

TAXATION IN ITALY

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

- Corporate income tax (IRES);
- Regional tax on productive activities (IRAP);
- Value Added Tax (IVA);
- Personal income tax (IRPEF);
- Inheritance and gift tax;
- Local taxes: national tax on real estate (eg. IMU, etc);
- Registration tax and other indirect taxes on property transfers.

1. Corporate income tax (IRES, Imposta sui Redditi delle Società)

From January 1st 2004, all income produced by companies and institutions is subject to corporate income tax known as IRES.

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

The **27.5% tax rate** is applied on the taxable income (tax assessment basis) and has to be paid in two initial down payments and one balance payment.

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

Withholdings are generally fully deductible from tax. If the sum of the payments on account and the withholdings

exceed the tax payable, such excess may be deducted from the tax payable for the following tax period, reimbursed or used to offset any other tax and social security debts, at the taxpayers' excess.

PERSONS LIABLE FOR TAX

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

- limited liability companies with share capital, cooperative companies and mutual insurance companies resident in Italy;
- public and private commercial institutions other than companies and trusts resident in Italy;
- public and private non-commercial institutions other than companies and trusts resident in Italy;
- non-resident companies and institutions, including trusts, with or without legal personality, in respect of the income produced in Italy or where there is a branch located in Italy.

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

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 statutory financial statements or annual accounts, prepared in accordance with Italian accounting standards.

From 2011, tax losses may be **carried forward** for an indefinite period of time but may be used to offset only 80% of PCTCT.

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

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

DEDUCTIBILITY OF EXPENSES

In determining taxable income, 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 100% deductible, some of them are partially deductible and others are not deductible at all.

As a general principle, all the **expenses incurred in order to carry on the company activity** are eligible to be fully deducted from the profit.

However, if some of these costs are incurred both for company reasons and for private reasons, the percentage of deductibility is less than 100%.

Only the costs indicated in the P&L statement can be deducted for tax purposes.

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

- **depreciation:** they are deductible pursuant to a 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 under a tax perspective;
- **telephone costs:** they are deductible for 80% of their amount;
- **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% to 80% - at 27,5%) 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:
 - a. 1.3% of the annual sales (for annual sales below EUR 10 million)
 - b. 0.5% of the annual sales (for annual sales within EUR 10 million and EUR 50 million)
 - c. 0.1% of the annual sales (for annual sales of more than EUR 10 million)
- **costs for goods and services purchased** from companies residing in **tax havens** are deductible only if certain conditions are met. In any case, the relating amounts have to be indicated in the annual tax return.

CONTROLLED FOREIGN COMPANY (CFC)

The income produced by businesses, companies or other entities, resident or established in a **black list country**, which is controlled directly or indirectly by a resident person (individual, company, etc.), is attributed directly to the resident person, in proportion to the participation held. These rules also apply if the subsidiary has a permanent establishment in one of the countries previously mentioned. The above rules also apply to associated foreign companies, i.e. to participations exceeding 20% (10% if the company is listed). Taxable income is therefore determined according to specific rules.

CFC rules do not apply where a positive advance ruling is given by the revenue authorities, which is intended to

prove specific conditions are satisfied.

CFC rules also apply to controlled entities established in non-blacklist countries if:

- they are subject to tax rates less than 50% of the effective Italian tax rate; and
- more than 50% of the income earned is passive income (i.e. interests, dividends, royalties and services provided to related parties).

Advanced ruling for exemption is available.

TRANSFER PRICING

Transfer pricing rules in line with **OECD Guidelines** are applicable in Italy.

In particular, the rules apply to:

- foreign companies which control Italian enterprises they perform transactions with;
- italian enterprises which control 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**" is 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.

Inter-company transactions are to be **performed at Arm's Length**, which is the principle recommended by the OECD Guidelines, according to which the price is negotiated by independent entities.

There are **no legal obligations** in terms of **documenting the price policy** used within the business group, however, it is advisable to ensure documentation can prove the transfer pricing method adopted within the group. Avoiding transfer pricing issues is also possible by using one of the means provided by the tax authorities, such as:

- advanced pricing agreement (APA);
- safe harbors;
- 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 operation 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** (namely, to the recent edition approved by the OECD Council on July 22nd, 2010), 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 Country File concepts, although with some points of difference, towards a more comprehensive informative package (please see the table at the end for a detailed list of the required documentation).

INTERNATIONAL RULING

Businesses with international activities may implement a suitable **international standard ruling procedure**, mainly with regard to the system of transfer prices, interest, dividends and royalties, in order to reach an agreement with the Inland Revenue, valid for three tax periods, without prejudice to any changes in the "*de facto*" and "*de jure*" circumstances resulting from the agreement signed.

INTERNATIONAL AGREEMENTS

Italy has established over 90 international **treaties** to **avoid the double taxation** of income produced in different countries (see below).

DIVIDENDS

Income of companies and associations subject to IRES is only **taxed when it is produced**. The company therefore

pays IRES permanently and shareholders are not entitled to any tax credit on the profits received.

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

- dividend received from resident companies are taxed at 5% of their amount;
- dividend received from companies located in countries with a preferential tax system are fully taxable.

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 generally taxed at source (WHT) at a rate of 1.375%.

PARTICIPATION EXEMPTION

Capital gains on the transfer of company holdings, under certain conditions, are **95% exempt** from taxation. Capital losses are not deductible.

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

- a. uninterrupted holding as 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);
- b. classification of holdings as fixed asset investments as from the first balance sheet closed during the period of ownership;
- c. tax residence of the subsidiary in a country or territory other than those with a preferential tax system;
- d. exercise by the subsidiary of actual commercial activities;

The conditions set out in paragraphs c) and d) must be met without interruption at least as from the beginning of the third tax period prior to one of the transfers.

DEDUCIBILITY OF INTEREST PAYABLE

Interest payable and assimilated charges other than capitalized costs can be deducted in each tax period, up to the limit of the interest receivable and assimilated revenue.

Any excess of interest payable can be deducted up to 30% of the EBITDA plus cost of financial leases. Any further excess cannot be deducted during the taxation period, but can be **carried forward** and eventually deducted in later periods, on the condition that the 30% of the ROL relevant to each financial year is higher than the difference between the total interest payable plus assimilated costs and the total of interest receivable and assimilated revenue. On the other hand, any excess of the above ROL can be carried forward in later periods in order to offset any excess of interest payable.

In order to apply the system described, **interest payable** and **interest receivable, assimilated costs** and **revenue from the following** are taken into consideration: mortgage contract; financial lease contracts; issue of bonds and similar and any other contract for financial reasons.

Implied **interest coming from debts** is excluded however, while interest receivable from payments of the same nature can be included.

TAX TRANSPARENCY OPTION

The tax transparency is a system by which the **company transparency is** is not taxed in respect of the company itself, but is **attributed to each shareholder**, irrespective of its actual distribution, in proportion to their share in the profits.

The system is **optional** and the option has to be exercised by all the shareholders.

The requirements for exercising the option are as follows:

- the shareholders must all be limited liabilities companies with share capital, cooperative companies or mutual insurance companies resident in Italy;
- each shareholder must hold a percentage of voting rights at the general meeting and profit-sharing of minimum 10% and maximum 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 period is a 3-year period.

Under certain conditions, this system may also be applied

if one or more shareholders are non-resident. In the event of the distribution of dividends, consisting of profits acquired during the periods included in the period of validity of the option, dividends will not be taxed.

This system is also applicable to S.r.l. or cooperatives, provided that:

- all the shareholders are natural persons only, up to 10 for an S.r.l. or 20 for cooperative societies;
- the subsidiary has an income not exceeding EUR 7,500,000;
- the company does not have participations within the participation exemption requirements.

DOMESTIC AND WORLD TAX CONSOLIDATION

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

Domestic tax consolidation

Domestic tax consolidation is an **optional system** arranged **for a 3-year period**, to which company groups may have access. To exercise the option, 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 system consists of the **consolidation of the taxable income**, calculated separately by each company, which is totally **algebraic**, irrespective of the percentages of participation of the different companies.

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 in the system, without making any consolidation adjustment;
- proceed with payment of the group taxation (IRES).

Any excess interest payable and non-deductible assimilated costs formed by a subject who takes part in the consolidated balance sheet can be deducted from the group's overall income if and within the limits in which the other

participants submit a declaration of large-scale gross earnings for the same taxation period that is not fully used for deduction. These rules can be applied to excesses carried forward, excluding any excess formed prior to entering the national consolidated balance sheet 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 Inland Revenue.

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

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

- residence in Italy of all companies participating in the “fiscal unit”;
- all of the companies participating in the group must have the same year-end;
- election of domicile by each subsidiary with the controlling company.

World tax consolidation

World tax consolidation is an **optional system** 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 of 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 Inland Revenue.

A suitable appeal should be made to the Inland Revenue 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.

Tax treaties, where more favorable to the tax-payer, override statutory provisions.

DIVIDENDS

Dividend income received by partnerships or by individuals in relation to business activities is subject to tax at 49.72%.

Dividend income received by individuals not related to business activities is subject to:

- ordinary tax at 49.72%, if related to **qualified participations** (26%¹ advance withholding tax also applies to foreign source dividends);
- 26%¹ substitutive final tax withheld at source for the total amount, if related to non-qualified participations.

Qualified participations are participations entitling to:

- more than 2% of voting rights in an ordinary meeting or 5% of capital or corporate assets of quoted companies;
- more than 20% of voting rights in an ordinary meeting or 25% of capital or corporate assets of other companies.

Dividends of foreign source from **black list countries** are subject to ordinary tax on 100% of their amount. 26%¹ advance withholding tax applies.

Dividend paid to **non-residents** (other than EU companies) are subject to a 26%¹ final withholding tax. Reduced rates and reimbursement may apply (leading to a 15% effective tax rate), provided that certain conditions are met. Dividends paid to **EU companies** are subject to a 1.375% final withholding tax.

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

INTERESTS

Interest on bank deposits and current accounts is subject to a 26%¹ substitutive final tax withheld at source. Other interest on loan, deposits and current accounts is also subject to a 26%¹ advance withholding tax.

Interest on bonds and other financial assets is subject to 26%¹ advance or final withholding tax according to various conditions.

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

TAX TREATIES

The table in appendix (3.5) indicates the withholding taxes applied, on the basis of tax treaties, on payments of dividends, interests and royalties of an Italian taxpayer.

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 conducted.

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.

PERSONS SUBJECT TO IRAP

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

¹ Law Decree no. 66/2014 stated the new withholding tax rate applying on capital gains collected and interests accumulated starting from July 1st, 2014.

In particular, the following persons 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;
- agricultural producers receiving agricultural income (individuals or groups), except for those exempt from VAT;
- public and private non-commercial institutions and public administrations;
- individuals receiving company income; and individuals receiving income from self-employed work.

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

For persons **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, an agricultural producer, public or private non-commercial institutions or public administration offices.

If the taxpayer performs different activities, the tax base on which the rate applies is made only by the sum of the positive figures. For example, if a taxpayer has a tax base of EUR 100,000 relating to a commercial company and is also an agricultural producer using a tax base equal to EUR -20,000, the rate will be applied to a tax base of EUR 100,000.

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.

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

Costs related to employees and similar expenses to employees only for permanent workers are deductible for IRAP purposes; for those entities without costs related to employees and similar expenses to employees a tax credit equal to 10% of gross tax applies.

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

A **fixed deduction** is applied, determined by increments with reference to the taxable basis, plus a deduction for employees (subject to certain conditions).

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 applied on the “**value added**” to goods and services in the sense that, by means of a system of reimbursement of charges and deductions, tax is payable on the increase in value of goods or services in different phases of production and trade, until it reaches the final consumer who bears the full cost of the tax.

TAX ASSESSMENT BASIS AND RATES

There are three **conditions** that must be met for a transaction to be subject to VAT:

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

For VAT purposes, “**Italy**” is considered to be the territory of the Italian Republic, excluding the Communes of Livigno, Campione di Italia and the waters of Lake of Lugano on Italian territory.

VAT substantially applies to the following operations:

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

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

The former are operations that respect the three conditions but are excluded by express provision of law, such as the sale of postage stamps and stamp duties, financial expenses, medical services, insurance operations, etc. The latter, while physically carried out in Italy, are considered by law as if they were not carried out in Italy and therefore not subject to VAT.

RATES APPLICABLE

The **ordinary rate** is 22%.

In addition to the ordinary rate, there are two **reduced rates**, 10% 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 international trade, transfers of goods to another EU Member State, provision of some services connected to transfers of goods to another EU Member State).

The *Legge di Stabilità 2015* (Law n°190/2014) provides increases of the VAT rates starting from fiscal year 2016, as follows:

	2016	2017	2018
ordinary rate	from 22% to 24%	from 24% to 25%	from 25% to 25.5%
reduced rate	from 10% to 12%	from 12% to 13%	

The above increases of the VAT rates could be replaced, in whole or in part, by new regulatory measures that have the same effect on the Public Finances.

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 in running a business or in 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 to all legally required provisions, as if he/she/it were a national person.

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

- appoint an Italian **VAT tax representative**, i.e. an individual person or institution resident in Italy, responsible for fulfilling the obligations and exercising the rights laid down by the regulations on VAT; or
- **identify itself directly for VAT purposes** in Italy, directly fulfilling the obligations and exercising the rights laid down by 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 payable²;
- periods for settlements and payments of VAT;
- procedure for the completion and submission of VAT returns;
- procedure for the completion and submission of VAT communication of transactions with business entities located in countries with a privileged tax systems (Tax Haven or Black List Countries).

OTHER VAT SYSTEMS

Customs warehouses and VAT warehouses

Special rules establish the conditions for create and use:

- “customs warehouses” where products are held **without payment of custom duties and VAT** until they are removed from the warehouse;
- “VAT warehouses” where products are held **without payment of VAT** only.

Special VAT systems

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

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

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 for the above indicated procedure with reference to its Italian subsidiaries.

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

IMU is the **municipal tax** charged on the **possession of buildings, buildable areas and agricultural lands** situated within the Italian territory, intended for any use, including property used in performing company activities. The owner of the property or holder of the real right of usufruct, use, residence, emphyteusis or taxable area thereof is required to pay the municipal tax. In case of a financial lease, the lessee of a real estate is subject to the tax.

The **tax assessment basis** is represented:

- for **buildings**, by the value obtained multiplying the cadastral rent increased by 5% by a different multiplier (from 55 up to 160) based on the cadastral category;
- for **building land**, by the commercial value of the land as at the 1st of January in the year of taxation;
- for **agricultural land**, by the value obtained multiplying the cadastral income revalued by 25%, by 75 in case of agricultural land, cultivated, owned and run by farmers and professional agricultural entrepreneurs, and by 135 in all other cases.

The tax is usually calculated by applying the **basic rate** of **0.76%** to the tax assessment basis.

Each municipality, as part of its own statutory authority, may **vary** such rate by a **maximum** of **0.3%** (increase or decrease), to determine a range between 0.46% and 1.06%.

6. Registration tax

A tax must be paid for **documents** that must be **compulsorily registered** and documents that are **registered voluntarily**.

Documents referring 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 timing in which a document must be registered depends on whether the document is subject to registration “**within a specified period**” or whether it is subject to registration only “**in the event of use**”.

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

Tax is liquidated by the competent tax office by applying a tax rate determined by the value set out in the registered document, or by the service contained therein. All applicable rates are stated in the rates sheet attached to the Presidential Decree 131/86.

The applicable **rate** varies from 0.5% to 12%, depending on the type of the relevant document, with a minimum payable of EUR 200.

For 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), the tax is always applied as a fixed amount.

Exceptions are the leasing of instrumental assets which, despite being subject to VAT, pay registration tax proportionally (1%).

The tax must be **paid** to the **Inland Revenue at the time of registration**. Public officials who have drawn up, received or authenticated the document, persons in whose interest the registration is completed (contracting parties or assignees) and real estate agents are all liable for the payment of taxes.

The tax is also applied on the transfer of boats, as a fixed amount, according to the type and size of the boat.

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

This tax is **personal** and progressive.

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

PERSONS LIABLE FOR TAX

The following **persons** are liable to tax:

- natural persons resident on Italian territory in respect of the entire income owned;
- natural persons not resident on Italian territory solely for the income produced in Italy.

Italian residents include natural persons who, for most of the tax period, meet at least one of the following conditions:

- they are registered in the registers of the population resident on the national territory;
- they are domiciled in Italy (domicile to be understood as the principal office for business and interests, including moral and company interests);
- they are resident in Italy (regular residence).

TAX ASSESSMENT BASIS

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

The relevant categories include:

- land income, relating to land and buildings situated on the Italian territory;
- capital income;
- income from employment;
- income from self-employed;

- company income;
- sundry income, not acquired from the exercise of business, arts or professions.

Once the gross overall income has been determined, any deductions stipulated by law are applied.

The **gross tax** is calculated by applying the increasing **rates by income increments** to the net overall income.

The **rates** currently in force (2015) are as follows:

Income	Rates
Up to EUR 15,000	23%
From EUR 15,001 to EUR 28,000	27%
From EUR 28,001 to EUR 55,000	38%
From EUR 55,001 to EUR 75,000	41%
Over EUR 75,00	43%

For tax calculation purposes, **tax deductions** are available to reduce overall taxable income.

Deductions are usually equal to 19% of the charges borne, reducing the gross taxation applicable.

Until fiscal year 2016 an additional 3% tax will apply to income exceeding EUR 300,000.

REGIONAL AND MUNICIPAL IRPEF SURCHARGES

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

- a **regional** of between 1.23% and 3.33% (established by the regional government on a yearly basis),
- a **municipal** surcharge comprising of a first rate established each year by the state and applied throughout the national territory and a second rate not exceeding 0.8% p.a. established by the individual municipality (under some circumstances the rate could rise further by a further 0.3%).

EXPATRIATES BENEFITING FROM THE DEDICATED ITALIAN SPECIAL TAX REGIME

The Legislative Decree 147/2015 entered into force on October 7, 2015 includes provisions aimed at repatriating into Italy highly skilled workers, including top managers and EU citizens.

Employment income of workers that transfer their residence into Italy is 30% exempt from taxation (IRPEF), provided the following conditions are fulfilled:

- a. the worker was fiscally resident abroad and not in Italy in the five years preceding the transfer and commit to living in the country for at least two year;
- b. once in Italy, an employment contract is concluded with a resident Company;
- c. the employment activity shall be carried out mainly in Italy;
- d. the worker has an university degree and his job in Italy requires high qualifications and specialization.

The benefit is applicable from the fiscal year in which the transfer of residence occurs and for the following four. A decree, to be issued by the Ministry of Finance in 90 days since October, 7th 2015, will contain the rules for implementation of the new regime.

TAX ON INCOME OF NON-RESIDENTS

IRPEF applies 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 incomes are deemed to be produced in Italy:

- income from land and buildings;
- income from capital paid by the State, by resident persons (entities or individuals) or by permanent establishment in Italy of foreign entities, except interest and other income derived from bank/post deposits and current accounts;
- income from employment produced in Italy;
- income from independent work derived from activities performed in Italy;
- business income derived from activities performed in It-

aly through a permanent establishment;

- other income derived from activities performed/assets located in Italy and capital gains derived from the sale of participation in resident entities (exceptions: e.g. non-substantial participations in listed companies);
- income from participation in transparent Italian entities (e.g. partnerships).

Tax is assessed on the aggregate amount of the incomes indicated above (deductions and tax reductions may apply).

Non-resident companies and other entities, including trusts, with or without legal personality are subject to corporation tax (IRES, *Imposta sul Reddito delle Societa*).

Tax is assessed on the income produced in Italy, except for exempt incomes and incomes subject to final withholding tax or substitutive tax.

For corporation tax purposes (IRES), the incomes indicated above are deemed to be produced in Italy; for non-resident companies and other entities, the business income includes capital gains and capital losses relating to assets used in commercial activities performed in Italy (even if not realized through permanent establishments), dividends derived from resident entities, other income derived from activities performed/assets located in Italy and capital gains derived from the sale of participation in resident entities.

Tax treaties, where more favorable to the tax-payer, override statutory provisions.

8. Tax obligations

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

COMPLIANCES RELATING TO DIRECT TAXATION

Both **IRPEF** and **IRES** taxpayers have to complete an **annual return** to be able to self-assess and pay taxes in full for the applicable tax year and the tax payments on account for the current year at the time the return is prepared.

The tax return must be drawn up using a standard form approved by the tax authorities on a yearly basis. 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 balance sheet date).

The tax **payments** are divided into **two payments on account** payable during the course of the tax year, and a **balance** to be paid at the same time as payment of the first payment on account is due for the following year (the 16th day of the sixth month following the end of the relevant tax period, with the possibility of postponing to 16th day of the seventh month by paying 0.4% interest).

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 September 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.

The taxpayer must also send a VAT concise return each year ("*Comunicazione annuale dati IVA*").

Effective from the calendar year 2016, the VAT concise return will no longer be required but the annual VAT return will have to be filed by the end of February of the following year.

In general, **settlement** is effected on a **monthly, quarterly or infra-yearly** basis.

Taxpayers who must make monthly payments must pay any amounts 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 16th March.

All credits will be deducted from the settlement in the

following month or quarter.

By 27th December, the taxpayer is asked to provide a payment on account as the 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).

IMU

As of today, the IMU (municipal tax on property) return has to be prepared and submitted in the event of change of taxable status by both previous and new taxable persons. The filing must be made no later than June 30 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: 16th June and 16th December.

9. Ruling

A new form of ruling will be available for companies that intend to invest in Italy.

The new system, entered into force on 7 October 2015 (Legislative Decree 147/2015) is aimed at providing them with a framework of certain and stable tax treatment, arising from their investment plan.

The investor, either resident or non-resident, shall forward its application to the Italian Revenue Agency 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 of not less than euro 30 million.

The new ruling procedure will come into force from the date of publication of the statement of practice.