regard 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 n. 300/70e.g. “Workers' Statute”). “Rappresentanze Sindacali Unitarie” (hereinafter RSU) were established by national agreement in 1993 and 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 councils, RSA and RSU, are involved in collective bargaining and the verification of the correct application of laws and collective agreements in the 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.

The 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 the Italian social security administration (“INPS”). Employees can join certain supplementary pension funds (provided by NCAs) to increase social security benefits;
- the national work accident insurance institute (“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 from the wage fund guarantees. Incentives consist of a partial or total exemption from social security contributions.

## 13. Productivity bonus

Productivity bonuses paid by the employer within 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 performance 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.

## 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.

The Italian application can be submitted with reference to the national geographic area and a specific class of goods or services. With the exception of some restrictions pursuant to article 7 of IPC, fall under the trademark regulation all signs in particular words, including personal names, or designs, letters, numerals, colours, the shape of goods or of the packaging of goods, or sounds, provided that such signs are capable of: (a) distinguishing the goods or services of one undertaking from those of other undertakings; and (b) being represented on the national Register, in a manner which enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor. 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 (paper format) or, alternatively, to the Italian Office for Patents and Trademarks (digital format)

<https://servizionline.uibm.gov.it/deposito-online-new/pubblica/index.html>

EU application grants the claimant the possibility to gain the protection arising from the EU trademark, 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 taking force as from October 1st, 2017.

EU trademark registration application can be submitted to the competent EUIPO (European Union Intellectual Property Office)

[www.euiipo.europa.eu](http://www.euiipo.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 which deserves to be carefully evaluated, since a patent may be difficult and expensive to obtain and to manage later on.

Italian application 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](http://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](http://www.epo.org)

The European Unitary Patent (regulated by Reg. (UE) 1257/2012) system will be in force starting from the second half of 2018 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.

[www.epo.org](http://www.epo.org)

### 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.

Italian 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 (paper format) or, alternatively, to the Italian Office for Patents and Trademarks (digital format).

<https://servizionline.uibm.gov.it/deposito-online-new/pubblica/index.html>

The European application can be filed to EUIPO (European Union Intellectual Property Office) 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. [www.euipo.europa.eu](http://www.euipo.europa.eu)

### 4. Software and Database

Software can be protected by referring to 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 the protection under Copyright Law arises automatically from the creation and no type of administrative fulfillment is needed, to furnish the author of an indisputable proof, a program 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.

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 1 of the year following the date of the said completion.

## TAXATION IN ITALY

- 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 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 on accounts and one balance payment.

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

Withholding taxes are generally 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, limited liability companies with share capital, 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 trust, resident in the territory of the State, which have as their sole or main object the exercise of commercial activities;
- public and private entities other than companies, trusts that do not have as their sole or main object the exercise 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 place of effective management is located in Italy (“sede di direzione effettiva”);
- the main day-by-day management is located in Italy (“gestione ordinaria in via principale”);

### Tax assessment basis

The **profit taxable 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 the 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 tax relief for foreign underlying tax. Specific anti-abuse rules have been provided for.

## Deductibility of expenses

In order to calculate the taxable income, it has to be taken into consideration that there is a wide range of expenses that 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 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 VAT);
- **entertainment expenses:** deductible within the following limits:
  - 1.5% of the annual sales (for annual sales below EUR 10 million)
  - 0.6% of the annual sales (for annual sales within EUR 10 million and EUR 50 million)
  - 0.4% of the annual sales (for annual sales of more than EUR 10 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 domestic minimum tax paid for the purposes of the global minimum tax is also relevant for the purposes of the effective tax rate.

As an alternative to the calculation of the effective tax rate, a substitute tax of 15% of the net profit can be paid.

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”** is 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 point a) b) c)) 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 per cent 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

**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.

According to Law 213/2023, as of 2024, non resident companies and entities, established in EU States or States of the European Economic Area that allow an adequate exchange of information, without a branch located in Italy, are taxed with the same Pex regime, as above described, in relation to the capital gains derived from the alienation of shares which are deemed to be qualified, under article 67, paragraph 1, lett. c), of Italian Tax Code (ITC).

## 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

The tax transparency is a tax regime by which the **company** is not taxed on the PBT 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 limited liabilities 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 profit smatured 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**, to which company groups may have access. To exercise 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**, based on which a controlling company resident in Italy may consolidate the income made by all non-resident subsidiaries proportionately, for which the control requirement exists, based on the percentage of participation held in the subsidiaries.

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

Dividends received by resident individuals who do not carry out business activities are subject to personal income tax (IRPEF) as follows: - Final substitute tax withheld at source of 26% on the total amount, relating to qualified and non-qualified shareholdings (profits made since 2018).

However, to the distributions of profits deriving from qualified shareholdings in companies and entities subject to corporate income tax established with the profits produced up to the financial year in progress as of 31 December 2017, the distribution of which is resolved in the period between the 1st January 2018 and 31 December 2022, the previous provisions continue to apply.

The transitional regime also applies to profits distributed starting from 1 January 2023, provided that the relevant distribution has been approved by resolution adopted by 31 December 2022. The previous regime continues to apply to the aforementioned profits deriving from "qualified" shareholdings, according to which the profits contribute to the formation of the total income of the natural person member with partial taxability to the extent of:

- 58.14% for dividends generated with profits accrued from 1 January 2017 to 31 December 2017;
- 49.72% for dividends generated with profits accrued from 1 January 2008 to 31 December 2016;
- 40.00% for dividends generated with profits accrued by 31 December 2007.

Starting from 1 January 2020, the dividends paid to partnerships are understood to be received for transparency by the respective shareholders with consequent application of the corresponding tax regime. The transparency regime does not apply with reference to profits from companies or entities resident or located in states or territories with preferential tax regimes.

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.

## Interest

Interest on bank deposits and 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 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 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 and public administrations.

IRAP does not apply to mutual investment funds, pension funds, European economic interest groups (EEIG), 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.

#### Tax assessment basis and rates

The **determination of the tax base** differs, depending on whether the taxpayer is a commercial company, 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 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 and companies and insurance companies, and, in some cases, different rates are applied as well.

#### 4. Value added tax (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 suffers 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 was 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**) applying for 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 \* ;
- 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.

\* 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).

## 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**.

### 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.

-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).-

## 5. Excise duty (Accisa)

The excise duty is a single-phase tax, harmonized 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 products concerned.

## 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 the real 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.

### 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 income increased by 25% and multiplied by 135.

### Exemptions for IMU purposes:

- the **buildings** used as first house 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%.
- Starting from 1 January 2022, buildings constructed and intended for sale by the construction company are exempt from IMU, as long as this destination remains and they are not rented out.

Please note that, under certain conditions, 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 is reusable.

Following the amendments introduced by Law 160/2019, the tax is generally calculated by applying the **basic rate** of **0.86%** 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 on June 16th and December 16th of each FY.

The Tax on Municipal Indivisible Services (**TASI**), charged on the **ownership** of **buildings** and **buildable areas** and applied on the same IMU tax base, introduced in the FY 2016, was abolished starting from 1 January 2020.

## 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 subject to registration, in the **event of use**.

With specific 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 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 1 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 EUR 750 million whether on a stand-alone or consolidated basis; and
- realize revenues from qualifying digital services in Italy of at least EUR 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 16 May, and submit an annual return by 30 June, 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.

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

This tax is **personal**, progressive and individual-based.

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 domiciled in Italy (domicile to be understood as the center of personal and family relations);
- they are resident in Italy (habitual abode);

- they are present in Italy

Unless proved otherwise, it will be presumed resident in Italy:

- natural persons who, for most of the tax period, are registered in the registers of the population resident in the national territory;
- Italian citizens who are deleted from the registers of the population resident in the national territory and transferred to States or territories to preferential tax regime.

## 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.

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 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 (2024) are as follows:

Taxable Income (EUR)	Rates
Up to 28,000	23%
From 28,001 to 50,000	35%
Over 50,000	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 Bolzan. The maximum rate applicable by Regions with special statute is 1,73 (under some circumstances such rate could rise by a further 0.5%); 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/sceltaaregione.htm?privacy=ok>

- 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%).

Starting from the 2024 tax year, the tax rates will be adjusted to the new brackets envisaged for the IRPEF.

## 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 exempt income 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.

The 2023 Budget Law introduced a presumptive regime to protect foreign investment vehicles whose assets are managed by operators resident in Italy or present there with their own

permanent establishment. The rule, providing for a "safe harbor" regime, operates as an absolute presumption of non-existence of a permanent establishment if a foreign investment vehicle makes use of an Italian operator who carries out, in the name or on behalf of the same or its both direct and indirect controlled companies, including discretionary activities of stipulating contracts for the purchase, sale and in any case negotiation of financial instruments and credits, or in any case contributes to these activities by carrying out "preliminary or ancillary operations". Substantially, this operator is presumed to be an "independent agent" and cannot, therefore, challenge the foreign investment vehicle to be present in Italy through a personal PE, with any related implications for income tax purposes.

## 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 fiscal year and in advance for the current 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 of 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 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

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

### VAT

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:
  - **1st quarter: within the 31st of May;**
  - **2nd quarter: within the 16th of September** (only for 2018 1st October 2018);
  - **3rd quarter: within the 30th of November;**
  - **4th 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** (only for 2018 1st October 2018);
  - **3° quarter: within the 30th of November;**
  - **4° quarter: within the 28th (or 29th) of February of the following year** (only for 2017 1st semester: within September 18th, 2017; 2nd semester: within April 6th 2018).

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

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. Ruling

### 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.

### International ruling

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

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

Preliminary notes on the enterprise size

Staff headcount *	Annual turnover (€/MLN)	or	Annual balance sheet total (MLN €) **	Dimension
> 250	> 50		> 43	Large
≤ 249	≤ 50		≤ 43	Medium
≤ 50	≤ 10		≤ 10	Small

\* full-time, part-time, temporary and seasonal staff, etc. (National labour rules apply)

\*\* The annual balance sheet total refers to the value of a company's main assets

For determining the size of a company, **two criteria** are taken into account:

- 1) the first criterion refers to the **staff headcount**;
- 2) the second criterion refers to the value of the **annual turnover** or, alternatively, of the **annual balance sheet total ceiling**.

The two criteria are mandatory and cumulative, so they both must exist. If the enterprise exceeds the size limits for two consecutive years, it will lose the status.

In the case of upstream and downstream companies, linked (if holdings with other enterprises rise to at least 25% but no more than 50%, the relationship is deemed to be between partner enterprises) or partner (if holdings with other enterprises exceed the 50% threshold, these are considered linked enterprises) enterprise's data must be added to those of the enterprise in question to determine if it meets the staff headcount and one of the financial thresholds defined. An enterprise is considered autonomous if it is completely independent or has one or more minority partnerships (each less than 25%) with other enterprises.

## 1. Development contract - key elements

### What is it

- Main national incentive scheme for large investments – including foreign investments – to boost the Italian industrial fabric
- Upon-request scheme
- Project duration: 3 years

### Typologies

- Industrial manufacturing
- Environmental protection
- Processing of agricultural products  
(*investments in the above-mentioned fields may include R&D projects connected and functional to the programme*)
- Tourism

### Investment size (minimum values)

- **€ 20 MLN**
- **€ 50 MLN** for high-impact projects (eligible for the FastTrack procedure)
- **€ 7.5 MLN** for projects concerning the processing of agricultural products
- **€ 7.5 MLN** for tourism projects in inland areas and/ or that allow the reconversion of dismissed facilities

### Beneficiaries

- **Large companies**
- **Medium companies**
- **Small companies**

In case of **multiple companies applying jointly** (max. 5), the **proposer** is required to invest **at least € 10 MLN**, while the **other participating subjects** must invest **at least € 1.5 MLN each**.

## 2. Forms of financial subsidies

Financial support is granted in accordance with the EU limits and requirements and is provided in the form of **grants** or **loans**, as well as a combination of the two.

In all cases, **companies must provide a financial contribution of at least 25% of the eligible expenses**. In other words, the **total nominal financial support** (grant + soft loan) **can't exceed 75% of the total eligible expenses**.

### GRANT

Financial support is provided by Invitalia, in maximum 5 instalments, directly to the company following the presentation of documentation regarding investment costs. Beneficiaries will not be required to return the amount received.

## SOFT LOAN

Loans may be provided by Invitalia together with the capital grant. Beneficiaries have to return the principal in 10 years. Beneficiaries will pay a lower-than-market interest rate on loans originated by Invitalia.

The amount of aid provided depends on **1) the type of project** (field of activity), **2) the location of the initiative**, and **3) the size of the company**.

### Eligible Investments

- new production unit (with full technical and functional autonomy)
- capacity expansion (these investments, when made by **large companies**, can be supported **only in Southern regions**)
- product diversification (adoption of a new NACE Code)
- existing production unit restructuring: fundamental change or significant improvement (these investments, when made by **large companies**, can be supported **only in Southern regions**)
- assets acquisition of an existing production unit located in distressed areas

### Eligible expenses (CAPEX)

- land purchase (up to 10% of tot. eligible expenses)
- building works and similar, specific corporate infrastructures (up to 40% of tot. eligible expenses or 70% for tourism)
- factory-fresh machineries, installations and equipment
- computer programs, patents, licenses, know-how (for large companies, the ceiling is 50% of tot. eligible expenses) consultancy (available only for SMEs and up to 4% of tot. eligible expenses)
- consultancy (available only for SMEs and up to 4% of tot. eligible expenses)

## 3. Temporary framework 2.8

The measure provides aid on the basis of a scheme in the form of direct grants.

### Beneficiaries: Smes And Large Enterprises

Beneficiaries are **eligible if they**, amongst others:

- a) are **incorporated and registered in the Business Register**;
- b) are **not undertakings in difficulty**;
- c) have confirmed that **in the two years preceding the application for aid**, they have **not carried out a relocation to the establishment** in which the aided investment is to take place, and **have committed not to carry out such relocation up to a period of two years after completion of the investment**.

The **purpose of the measure** is to grant **aid for investments related to**:

- a) The production of relevant equipment for the transition towards a net-zero economy, namely batteries, solar panels, wind turbines, heat pumps, electrolyzers, and equipment for carbon capture usage and storage;
- b) the production of key components provided that they are designed and primarily used as direct input for the production of the equipment defined under a)

The Italian authorities explain that beneficiaries will be required to demonstrate to Invitalia (the granting authority) that at least 50% of the turnover generated by each project is planned to be achieved with undertakings producing the equipment referred to the production of relevant equipment for the transition towards a net-zero economy, namely batteries, solar panels, wind turbines, heat-pumps, electrolyzers, and equipment for carbon capture usage and storage.

### Eligible investments:

- i. Production of batteries, solar panels, wind turbines, heat – pumps, electrolyzers, and equipment for carbon capture and storage (CCUS):
- ii. Production of key components designed and primarily used as direct input for the production of the equipment defined under (i);
- iii. Production or recovery of related critical raw materials necessary for the production of the equipment and key components defined under (i) and (ii).


Max aid amount per undertaking per MS			Location of the Investment*		
			Non-assisted areas	c-Regions	a-Regions
			€ 150 Million	€ 200 Million	€ 350 Million
Max aid intensity**	For direct grants	Large Enterprises	15%	20%	35%
		Medium size enterprises	25%	30%	45%
		Small enterprises	35%	40%	55%

\*As defined in the applicable Regional aid map

\*\* Calculated as nominal aid amount/eligible cost

## 4. General block exemption regulation (GBER)

### Aid intensities (gross grant equivalent for 2022-2027)

		LARGE COMPANY	MEDIUM COMPANY	SMALL COMPANY
		GROSS GRANT EQUIVALENT PERCENTAGES		
 INDUSTRIAL MANUFACTURING	Southern Italy (Apulia, Calabria, Campania and Sicily)	40%	50%	60%
	Southern Italy (Basilicata, Molise and Sardinia)	30%	40%	50%
	Central-Northern Regions: only listed municipalities*	10% - 15% - 25%**	20% - 25% - 35%**	30% - 35% - 45%**
	Rest of Italy	–	10%	20%

\* Eligible municipalities (Areas 107.3.c) and specific percentages are defined by the 2022-2027 Regional Aid Map for Italy approved by the European Commission.

\*\* The last percentage applies only to specific cities in the Lazio Region.

## 5. R&D&I projects

### Basic requirements

The R&D&I project has to be interconnected and functional to the main investment programme

### Beneficiaries

- **Companies**
- **Research centers** (of companies)
- **Institutional research bodies** (including universities)

### Eligible expenses

- labour costs
- factory-fresh tools and equipment, only for the period in which they are used for the R&D project
- contract research, knowledge and patents acquired or licensed in outsourcing, as well as costs for consulting services and other services used exclusively for the R&D project
- general expenditures
- any material used for the project

		AID INTENSITIES		
		Industrial Research*	Experimental Development*	Innovation
All the national territory	Large companies	50%	25%	15%
	Medium companies	60%	35%	50%
	Small companies	70%	45%	50%

\* **+15% up to a maximum intensity of 80%** if one of the following conditions is met:

- **effective collaboration between companies** of which **at least one is an SME** and where none of the companies bears more than 70% of eligible costs
- **effective collaboration between a company and one or more institutional research bodies** (including universities), in which these entities support at least 10% of the eligible costs

## 6. Recruiting, hiring and training

### Main Employment Bonuses

Employment bonuses are **reductions in social security contributions** which, by law, must be paid by employers in favor of hired workers. The benefit is a labor cost reduction recognized to employers.

WORKER CATEGORY	REQUIREMENTS	APPLICABLE TYPE OF CONTRACT	MAX. AMOUNT / (DURATION)	BONUS (REDUCTION IN SOCIAL SECURITY CONTRIBUTIONS TO BE PAID BY THE EMPLOYER)
People under 30	<ul style="list-style-type: none"> <li>Never been employed with a permanent contract</li> </ul>	First permanent contracts or conversions from fixed-term to permanent contracts	€ 3,000 per year (max 36 months)	50%
Women of any age	<ul style="list-style-type: none"> <li>Unemployed for at least 6 months (living in Southern regions)</li> </ul> OR <ul style="list-style-type: none"> <li>Unemployed for at least 24 months (elsewhere in Italy)</li> </ul>	New permanent contracts or conversions from fixed-term to permanent contracts	(max 18 months)	50%
		New fixed-term contracts	(max 12 months)	
People over 50	<ul style="list-style-type: none"> <li>Unemployed for at least 12 months</li> </ul>	New permanent contracts or conversions from fixed-term to permanent contracts	(max 18 months)	50%
		New fixed-term contracts	(max 12 months)	
<b>De-contribution in Southern Italy</b> <small>(Abruzzo, Apulia, Basilicata, Calabria, Campania, Molise, Sardinia and Sicily)</small>	<ul style="list-style-type: none"> <li>Already employed or newly employed people of any age in Southern regions</li> </ul>	Subordinate employment relationships that have already been established and are being established, other than agricultural and domestic work	-	<ul style="list-style-type: none"> <li>30% (in 2024 and 2025)</li> <li>20% (in 2026 and 2027)</li> <li>10% (in 2028 and 2029)</li> </ul>

## Extra - Tax Deduction for New Hires

- Enhanced tax deduction at 120% for the labor costs related to new hires on permanent contracts in 2024.
- The enhanced tax deduction is recognized when the number of permanent employees at the end of 2024 exceeds the number of permanently employed staff on average in 2023.
- The cost eligible for the enhanced tax deduction is equal to the lesser amount between the actual cost related to the new hires and the overall increase in personnel costs resulting from the income statement.

## Regional Training Programs

The European Social Fund Plus (ESF+) is the EU's main tool for investing in people, building a more social and inclusive Europe and advancing the European Pillar of Social Rights. The ESF+ helps shape policies related to employment, social matters, education, and skills across the EU.

The Italian regions can draw on the ESF+ fund to create training programs that respond to the needs identified in their territory.

