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1. GENERAL ENVIRONMENT

1. Geography and population

Italy is a long peninsula situated in Southern Europe, in the center of the Mediterranean Sea, bordering France, Switzerland, Austria, and Slovenia to the North, while the rest of the State is surrounded by sea.

Italian territory includes numerous islands, the largest of which are Sicily and Sardinia.

Italy is composed of 20 administrative regions, with Rome as the capital.

Italy's population is about 60 million, and its territory covers about 301,000 square kilometers. The official language of Italy is Italian, and the currency is the euro (EUR).

The climate is mild and temperate, with well-defined seasons, owing to the Alps that constitute a natural barrier from Northern Europe. Northern Italy has a harsh winter and warm summer climate, while the South and the islands have a drier and hotter climate with mild winters.

The religion most widely practiced is the Catholic religion.

The National Holidays are:

- 1st January – New Year's Eve
- 6 January – Epiphany
- Date Changeable - Easter and Easter Monday
- 25 April – Liberation Day
- 1st May – Labor Day
- 2 June – Republic's Day
- 15 August – Assumption
- 1 November – All Saints' Day
- 8 December – Immaculate Conception
- 25 December - Christmas
- 26 December – St. Stephen's Day

Generally, public offices' opening and closing hours are 8.30-12.30 a.m. from Monday to Friday. Banks' opening and closing hours are 8.30-13.30 and 2.30-3.45 p.m., from Monday to Friday.

2. Political institution

Italy is a Parliamentary Republic.

The President of the Republic, the Head of State, is elected by Parliament and remains in office for seven years. His duties include calling elections, enacting laws, ratifying international Treaties, and maintaining command of the Armed Forces.

The national legislative power is assigned to Parliament, composed of two Chambers (Chamber of Deputies and Senate of the Republic) elected by universal suffrage by the people every five years; only in exceptional cases can the government legislate directly.

The local bodies of the State may legislate within the scope of the powers assigned by the Constitution and within the limits of national regulations.

Executive power is in the hands of the Government, composed of a Chairman of the Council (elected by Parliament and appointed by the President of the Republic), a Vice Chairman, and a Council of Ministers.

The judicial power is shared between:

- Ordinary jurisdiction, exercised by judges operating in the civil and criminal field (Civil Law System);
- Administrative jurisdiction, exercised by the regional administrative Courts (TAR) and by the Council of State;
- Tax jurisdiction, exercised by the provincial and regional Tax Courts;
- Accounting jurisdiction, exercised by the Audit Office on public accounts;
- military jurisdiction.

The highest level of judgment of the judicial power is the Supreme Court (Corte di Cassazione), which acts as a judge on legal issues and not on the facts of the case. Finally, the Constitutional Court gives its opinion on any conflict between laws, the Italian Constitution, and between the public institutions and their respective competencies.

In the international context, Italy is a founding country and member of the European Community (Treaty of Rome 1957).

Italy is a founding member of the European Economic Community (EEC) and the North Atlantic Treaty Organization (NATO). It is also a member state of the United Nations (UN), World Trade Organization (WTO), and Organization for Economic Co-operation and Development (OECD).

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3. Economy

Italy's diversified economy is divided into a developed industrial north featuring many private companies and a less-developed south.

The most developed sectors of Italian industry include manufacturing, machinery, ceramics, motor vehicles, mechanical and construction sectors, iron and steel chemicals, and the transport industry.

A significant contribution to the national wealth is generated by-products “made in Italy” (textile products, production of clothing and footwear, agri-foodstuffs, and design sectors), known and appreciated throughout the world.

The role played by tourism is also of prime importance: Unesco has pointed out that Italy has the greatest cultural heritage in the world.

One salient feature of the Italian economy is the high propensity to the entrepreneurship scene, with respect to industrialized countries, in the very high number of small and medium-sized businesses: 98% of the over 4 million businesses employ fewer than 19 persons (the average is 3.98 employees per company).

Another significant feature of the Italian economy is the development of the so-called “industrial districts”, geographical areas in which numerous companies belonging to the same sector are concentrated with close economic relations, each one specializing in a specific stage of the production line: Today there are over 153 districts in Italian territory.

With these associations, the sectors concerned maintain considerable flexibility and a high level of specialization and innovation.

The favorable geographical position at the center of the Mediterranean and the infrastructural links with the countries of Europe allowed Italy to form a crossroads for international trade, a natural bridge between Europe and Africa.

Investment is favored by the marked industrialization present in the North and by the concessions existing at a community level, intended to favor the economic development of the South.

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2. IMMIGRATION AND LABOUR LAW

1. Immigration: general

EU / EEA nationals will only need to present an identification document to enter Italy due to the common travel area of the Schengen zone of which Italy is part of.

Non-EU/EEA travelers wishing to visit Italy must hold, to be permitted to enter, either a valid passport or ID document and an entry Visa as set forth by the Decreto Interministeriale of 20 May 2011, n. 850. However, the entry Visa requirement does not apply to all foreign citizens. Accordingly, the Ministry of Foreign Affairs, in accordance with EU guidelines, updates the list of third countries whose citizens are exempted from holding an entry Visa to enter both Italy and the EU.

1.1. EU and Swiss nationals.

Being a member state of the European Union and associated with a membership into the Schengen Area, Italy grants to EU and EEA (European Economic Area) nationals the possibility to be employed therein without any authorization by the Italian authorities, in accordance with the principle of free movement of persons, goods, services and capital. Accordingly, EU citizens are free to reside in Italy without any registration for a maximum period of 90 days.

Only in case an EU national desires to reside in Italy for a period exceeding 90 days for work purposes, he/she shall apply for the so-called "stay card" (carta di soggiorno), which is renewable and issued by the local state police office (Questura) through a simple request.

Swiss citizens are entitled to access to work in Italy according to the same ordinary rules applicable to EU countries nationals.

1.2. Non - EU citizens.

A non-EU foreign worker must hold a work visa to work in Italy.

Although, there are limits on the number of foreign citizens that can be hired in Italy each year. Indeed, in order to regulate the admission of third country nationals and their access to italian labor market, their admission is based on an annual quota (quantitative system) of new inflows established by the Italian government through a Prime Minister Decree.

1.3. "Nulla osta" for foreign workers

In order to hire a foreign worker living abroad, employers must submit an authorization request to the Immigration Single Desk (ISD).

The application file shall contain the so called "stay of contract" (contratto di soggiorno) in which the applicant's employer guarantees:

- adequate accommodation for the requested worker and to fund travel costs for his/her repatriation in case of expulsion before the expiry of the contract;
- The terms of employment in compliance with the relevant collective contracts for the specific occupation in which the requested worker will be employed.

Once the labor authority checks the terms of employment and the documentation required, the authorization for the foreign workers (nulla osta) is issued by the local state police office and delivered to the applicant's employer. the whole procedure should take 40 days from the application.

1.4. Visa for Foreign Workers

The employer who receives the nulla osta for the foreign workers send it on to the requested worker, who must forward it to the Italian diplomatic representation in his/her country of origin, to request and obtain a visa for working purposes.

The nulla osta for the foreign workers will be valid for 6 months, period in which the Italian diplomatic representation in the foreign country may issue the visa.

1.5. Stay permit

Within 8 days from the arrival in Italy, the foreign worker must sign the stay contract filed by the employer to the ISD, which will contain the main terms of employment, and he/she must apply for the stay permit for working purposes.

As anticipated above, the stay permit will last as long as the employment contract does, for a maximum period of 2 years and it is renewable.

1.6. Exemptions from entry limits

The secondment of workers is not generally subject to the limits established by the Italian government, since it involves companies engaging highly qualified

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workers and the existing relationship between the home company and the Italian host company.
Indeed, specific professionals' profiles can be admitted without any quantitative limitation that regulates their inflow (i.e, professors, managers, or highly skilled members of multinationals/foreign companies).

Even though no quantitative restrictions are provided, the admission of workers in this specific category still requires releasing the authorization (nulla osta) granted by the ISD.
Regarding the relevant stay permit, it could last two years in case of fixed terms of contract, or it could have an unlimited duration in case of open-ended contracts.

1.7. Investor visa for non-EU citizens

To make Italy increasingly attractive to international flows of human and financial capital, Italian law provides for a specific new visa issued to individuals who intend to make significant investments in strategic areas for the Italian economy.
The relevant procedure is simplified and aims to facilitate the release of visas to potential investors, allowing them to stay for periods exceeding three months without any quantitative restrictions such as those set by the law to regulate the inflow of non-EU citizen workers.
The relevant application only refers to foreign nationals coming from countries that are not members of the EU or within the Schengen area, who intend to make an investment that aims to:

- buy Italian government bonds for at least 2 million euros or
- invest at least 1 million euros in the capital of an Italian company or at least 500 thousand euros in a startup.

The above investments must be demonstrated and maintained for at least two years. Consequently, a two-year residence permit will be issued, renewable for another three years.
The same procedure will apply if the foreign investor carries out philanthropic donations of at least one million euros, in cultural assets, immigrant management, education and research.

The institutional body responsible for ensuring that Visa applications meet the requirements set out by the law is a specific Committee, namely, the Investor Visa for Italy Committee.
The applicant must submit the request to the Committee via the online platform containing, along with the personal documentation required, a statement in which the applicant declares that the amounts are available and transferable to Italy, undertakes to use the funds within three months having entered Italy for the investment or donation at stake, and to maintain the investment for at least two years.
Once the submitted request is received by received the Committe, it will check:

- the documents proving that the investor owns in fact the amounts to be invested or donated;
- the certification of the legality of the funds;
- the declaration of non - existing of final criminal convictions or any other pending charges issued by third countries regarding the applicant.

2. Employment legislation

Italian labor law provides, as a general mean of employment, a permanent contract which, however, can be interrupted on discretion of both parties, by giving a notice in accordance with the collective bargaining or the individual contract at stake.
However, there are other forms of contracts that appear more suitable to regulate particular business situations, such as seasonal jobs, show business, aiming moreover to encourage young people to take part to the labour framework.
These contracts are the following:

- the fixed-term employment contract, which cannot exceed 24 months overall, including 4 periods of extensions.
- the apprenticeship contract which may last between 36 and 60 months, in order to facilitate young people to access the work scene.

This last one contract qualifies for a very important contribution to social security.
Before starting an employment relationship, the employer must deliver a letter of assumption in which are contained some specific information (trial

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period, qualification, tasks and remuneration). The employment relationship starts the day after the mandatory online communication (UNILAV). Without these communications the employment relationship is considered "irregular" and heavy penalties punish the employer. Moreover, the company that hires employees must provide for implementing and managing the insurance and health protection system.

The protection of the rights of employees is generally ensured by specific rules such as the standard duration of the weekly working time or the minimum number of holidays due. and it is organized at the company level by national collective agreements (CCNL)
Law, also, establishes trade union rights and the freedom of expression of workers through the protected exercise of trade union activities in workplace.
The workers benefit from a public social security cover, financed up to 8.89 - 10.19% of gross salary, by the company's contribution at the rate of 27% - 32% of gross salary. The social security system provides:

- disability, old age and survivorship.
- illness and maternity
- unemployment and "mobility"
- family allowances
- health care
- labor injuries
- professional diseases

The employer has to pay obligatory insurance cover - an annual premium- which is calculated based on the type of risk linked to the work activity done.
In case of foreign workers temporarily working in Italy, different social security and welfare rules are applied according to the country of their origin (EU/non-EU): generally, in such case, the legislation of the country where the work is carried out is applicable.
Exceptions are possible pursuant to the tax treaty provisions.

3. Employment policies
In the last years' labor market has gone through several reforms which have introduced new forms of flexibility.
Changes in consumption and markets have been useful in re-elaborating costs with economic effects on the end of employment relationships.
Further development will derive from the active policies reform aiming at reorganizing employment centers on the model of Northern European countries.

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3. FORMS OF BUSINESS

The simplest form of business is the sole trader.

On the sided of collective entities, under Italian law, there is a clear distinction between "partnerships" and "companies".

Partnerships include the simple partnership, which may not carry on business activities, the general partnership, and the limited partnership.

Companies include the joint-stock company, the limited liability company and the partnership limited by shares.

1. Sole trader

The sole trader is the simplest legal structure available for running a business.

The sole trader assumes all decision-making responsibilities of the enterprise and bears unlimited liability for any debts incurred.

A sole trader is a business set up by a single "holder" (person).

A businessman that performs a business is also financially responsible for it, thus he is liable for the debts contracted by the firm with his own present and future personal wealth.

If relatives (members of family of the "holder" up to the 3rd degree and relatives up to the 2nd degree) work in the business, it is regarded as a family business, for which the sole holder remains liable, receiving at least 51% of the business income (family workers do not share in the losses).

This legal form is very suitable for small businesses and allows access to forms of concessionary funding

2. Auxiliary of the sole trader: general manager

The general manager is usually a subordinate worker with the rank of manager, placed at the top of the staff hierarchy.

The sole trader appoints him and can be in charge to run the whole business activity carried out by the entrepreneur, or either a branch or a subsidiary.

In these cases, he can be subject to the branch's general manager or subsidiary at stake. Nonetheless, there can be more than one general managers in charge to run the same business activity, thus, each of them will have independent power of decision.

Given his wide range of powers, he will be responsible, along the sole trader, for the:

- obligation of registration in the register of company;
- keeping the accounting records;
- criminal liability in case of failure of the entrepreneur, bearing in mind that only this latter will be exposed to the economic consequences of the failure.

General manager also holds representative power: He can perform in the name of the sole trader all the acts pertaining to the business of the company or branch to which he is responsible for, except for those acts that go beyond the management of the company, for instance, the sale or lease of the company.

Moreover, he can stand in a trial as plaintiff and as defendant for:

- the obligations that depend on acts performed by himself in the exercise of the company to which he is responsible for;
- for the acts carried out directly by the sole trader.

The representative powers granted by law can be extended or limited by the entrepreneur both at the time of the preposition and subsequently.

1. Types of partnerships and companies

The main types of partnerships available to foreign investors are:

› Simple partnership ("Società Semplice" - "SS")
› General partnership ("Società in nome collettivo" - "Snc")
› Limited partnership ("Società in accomandita semplice" - "Sas")

The main types of companies available to foreign investors are:
› Joint-stock company ("Società per azioni" - "SpA")
› Partnership limited by shares ("Società in accomandita per azioni" - "Sapa")

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› Limited liability company (“Società a responsabilità limitata” – “Srl”)
› Simplified limited liability company (“Società a responsabilità semplificata limitata” – “Srls”)

As an alternative to the above, investors may of course decide to begin their business activities in Italy by establishing a branch or, in the initial stages at least, by beginning promotional or market research activities through the opening of a local representative office.

The simple partnership may not be used to carry on business activities and for this reason is not discussed here

1.1. General partnership (Snc)
The general partnership can be formed by two or more partners who are jointly liable for the partnership’s obligations.

This means that the individual partners are personally liable for the liabilities of the partnership and that this liability may also extend to their own private assets.

Partners in a general partnership always have unlimited liability for the partnership’s obligations and any agreement stating otherwise is not legally binding. There is no minimum capital requirement and an S.n.c. has no separate legal identity.

1.2. Limited partnership (Sas)
The limited partnership has two different types of partners: general partners and sleeping or silent partners. There must be at least one partner of each type and each type of partner has different levels of liability.

The general partners are responsible for the administration and management of the partnership and are jontly liable for the partnership’s obligations in the same way as the partners in an S.n.c., with the sole limit of the previous enforceability of such obligations on the assets of the limited partnership.

The liability of sleeping or silent partners in a S.a.s. however, is generally limited to the amount of capital they have contributed and they are not directors and do not get involved in the management of the business.

Limited partners are also forbidden from negotiating or doing 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 also be excluded from the partnership.

There is no minimum capital requirement for the S.a.s. and it has no separate legal identity.

1.3. Public company - Joint-stock company (SpA)
Is the typical form of business organization used for carrying on medium-sized and large businesses.

A joint-stock company’s main feature is the limited liability.

The company’s assets represent the only security for the creditors, and the shareholders are liable only up to the amount of stated capital for which they have subscribed.

This company is likely to be the most suitable business form for medium and large companies, especially for those in need of contributions from investors in the form of large numbers of shareholders.

It is also the compulsory type of company for businesses wishing to be listed on the regulated markets.

There is a minimum capital requirement of € 50,000. At least 25% of the capital subscribed must be paid-in now of setting up the company.

If a single shareholder sets the company up, then 100% of the capital must be paid in. The capital is divided into shares which represent the equity holding of the shareholders.

An S.p.A. can issue shares, bonds and other financial instruments which can be listed. Moreover, the S.p.A. has separate legal personality and therefore its shareholders have limited liability and are not liable beyond the amounts they have subscribed.

The administration of joint-stock companies may be organized according to three different models:

a) traditional
b) monistic
c) dualistic

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In the traditional model, the directors have the task of managing the company.

The managerial competence attributed to the directors is general and includes all necessary measures to achieve the company's objectives, that are not expressly reserved by law or by the deed of incorporation for other bodies.

In the dualistic system, management is assigned to a board of management, elected by the supervisory body which, in turn, is elected by the general meeting.

In the monistic system, the rules of administration are not significantly different, but supervision is exercised by a committee set up within the board of directors.

One characteristic element is found in the accounting supervisory system, which may be assigned to an auditor or to the supervisory board, while in "listed" companies, an auditing firm must be present.

1.4. Partnership limited by shares (Sapa)

The partnership limited by shares combines some of the features of both a limited partnership (Sas) and a joint stock company (SpA).

Unlike the Sas, the Sapa has its own separate legal identity but it presents the same distinction between general partners, who jointly have liabilities for the partnership's obligations, and sleeping or silent partners, whose liability is limited to the amount of capital they have contributed. However, the Sapa is similar to a SpA and the rules applicable to the SpA also generally apply to the Sapa, including minimum share capital requirements.

1.5. Limited liability company (Srl)

The limited liability company has legal personality, and the liability of the members (participation holders) is limited to the contributions made (art. 2462 of the Civil Code).

There can be an exception to this rule if the limited liability company has only one member and this member fails to comply with certain requirements. Limited liability companies are normally used for small to medium-sized businesses.

The limited liability company provides for more flexibility and autonomy for its members than the joint-stock company does for its shareholders.

In fact, many features, e.g., the governance system, may be regulated by the members with great flexibility in the articles of association and the by-laws.

The incorporation must be made before a notary, and the articles of association must be executed by notarial deed as well.

The minimum capital requirement is € 10,000 and investments are not represented by shares but by quotas. Each member holds one quota and unlike shares in a joint-stock company, the quotas don't need to have equal value. These quotas are generally held by a limited number of quotaholders in proportion to their initial contribution. The rights of each quotaholder are proportional to their quotaholding. Quotaholders often play an active role in the running of the business. The Srl has a separate legal entity and as suchi is liable for its obligations only to the extent of the amount of the quotas paid in by each quotaholder.

As with the Srl, at least 25% of the capital subscribed must be paid in immediately at the moment the company is incorporated. If the company is set up by a single member, then 100% of the capital must be paid in upon incorporation.

For the sole purpose of covering any budget losses, yearly, the company must set aside 5% of its profits to form and increase the statutory reserve until the amount of the reserve is equal to 20% of the stated capital. The statutory reserve cannot be in used differently.

The company may issue debt instruments which are similar to bonds, but unlike bonds may only be subscribed for by professional investors.

1.5.1.Governance rules for ltd

Many features - e.g., the governance system - may be regulated by the members with great flexibility in the articles of association and the by-laws. Indeed, the model of management and control/supervision is defined by the members in the by-laws.

As to the Ltd Co, art. 2477 of Civil Code, lately modified by art 2bis, second part of Law Decree issued on 18.09.19, n° 32, provides now that the

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appointment of the control body or the board of auditors is mandatory if the company:

a) must draft consolidated financial statements: notably, following the implementation of the EU Directive 2013/34/EU, are those parent companies wich together with their subsidiaries have exceeded the following limits for 2 consecutive FY's;
   - total balance sheet assets: € 20 million;
   - revenues from sales and services: € 40 million;
   - average of employees during the year: 250 units.
b) controls an entity that is subject to mandatory auditing of its accounts (e.g., a joint-stock company);
c) for two consecutive years, has exceeded at least one of the following limits:
   - total balance sheet assets: Euros 4 million;
   - revenues from sales and services: Euros 4 million;
   - average of employees during the year: 20 units.

Accordingly, companies that exceed the above-mentioned parameters are required to appoint a supervisory body.

If the shareholder's meeting does not provide within 30 days from the approval of the financial statements, the appointment of the supervisory body is provided Italian Courts - with application of fines - at the request (i) of any interested party or (i) of Registrar of Companies.

1.6. Simplified ltd company (Srls)

The simplified limited liability company is a relatively new form of business which has been introduced in order to simplify the process of setting up a limited liability company in Italy.

The Srils is similar to the Srl but with some restrictions relating to company structure and function.

Members must be individuals. It can be set up by one or more members with a minimum capital requirement of 1 euro and a maximum of € 10,000 subscribed and fully paid in on the date of incorporation. Only contribution of capital is allowed.

2. Other options for foreign companies - Permanent Establishment (so called "Stabile Organizzazione")

An alternative approach to standard incorporation for a foreign investor may be to establish a branch in Italy.

According to Italian legislation, a branch must be registered when a foreign company carries out any business activities such as the sale of goods or provision of services through an Italian office.

By engaging in such business activities, the company is required to be permanently established in Italy.

A branch has no minimum capital requirements and, generally, the corporate formalities required for a branch are less burdensome than those for a subsidiary.

On the other hand, since the branch and the foreign company are the same legal entity, the foreign company remains directly responsible for all the liabilities of the Italian branch and is responsible for its initiatives.

The establishment of a branch requires the nomination of a representative domiciled in Italy who has all the necessary powers to manage the branch and represent the company in dealings with third parties

Although the branch does not have a separate legal identity, it is subject to Italian domestic law.

2.1. Local representative office

A local representative office is the quickest and least expensive way available to a foreign company wishing to have a minimum presence in Italy, but it cannot be used for business relating to the sale or purchase of goods or services.

The local representative office may be used solely for promotional activity and marketing research and

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other non-business operations such as the storage, delivery and display of goods belonging to the foreign company.

It does not represent the foreign company vis-à-vis third parties and so may not issue invoices to or accept payments from, customers.
It is not a separate legal identity and it is not considered to be a permanent establishment for tax purpose.

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4. ACCOUNTING AND REPORTING

1. General

Accounting and reporting in Italy are regulated by the Italian Civil Code, Italian tax regulations, Italian Accounting Standards and, where applicable, International Accounting Standards.

All companies, either companies with share capital or partnerships, are required to keep accounting books and records of accounts.

The Italian branch of a foreign enterprise is subject to all Italian laws concerning bookkeeping. A branch is therefore required to have its own accounting books and records.

All books and records, including computerized records, must be kept for at least ten years from the date of the last entry, together with all related business documents and correspondence.

Companies with share capital are also required to prepare annual financial statements and to file them to the Italian Business Register within 30 days of their approval by the shareholders.

Partnerships are required to draw up an annual report showing the profit and loss for tax purposes but there is no filing requirement.

In addition to their own financial statements, Italian branches are required to file a certified translation of the financial statements of their foreign parent company.

2. Simplified accounting

Simplified accounting can be adopted by sole traders and partnerships.

To be eligible, businesses operating in the services industry must have a turnover less than € 400,000 for year; for those operating in other sectors the limit is € 700,000 for year.

A sole trader or partnership falling within the limits outlined above can automatically adopt the simplified scheme without need to communicate this to the authorities.

Partnerships falling within the same limits are free to choose to opt for the ordinary accounting regime instead, if they wish so.

In order to determine the taxable income, the simplified accounting relies on a cash basis, instead of an accrual basis.

Under the simplified accounting regime businesses are required to keep the following books and records.

2.1. VAT purchase register

In addition to recording all purchase invoices, the VAT purchase register must detail all costs that are not subject to VAT such as:

› Wages, salaries and social security contributions
› Insurance
› Postage and revenue stamps
› Taxes and duties
› Interest charges from banks

It should also include details of adjustment entries, such as accruals, prepayments, invoices to be issued and received etc.

If no fixed asset register is kept, then details of any fixed asset additions should also be recorded in the VAT purchase register.

2.2. VAT sales register

In addition to recording all sales invoices, the VAT sales register must detail all revenues that are not subject to VAT, such as:

› Bank interest income
› Capital gains
› Other income falling outside the scope of VAT.

2.3. Register of daily takings

If the company operates as a retailer the receipts from sales should be recorded in the register of daily takings which replaces the VAT sales register. It should also detail all income falling outside the scope of VAT.

Starting from 1 July 2019 receipts gradually have been replaced with electronic payments to be stored and transmitted electronally to the Revenue Agency.

2.4. Book of depreciable assets

The fixed asset register records the purchase, sale and depreciation of the fixed assets used by the company.

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It is not mandatory if details relating to fixed assets are entered into the VAT purchase register as explained above.

2.5. Compulsory employee registers
If the company has employees, certain mandatory registers and records must be kept, such as the personnel register and payroll book.

3. Ordinary accounting
Companies following the ordinary accounting scheme are required to keep more books and records than those adopting the simplified accounting scheme.

Ordinary accounting must be adopted by companies with share capital, i.e., S.p.A., S.a.p.a. and S.r.l., and by sole traders or partnerships whose turnover exceeds the thresholds allowable to access the simplified accounting

The books and records which must be kept are the following.

3.1. Book of depreciable assets
The fixed asset register is not obligatory if the details of depreciable fixed assets are recorded in the inventory register. If a register is kept, then it must include details relating to the purchase, sale and depreciation of the fixed assets used by the company.

3.2. Inventory register
The inventory register shall contain a description and valuation of the company's assets and liabilities as reported in the balance sheet.

3.3. Day journal
The day journal records all the daily transactions relating to the business activities of the company.

Accounting entries shall follow a chronological order and include the following information:

› Description
› Entry number
› Posting date
› Accounts
› Amounts
› Debits and credits

3.4. General ledger
All entries from the day journal must be transferred to the general ledger, in detail and in chronological order.

3.5. Other books
Companies with share capital must also keep the following company books:

› Register of shareholders' meetings
› Book of board of directors' meetings
› Book of board of Statutory Auditors

SPA must also keep a share register giving details of the names of the shareholders, numbers of shares held and any transfers or payments made and a bond register giving similar details relating to bonds if the company has issued them.

For partnerships it is advisable to keep the book of partners' meetings.

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5. INCORPORATION AND RESTRUCTURING OF COMPANIES: LEGAL ASPECTS

1. Incorporation of a company limited by shares
A limited liability company (S.r.l.), can be set up between two or more individuals or legal entities, or through a unilateral act (one-person S.r.l.) with a minimum capital of 10,000 euros. In both cases, a notary must draw up the incorporation act as a public deed.

The process of establishing a S.r.l. is made up of the following steps:

- drafting of the articles of association (even if is no longer strictly necessary, since is possible to include the rules company in an attached document);
- payment of at least 25% of the capital (100% in the case of a one-person S.r.l.) into a deposit account, but it is possible to substitute the payment due with an insurance policy or a bank guarantee;
- Valuation of any contributions in kind or credits by an appraiser;
- incorporation act by public notary deed and full subscription of the capital;
- delivery of the incorporation act and articles of association to the register of companies by the notary;
- enrollment of the company in the register of companies.

The company acquires legal status once registered in the register of companies. For operations conducted before registration, responsibility is held jointly and without limits by those who took such actions and by the members that decided these actions to be taken.

After the registration in the register of companies, the company may ask to transfer the capital paid from the deposit account to an ordinary bank account.

1.1. Incorporation of a joint-stock company
In order to set up a (S.p.A.), a minimum capital of 50,000 euros is required and the relevant contract can be concluded by two or more individuals or legal entities, or by a unilateral act (one-person S.p.A.).

The process of establishing a S.p.A. is the same as for a S.r.l. In this case, it should be noted only that the articles of association must be drawn up in any case and it is not possible to substitute the payment of share capital with an insurance policy or a bank guarantee.

1.2. Merger and Acquisition (M&A)
The term "mergers and acquisitions" (M&A) generally indicates certain transactions performed to restructure an enterprise's legal, economic, and financial status or a group of enterprises.

A first type of M&A is the transfer of assets (*conferimento d'azienda*), when a person contributes one or more businesses to one or more new or existing companies, which in exchange issue new shares at either the time of incorporation or by approving a capital increase.

A transfer of assets (including a business) to the capital of an S.r.l./SpA must be valued by an appraiser.

A second type of M&A is the asset acquisitions (*cessioni di'azienda*), wher a person buys a business from another person for cash.

A merger may occur either through the incorporation of a new company or through the absorption of one or more companies into another existing company that will therefore continue to exist.
Furthermore, a merger can involve companies of the same type (i.e., partnerships or limited companies) or companies of different types (i.e., partnerships and limited companies).

In both circumstances, for these procedures to be effective towards third parties, the directors of the merging company must be compliant with the following formalities:

- prepare a proper merger plan;
- submit it, along with reports and financial statements, for the approval to the shareholders;
- approval by the extraordinary shareholders meeting of the companies
- involved.

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1.3. Spin off

A spin off is a transaction by which the involved existing company transfers all or parts of its assets to one ore more beneficiary companies, either a newco or an existing company.
Accordingly, shares of the beneficiary company are attributed to the members of the former divided company.

Similarly, to the merger and acquisition procedure, in the spin off transaction the directors of all the involved companies must be compliant with the following formalities:

- prepare a proper division plan;
- submit it, along with specific reports and financial statements, for the approval to the shareholders;
- approval by the extraordinary shareholders meeting of the companies involved

2. Transformation

Another type of corporate reorganization is the so-called transformation, whereby a company or a partnership changes its legal form.

Pursuant to ar. 2498 of the Civil Code, after the change of legal form, the entity keeps the rights, obligations, and contractual relationships that it had prior to the transformation.
The transformation may take place even if the company or the partnership is undergoing an insolvency procedure, unless the change of legal form is inconsistent with this procedure.
A notary deed is necessary to change the legal form of an entity by transforming it into a Spa, Sapa or Srl.

Italian legislation foresees two types of transformation:

- homogeneous transformation: takes palce when a company is transformed into another company of a different type;
- heterogeneous transformation: in this case a transformation takes place into an entity of a different type compared to the original one.

In this particular last event must be distinguished the two further following cases:

- transformation of a capital company: a capital company turns into a different type of entity (into a consortium or an association or foundation);
- transformation into joint-stock companies: consortiums, cooperative companies, associations or foundations are transformed into joint-stock companies.

3. Dissolution of a joint-stock company

The dissolution of a joint stock company follows a precise procedure that is split into the three following stages:

- the arising of a reason for winding up the company;
- the carrying out of the liquidation activities;
- the cancellation of the company from the relative enterprises register.

Reasons for winding up that are common to all types of companies are the expiry of the legal duration of the company, the final achievement of the company's objectives or the impossibility of achieving them, and other reasons for winding up that are foreseen in the articles of incorporation.

With regards to joint stock companies winding up can be caused by the company's inability to function, due to the repeated lack of action by its shareholders' meeting, the reduction of its share capital below the legal minimum, or by the impossibility of being able to pay off the holding of a shareholder who has withdrawn from the company and, as anticipated, in general by any other reasons that are laid down in the act of constitution and the articles of incorporation of the company.

The effects of the winding up take place, except for the winding up of the company for its natural expiry date and for the reasons laid down in its act of constitution, from:

- the date of the publication in the enterprises register by directors of the declaration ascertaining the reason for the liquidation, or;
- the date of the publication of the resolution putting the company into liquidation (after going thorugh the shareholders' meeting).

At this stage the directors maintain management in order to safeguard the company's equity and assets,

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until all the company's books are handed to liquidators. Untill this point the directors are still personally and jointly liable towards the shareholders, the company's creditors and third parties.

The liquidators, who are nominated by the shareholders' meeting, or by the Court, are responsible for the drawing up of the yearly financial statements for presentation for approval to the shareholders' meeting.

From now on, the liquidators will be responsible for any damages caused to the company, as a result of the activities they have carried out, to the same extent as is provided for the directors. After having made available the required payment for the company's creditors, the liquidators go ahead with the division of the remaining assets of the company among its shareholders.

A final set of liquidation financial statements is drawn up in which there are shown what is due to each shareholder. These financial statements are signed by the liquidators. At this point the tasks and duties of the liquidators are considered to be ceased and the company is crossed out from the relative enterprises register.

At any time, the company, with a resolution of its shareholders' meeting can revoke the state of liquidation, after having eliminated the cause that has brought the winding up of the company, but only with the prior agreement of the company's creditors.

4. Dissolution of a ltd. company

The dissolution of a limited liability company follows the three below mentioned steps:

- determining the reasons for winding up the company;
- carrying out of the liquidation activities;
- cancellation of the company from the register of companies.

As anticipated, there are reasons for dissolution which are common to all types of companies for example: the expiration of the legal duration of the company, the achievement of the company's objectives or the impossibility of achieving them, or simply the will of the shareholders to do so. Other reasons for winding up may be provided for in the incorporation deed and in the articles of association.

In addition, and similarly to joint-stock company, in the case of limited liability company winding up can be caused by:

- the company's impossibility to function;
- the repeated lack of action by its shareholders;
- declaration of invalidity of the company;
- the reduction of its share capital below the legal minimum;
- impossibility to pay off the stake of a shareholder who has withdrawn from the company;

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 register of companies 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.

5. Corporate criminal liability

Provisions concerning corporate Italian criminal liability are set up in the legislative Decree no. 231/2001.
This set of rules foresees a direct responsibility of companies for specific types of offenses. Not only corporations, strictly speaking, are subject to criminal liability, but any legal entity including association without formal legal personality (such as associations de facto and foundations).

A company can be held responsible only if the crime has been committed in its interest or advantage. Indeed, interest and advantage (deemed to be considered the concrete economical utility obtained by the company) are the two alternative criteria that must be considered to allege corporate liability.

Law Decree no. 124/2019 significantly modified the administrative liability of legal persons in relation to commission of tax offenses.

The number of financial penalties, now, is proportionate to the value of the single share/quota,

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and are applied to a number not less than 100 nor more than 500.

Therefore, since the value of share/quota varies from a minimum of 258 euros to a maximum of 1,549 euro, generally, the maximum financial penalty applicable amounts to € 774,500.

However, penalties are increased up to 1/3 if the entity has made a significant profit out of the commission of a certain tax offence. In addition, interdiction penalties can be applied for a certain period of time. After all, those penalties result extremely harsh for the company since can easily cause the pparalyzationof the entire business.

Indeed, instead of applying an interdiction penalty, the relevant judge can dispose the prosecution of the company activity and the election of a commissioner any time the interruption could cause relevant prejudice to the community or could have negative effects on employment. Confiscation of property is applicable in certain circumstances also.

On the other hand, entities are free from responsibility once is proved that they have adopted a suitable model organization and a proper supervision organism which has activated proper control.

Individuals liable to criminal law will be those subjects who are legal representatives, directors or managers of the company, or any individual who has financial and functional independence
Corporate criminal law may result from the committing of the following crimes detailed in the decree:

- offences against the public administration (such as corruption);
- corporate crimes (i.e falsification of financial statements);
- money laundering;
- Market abuse;
- occupational health and safety crimes;
- environmental crimes.

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6. TAXATION OF INDIVIDUALS

The fiscal residence of an individual is the starting point for applying the correct taxation in Italy.

Individuals are subject in Italy to personal income tax (so called “IRPEF”).

According to the Italian tax law, both Italian residents and non-resident individuals are subject to taxation in Italy, but on a different basis.

Resident individuals are subject to IRPEF on their world-wide income (art. 3 of TUIR).

Non-resident individuals are taxable on their income arising in Italy

6.1.Personal income tax - IRPEF

The main income tax levied on individuals is the personal income tax (PIT), also known as the “Imposta sui redditi delle persone fisiche” (IRPEF).

IRPEF is governed by articles 1-71 of the TUIR.

IRPEF is a general progressive income tax levied on natural persons as opposed to legal persons; is payable by individuals on income earned in the tax year.

For employees’ tax is deducted from their salary through the PAYE system whereas the self-employed are responsible for paying their own tax through a system of self-assessment.

6.2.Concept of individual’s tax-residence

According to article 2 of the TUIR, for individual income tax purposes, residents of Italy are those persons who for the greater part of the tax year (up to 183 days) are registered in the Civil Registry of the Resident Population or who are resident or domiciled in Italy pursuant to article 43 of the Civil Code (Codice Civile, C.C.).

Under article 43 of the C.C., the residence of a person is the place where he has his habitual abode, while his domicile is the place where he has established the principal centre of his business and interests (centre of vital interests).

Anti-avoidance provisions apply to Italian nationals who claim to be resident in tax havens: an Italian resident is deemed to be still resident in Italy if he moves to a tax haven and removes his name from the civil registry.

This is a rebuttable presumption but the burden of proof that actual residence is outside Italy is on the taxpayer.

6.3.Taxable income and rates (IRPEF)

IRPEF is levied on personal income, whether in money or in kind, falling under any of the following categories (artt. 1 and 6 of the TUIR):

- income from immovable property;
- income from capital;
- income from employment;
- professional income;
- business income;
- miscellaneous income, including capital gains.

The aggregate taxable income is calculated by adding the net income of each category. Exempt income and income subject to a final withholding tax or a separate tax is not taken into account.

IRPEF is levied at a progressive tax rate on all income reported below:

Income	Rates
Up to 15.000 Euro	23%
From 15.001 to 28.000 Euro	25%
From 28.001 to 50.000 Euro	35%
Over 50.000 Euro	43%

The rates are increased by a regional surcharge varying between 1.23% and 3.33%, depending on the region (art. 50 of DLgs 446/1997). They may also be increased by a local surcharge of up to 0.9%, depending on the municipality.

On 16th March 2023, the Council of Ministers approved the draft legislation directing the government to reform the Italian tax system, which was one of the priorities identified in the National Recovery Plan (so called “PNRR”).
With regard to IRPEF, the reform tax-plan provides a reduction of the rates.

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In order to ensure a low tax burden and a general revision of the personal income tax system, the brakets of income will be only three (instead of the current 4 brackets ranging from 23% to 43%).
The reduction of the IRPEF's rates operates in the perspective to reach a system with an only tax-rate (so called "flat-tax").

The following items of income received by a resident individual are not subject to tax:
- proceeds of life insurance policies paid upon death of the insured individual up to certain amounts;
- winnings from lotteries, prize competitions, gaming and betting organized for the public, and also prizes from contests or lotteries, paid out by authorized casinos in Italy or in another EU Member State or EEA country;
- certain contributions or premiums related to a work relationship
- certain benefits in kind related to a work relationship
- Certain capital gains on immovable property
- Certain capital gains on qualifying participations
- income from the ownership of farmland and agricultural income of qualifying farmers and agricultural entrepreneurs; and
- Investment income earned in qualifying PIR.

A partial exemption is granted for:
- Employment, professional or business income for qualifying expatriate individuals
- Certain capital gains on shares

6.4. Regional and municipal Irpef surtax
In addition, two additional payments have to be made in favor of the local authorities, region and municipality, in which the taxpayer is resident:

a) a regional surtax whose rate is enstablished by regional government on yearly basis;
b) a municipal surtax that includes a fixed rate established each year by the state which, generally, is raised up to 0.8% by the municipality authority which levies it on individuals.

6.5.Other Taxes: Municipal income tax (IMU)
Resident individuals owning or having an interest in immovable property located in an Italian municipality are subject to IMU.

The IMU is generally levied at a rate of 0.86%, but the municipality in which the immovable property is located may increase the rate up to 1.06% or decrease it to 0%. The taxable base is determined by multiplying the cadastral value by certain coefficients.

The IMU does not apply to immovable properties qualifying as a first dwelling, except high-value properties, villas, castles and buildings of historic or artistic interest, and agricultural lands or rural properties, on which the IMU is levied at a rate of 0.5%.

With effect from tax year 2022, qualifying individuals exercising commercial activities, arts and professions are not subject to IRAP (Law 234/2021).

6.6.Inheritance and Gift Taxes
Under current legislation (DLgs 346/1990), transfers of any valuable assets as a result of death or donation (or other transfers for no consideration) and the creation of liens on such assets for a specific purpose, are subject to inheritance or gift tax at rates that depend on the proximity of relationship between the deceased/donor and the beneficiary/donee, and the value of the inheritance or gift.

The taxable event is death, in the case of inheritance tax, and the formal deed of donation, in the case of gift tax.

The tax is payable by the beneficiary and the donee.

Resident individuals (deceased/donor) are taxed on a worldwide basis, i.e., with respect to all property and rights transferred wherever located.

The residence or nationality of the heir/donee is not relevant.

Non-resident individuals (deceased/donor) are taxed on a territorial basis, i.e., with respect to property and rights transferred located in Italy.

The tax rates do not depend solely on the amount received by each beneficiary or donee, but also on the proximity of the relationship between the deceased/donor and the beneficiary/donee.

In particular:

- transfers in favour of the spouse and of direct descendants or ascendants are subject to an inheritance and gift tax applied at a rate of 4% on

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the value of the inheritance or the gift exceeding EUR 1 million (per beneficiary); an allowance equal to EUR 1.5 million (per beneficiary) is granted in cases where the transfer is in favour of a handicapped person;

- transfers in favour of brothers or the sisters are subject to an inheritance and gift tax applied at a rate of 6% on the value of the inheritance or the gift exceeding EUR 100,000 (per beneficiary); an allowance equal to EUR 1.5 million (per beneficiary) is granted in cases where the transfer is in favour of a handicapped person;

- transfers in favour of all other relatives up to the fourth degree or relatives-in-law up to the third degree, are subject to an inheritance and gift tax applied at a rate of 6% on the entire value of the inheritance or the gift; an allowance equal to EUR 1.5 million (per beneficiary) is however granted in cases where the transfer is in favour of a handicapped person; and

- any other transfer is subject to an inheritance and gift tax applied at a rate of 8% on the entire value of the inheritance or the gift; an allowance equal to EUR 1.5 million (per beneficiary) is however granted in cases where the transfer is in favour of a handicapped person.

6.7.Tax on income of non-residents
As already anticipated, non-residents individuals are subject to IRPEF only for their income sourced in Italy.

For this purpose, the following incomes are deemed to produced in Italy:

a) Income from land and immovables;
b) capital gain paid by the State, resident persons (entities or individuals) or PE of foreing entities in Italy, except interest and other income derived from bank/post deposits and current accounts
c) income from employment produced in Italy;
d) income from self-employment related to activities performed in Italy;
e) business income from activities performed in Italy thorugh a PE;
f) other income from activities performed and assets located in Italy, capital gains derived from the sale of shares in resident entities;
g) income from participation in transparent Italian entities (i.e partnerships).

Taxable income of non-residents is determined in the same way as resident's income: thus, it will be equal to the total amount of the overall income produced in Italy as indicated above, excluding exempt income and income subject to withholding tax, or final withholding tax.

With specific regard to income of non-residents, it should be stressed out that the foreing taxpayer could anytime claim the application of the relevant tax treay provisions when they are more favourable.

6.8.Tax compliance and payments
For individual taxpayers, the tax year is the calendar year (art. 7 of the TUIR).

For the purpose of personal income tax, individuals and members of partnerships must file an annual tax return by the end of September of the following tax year.

Individuals must make two advance IRPEF payments during the tax year, by 30th June and 30th November, equal to 100% of the IRPEF paid in the previous tax year.
The balance of the tax due, based on the results shown in the annual tax return, must be paid by 30th June of the following year.
Any excess tax is refundable. However, taxpayers may also opt to use such an excess tax as a tax credit to offset against future tax liability.

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7. CORPORATE TAXATION

Italian entities are subject to a corporate income tax, known as "imposta sul reddito sulle società" (IRES), and to a regional production tax, known as "imposta regionale sulle attività produttive" (IRAP).

7.1. Company income tax - IRES

Corporate tax refers to a direct tax levied by various jurisdictions on the profits made by companies or associations and often includes capital gains of a company. Generally, earnings are equated to gross revenue less expenses.

Italian corporate income tax, IRES, applies to both resident and non-resident companies.

Resident companies are taxed on their worldwide income but may elect to exempt income derived through foreign permanent establishments.

Non-resident entities are subject to tax in Italy only on Italian income

The following resident legal entities are liable to IRES (article 73 of the TUIR):

- Companies: joint-stock corporations limited liability companies, partnerships limited by shares, cooperative societies, mutual insurance companies, and legal entities other than companies (including, for instance, certain governmental entities) and trusts, whether or not their sole or main business purpose is the exercise of business activities, as well as undertakings for collective investment.

The following entities are not liable to IRES:

- European economic interest groupings (gruppi europei di interesse economico, EEIGs), which are fiscally transparent;
- State organizations and administrations, including those having an autonomous regulation, municipalities, provinces and regions.

7.2. Concept of company's tax-Residence

A company is considered resident if its registered office or, place of effective management or main business purpose is in Italy for the greater part of the fiscal year (article 73(3) of the TUIR).
The place where the company was incorporated and the laws under which it is organized are not relevant.
The registered office is the place indicated in the company's articles of association.

In addition, a foreign company may be regarded as a resident if it controls a resident company, i.e., it may exercise "dominant influence", and (article 73 of the TUIR):

- is directly or indirectly controlled (subject to dominant influence) by a resident person (company or individual); or
- is managed by a management board or other governing body composed for the majority of resident persons (companies or individuals).

7.3. Taxable income - IRES

All income derived by companies that carry on commercial activities is considered business income and subject to IRES (article 81 of the TUIR).

The taxable base is the worldwide income shown on the profit and loss account prepared for the relevant fiscal year according to company law rules and adjusted according to the tax law provisions concerning business income.
The taxable period for IRES purposes is the company's fiscal year as determined by law or the articles of association.
If the fiscal year is not so determined, or if it is longer than 2 years, the taxable period is the calendar year

As a general rule, costs and expenses may be deducted only if they are incurred for the production of income (article 109 of the TUIR).

7.4. Tax rate - IRES

The corporate tax rate is 24%.

However, the recent fiscal reform plan provides the reduction of the current rate, according to the EU Directive on the global minimum tax that is due to come into force on 1th January 2024.

The introduction of a reduced corporate tax rate is planned only for companies that commit to making investments or that create jobs and promote economic growth.
This reduction is subject to the conditions that the profits are used in qualifying investments within two years and are not distributed or used for purposes unrelated to the exercise of business activity

7.5. Tax compliance and payments

The system is a voluntary income tax system based on self-assessment.

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Companies must keep regular accounting records pursuant to the Civile Code and the generally accepted accounting principles.

Tax law also requires companies to keep a journal and general ledger, an inventory book, a balance sheet book, VAT books and a book of depreciable assets (articles 13 and 14 of DPR 600/1973). Companies that have employees (and, therefore, pay wages) must also keep payroll and employee registers.

Resident companies must file their return electronically or through an authorized intermediary within 11 months of the end of the fiscal year.

No attachments are necessary; however, taxpayers must keep the relevant documentation until the statute of limitations has expired.

Non-resident companies must file their tax return electronically as well.

IRES is normally paid as follows:

- a first advance payment of the IRES due for the current fiscal year must be paid at the same time as the balance due for the previous fiscal year (i.e. last day of the 6th month following the end of the previous year) and is equal to 40% of the tax due for the previous fiscal year (unless the company uses the forecast method, trying to determine in advance the tax due for the ongoing fiscal year);
- a second advance payment of the IRES due for the current fiscal year must be paid by the last day of the 11th month following the end of the previous fiscal year and is equal to 60% of the tax due for the previous fiscal year (unless the company uses the forecast method); and
- the balance must be paid by the last day of the 6th month following the end of the fiscal year.

7.6. Dividends

Dividends paid within companies belonging to group that opts for tax consolidation are 95% exempt from taxation.

Dividends paid to:

- both holders of qualified and non-qualified shareholders, regarless the carrying out of any business activity, are subject to a 26% withholding tax
- partnerships and qualified shareholders, (in relation to their business activity) are taxed at 58.14% (that is, exemption of 41.86%)

Dividends paid by resident companies to other resident companies are not subject to withholding tax.

7.7. Capital gains and pex

Generally, capital gains are treated as ordinary income, therefore are taxed at the 24% IRES tax rate. However, capital gains derived from the transfer of company holdings, under certain conditions, are 95% exempt from taxation.

In this event, the following requirements should be met:

a) uninterrupted holding period as from the first day of the twelfth month preceding that of transfer;

b) holdings acquired more recently will be deemed to be transferred first (LIFO);

c) classification of holdings as investments as from the first balance sheet closed during the period of ownership;

d) tax residence of the controlled company in a State or territory other than those with a preferential tax system;

e) exercise by the controlled company of actual commercial activities; “immovable property” companies are excluded.

The requirements set out in letters c) and d) must exist starting from the the tax period prior to realization.
Capital losses are not considered to be deductible.

7.8. Deductions of General Expenses

Cost and expenses may be deducted only if they are incurred for the production of income and as long as they are accounted in the P&L (profit and loss statement) of the relevant tax year.

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In determining taxable income, there is a wide range of expenses that can be deducted from the profit as it comes out from the profit and loss statement.

Some of the expenses above mentioned are 100% deductible, some of them are deductible according to a certain percentage, some other are not deductible at all.

As a general principle, are eligible to be deducted from the profit all the expenses carried out within the business activity of the company. However, some expenses are considered to be miscellaneous, since relate to both company and private purpouse, so the percentage of deductibility is less than 100%.

The following list, based on the scheduals set forth by the Decree of Ministry (31.12.1988), gives some examples of deductible costs and the relevant percentages deductibility:

For instance;

a) telephone costs: are deductible for the 80% of their amount;
b) costs related to cars: if the car is used exclusively for the company needs, they are entirely deductible, otherwise, they can be deducted in different percentages;
c) cost of labour: all the costs related to wages, social and health contributions paid by the company are deductible;
d) other taxes: apart from I.R.A.P. that is deductible only for 10% of the amount paid, other taxes are deductible in the fiscal year according the proper amount paid;
e) write downs: are not relevant from a fiscal point of view;
f) entertainment expenses: if they are represented by goods of net value of less than € 50 each, they are entirely deductible. Other entertainment expenses are deductible in different percentages, proportionally to the total annual turnover.

7.9. Deducibility of interest payable

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

Article 96 of the Italian Tax Code (ITC) regarding interest expense deduction rules, has significantly been modified with transposition of EU Directive n. 1164/2016 (ATAD).

In short, interest expensescan 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 for five FY's (while there was no limitation under the old rule), on the condition that the 30% of the gross earning relevant to each financial year is higher than the difference between the total of interest payable and assimilated costs and the total of interest receivable and assimilated revenue.

In order to apply the system described above, the definition of interest and other financial payments has been revised with more focus on the financial cause of contractual relationships (substance over form). However, interest payable and interest receivable and assimilated costs related to the following events are taken into consideration:

- Mortgage contract
- Financial lease contracts
- Issue of bonds and similar
- Any other contract for financial reasons

7.10. Depreciation of tangible assets

Corporate expenses that relate to capital expenditures are usually deducted in full and over the useful life of the asset purchase, so-called depreciation.

The depreciation of fixed tangible assets used in the business of the company is based on their purchase or manufacturing cost, which may include interest on funds borrowed to purchase the assets. That interest must be capitalised until the asset goes into use; thus, depreciation should start from the very first day an asset comes into use.

Generally, depreciation is carried on a straight-line basis over the estimated useful life of the asset, determined using the Ministry of Finance scheduale which set forth for each sector of industry and each category of assets the allowed relevant deductible pertengaces.

In the first year of use, the ordinary depreciation rate is halved.

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If the purchase cost of the asset is not higher than EUR 516.46 it may be fully deducted in the year of purchase.

Generally, depreciation for tax purposes refers to a 12-month period. If the assets are used only for part of the period or if the financial year is longer than 12 months, depreciation must be adjusted accordingly.

7.11. Losses

Tax loss carry-forward is allowed. Previosuly, the carry-forward of tax losses was subject to a 5-year limitation, exept for tax losses incurred in the first 3 taxable years of the business activity, which they still could be carried forward without any restriction (so called start-up losses).

The actual regime does not foresee anymore the five-year limitation; however, tax losses can be used to offset the taxable income of subsequent years only up to 80% of the taxable income of any given year.

In other words, the 20% left of the taxable income of the relevant year can't be offset by the carried-forward losses mechanism and will be normally subject to corporate tax in compliance with the "minimum tax" rule.

However, taxpayers are free to use, without any restriction, company losses either incurred during subsequent years (offsetting up to 80% of the taxable income of the relevant year) or losses incurred during the first 3 taxable periods but only if these losses relate to a new business activity.

Accordingly, the carry-forward of tax losses is forbidden if the company carrying forward the tax losses is operating both a change of control and in its business activity (e. g losses may not have been incurred during a marger). Tax losses cannot be carried back.

7.12. Capital gain and losses

Capital gains on the transfer of company holdings, under certain conditions, are 95% exempt from taxation. The exemption applies, provided that:

- the participation has been continuously held for at least 12 months;
- the participation is classified as a financial asset in the first balance sheet closed after accquisition;
- the participated company performs a real business activity (companies whose assets are mainly represented by real estate not used in the business activity are not deemed to perform a real business activity);
- the participated company is tax residence in a country or territory other than those with a preferential tax system.

Capital gains on shares in non-resident companies are treated in the same manner as domestic ones.

However, the exemption is subject to the condition that the participated company is not a resident of a state or territory that has a privileged tax regime for Controlled Foreign Companies (CFC) purposes. This holds true unless a ruling has been obtained that the holding of the shares in the controlled foreign company does not achieve the localization of income in a state having a privileged tax regime.

Corresponding capital losses are not deductible however

7.13. 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 a listed company;
- more than 20% of voting rights in an ordinary meeting or 25% of capital or corporate assets for other companies (not listed).

Dividends of foreign source from countries which grant an effective taxation lower than the half of the Italian one is subject to ordinary tax on 100% of their amount.

Dividend paid to non-residents (other than EU companies) are subject to a 26% 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 1,20% final withholding tax.

For companies only, dividends may qualify for exemption under the EU Parent – Subsidiary Directive, accordingly no withholding tax will be applied.

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7.14. Royalties paid to non residents
A 30% final withholding tax applies to royalties paid to non-resident companies. Normally the mentioned withholding tax is levied on the 75% of the gross taxable royalty amount, resulting in an effective tax of 22.5%, unless:

- the tax rate is reduced under an applicable tax treaty, or
- the payment qualifies for exemption under the EC Interest or Royalties Directive.

7.15. Interest paid to non residents
Unless reduced by an applicable tax treaty, a withholding tax of either 26% or 12,5% is applicable to interest paid by a resident entity to a non-resident person. Different tax rates are applicable according to the type and the duration of the contract at stake.

For companies only, interest qualify for exemption under the EC Interest or Royalties Directive.

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

Interest paid to non-residents on deposit accounts with banks and post offices is exempt.

7.16. Domestic Tax Consolidation
Italian tax law provides for two different regimes of tax consolidation, i.e., the domestic tax consolidation and the worldwide tax consolidation.

Generally, consolidated financial statements are not relevant for tax purposes, and they are not used to determine the taxable income of a group. Therefore, each legal entity, even if it is a member of a group and is a part of tax consolidation, is regarded as a separate taxpayer.

National tax consolidation is an optional system to which company groups may have access for a 3-year period.

To exercise the option, the controlling company must partecipate directly or indirectly in an amount exceeding 50% of the share capital and profits of the controlled company.

The consolidation of the total taxable income will be calculated by summing up each individual company income, regardless of the percentages of participation of the different companies.

For this purpose, the holding company must:

- submit the consolidated earnings declaration, with the overall global income calculated;
- proceed with payment of the group taxation.

If there are 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 participating subjects submit a declaration of large-scale gross earning for the same taxation period that is not fully used for deduction.

These rules can be applied with reference to excesses carried forward, excluding those formed by single companies prior to entering the national consolidation. In this event, only these latter can use them.

The option is exercised through a specific application on that purpose and more over, the following requirements must also be met:

- residence in the State of all companies participating in the "fiscal unit";
- identity of tax period;
- election of domicile by each participating company with the one of the controlling companies.

7.17. World Tax Consolidation
Under article 130 of the TUIR, resident companies may elect to apply a worldwide tax consolidation to their non-resident subsidiaries.

To this end, the resident company must be (i) listed on a regulated market or (ii) controlled by the government or a governmental entity or by resident individuals who do not directly or indirectly control other resident or non-resident companies.

The eligible non-resident subsidiaries are those companies in which the resident parent company holds, directly or indirectly, more than 50% of the stated capital, voting rights and partecipation in the profits.

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World tax consolidation is an optional tax system valid for a five-year period.

Indeed, the controlling company resident in Italy may consolidate the income produced by all non-resident companies in proportion to the controlling percentage of participation held.
In addition, the following conditions must be met:

- residence of the controlling company in Italy;
- all companies participating must have the same tax period;
- inspection of the balance sheets of the controlling and controlled companies;
- compulsory consolidation of all foreign subsidiary companies;
- in general terms, a certification by non-resident-controlled company to agree with the overall procedure.

In order to verify the existence of the requirements needed for the valid exercise of the option, is suggested to propose a suitable ruling to the relevant tax authority.

7.18. Controlled foreign companies
The income realizedby a resident person (individual or company), through a company, or other entities, controlled directly or indirectly, resident or enstablished in countries with a low taxation, is subject to CFC rules.
The distinction between White List and Black List countries has no longer been proposed lately, accordingly, in both cases the CFC regulation applies if, jointly:
- the foreign company is subject to effective taxation lower than half of that to which it would have been subject in Italy (24%);
- More than 1/3 of the company's income goes into the categories of income qualified as passive income.

With regard to the effective taxation criteria, to understand if it is less than half of the Italian rate, it will be necessary to calculate the taxable base of the foreign company with the regulations in force in Italy, then apply the IRES and IRAP rates and compare the result with the taxes paid in the foreign country.

When the above conditions are met, the income produced by the foreign company is charged to the controlling entity in proportion to the share of participation and it will be taxed according the ordinary rates in force in Italy.

The taxpayer has the possibility to disapply CFC rules if demonstrates, also by submitting a ruling, that the controlled foreing company performs an effective and substantial economic activity, through the use of personnel, equipment, assets, and premises.

7.19. Transfer pricing
Intercompany transactions are subject to the specific transfer pricing rules.Italian regulations make explicit reference to the OECD guidelines, in fact the relevant regime, which has European matrix, provide that interompany operations are taxable/deductible on the basis of the arm's length principle, 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.
In details, this rule applies to:

- foreign companies which control the Italian enterpises they perform transactions with;
- Italian enterprices which control the foreign company they perform transactions with;
- Italian or foreign companies wich control both entities involved in the transaction.

No legal obligations in terms of documenting prices used within the group is set forth. However, is strongly suggested for Italian companies to have proper documentation about the transfer pricing method adopted within the group.

In addition, taxpayers have to file an annual tax return along with the following information:

- the type of control applicable to the company;
- the number of transactions related to those subjects to transfer pricing rules;
- documentation proving the transfer pricing method adopted within the group.

On November 23, 2020, the Italian Tax Office issued Measure n. 360494, concerning the documentation suitable for verifying the compliance of the conditions and transfer prices, applied in

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transactions with non-resident associated companies, with the principle of free competition.

The documents are the “Masterfile” and the “National Document”.

The Masterfile provides an overview of the multinational group's business, including the nature of business operations globally, general transfer pricing policies and the global allocation of income and economic activities, in order to enable Tax Office to assess the presence of a transfer pricing risk.

The national document provides more detailed information relating to specific intra-group transactions, and focuses attention on information concerning the analysis of transfer prices relating to transactions between an associated company in a given state and related companies in different states.

All companies must have the Masterfile starting from the fiscal year 2020.

Similarly, permanent organizations of non-resident companies in the State and resident companies with PE abroad will also have to fulfill the documentary duties, by preparing the Masterfile and the National Document.

These documents allow access to the regime provided for by Article 1, paragraph 6 and 2, paragraph 4-ter, of Legislative Decree No. 471/1997, benefiting from the non-application of administrative penalties for unfaithful tax-return in the event of adjustment of income deriving from intragroup transactions by the Tax Office

7.20.Digitale Service Tax (DST)
The 2020 finance bill introduced a new ‘web tax’ on digital services applicable as of 2020, which repealed the previous measure introduced by the 2019 finance bill (never entered in force).
Under this new Law, corporations (including non-Italian residents) shall apply a tax at the rate of 3% on the value of digital services, net of VAT and other indirect taxes.

7.21. Regional production tax - IRAP
IRAP is levied on companies and partnerships that carry on an autonomously organized activity aimed at either the manufacturing/trading of goods or the supplying of services.

The standard rate is 3.9%.

Regional authorities may increase or decrease the standard rate by up to 0.92%. For commercial and manufacturing enterprises the taxable base is the difference between the value of production in the tax year (gross revenues plus increases in inventory plus work in progress) and the costs of production (the costs of raw and other materials, the costs of services, depreciation of tangible and intangible assets, the decrease in inventory of raw and other materials, provisions for risks and other miscellaneous costs). The cost of personnel, losses on bad debts and interest paid are not deductible.

Therefore, the recent italian reform plan has introduced, among the objectives of general tax reform, the repeal of IRAP with the simultaneous creation of another tax, determined according to IRES rules, such as to ensure equivalent tax revenues.

7.22. International rulings
Is given the possibility to enterprices with international activity to go through a proper international standard ruling procedure in order to prevent tax litigation and reach an agreement in advance with the Italian tax authority.
The agreement will be 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 yo adopt with repsect to the transactions carried out with related parties;
- the proper treatment with reference to dividens, interest, royalties or other income paid to or received from the non-resident persons in specific cases;
- the proper application of certain law provisions, including tax treaties, with speficic regard to the attribution of profits or losses to PE of non-resident companyes in Italy, as well as to PE established abroad of resident company

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9. INCENTIVE FACTORS

9.1. General

Companies and individual enterprises, wishing to invest in Italy, are eligible for several tax allowances, such as the tax credit on research & development activities, the patent box regime, the accelerated and enhanced depreciation regarding capital goods assets.

Moreover, businesses can count on a direct dialogue with the tax authority by way of the advance tax ruling on new investments, the general taxpayer's advance ruling, the advance tax agreements for enterprises and the cooperative compliance program.

Also, the Italian legislation provides some unique tax incentives to attract human capital, such as the new resident regime for high net worth individual and for impatriates workers.

9.2. Tax regime for new italian residents (High Net Worth Individuals)

Individuals transferring their residence to Italy, have the possibility to choosing for a substitute tax on their foreign income. This measure aims at enhancing investments and attracting to Italy high net worth individuals.

The tax regime at hand is available for "newly resident" individuals in Italy, who (regardless of their nationality or domicile) have been non-tax resident in Italy for at least 9 out of the 10 years preceding the transfer of residence. The benefit may be also extended to the family members of the individual who opted for the regime.

In detatil, high net worth individuals transferring their tax residence to Italy are enabled to apply a substitute tax to their foreign income, amounting to €100,000 for each tax period, instead of the ordinary individual taxation.
Needs to be stress out the extra possibility to operate a sort of cherry pickin with regard to foreign income; basically, the taxpayer has the further option to choose which foreign income subject to the substitute tax and which not.

Therefore, the tax regime at hand represents an alternative to the application of the ordinary taxation and the option is valid for a period of 15 years. As anticipated, the election for the regime may be extended to family members through the payment on their foreign income of a substitute tax, even lower, amounting to € 25,000 per member. Taxpayers may access to this regime submitting:

- a specific ruling to the Italian revenue agency or;
- exercising the option for substitute taxation in their tax return.

More over, the alternative tax regime provides that individuals transferring their tax residence in Italy have to pay inheritance and donation tax only for properties and assets existing within the Italian territory.

9.3. Impatriates tax regime

The special regime for impatriated workers introduced starting from the 2016 fiscal year, provides for a special taxation of the income produced by individuals (employees, self employed and enterpreuners) who transfer their residence to Italy and who undertake to reside there for at least two tax periods, carrying out work in the Italian territory

The rules also apply to individuals who, as of April 30, 2019, have transferred their residence to Italy and benefit already from the past version of regime at hand.

In order to access this benefit, it is required that the applicant:

- has not been resident in Italy in the two previous tax periods before transferring their residence, and;
- he/she undertakes to reside in Italy for at least two consecutive years and performs the work activity mainly therein;

The benefit consists in excluding the 70 % of the taxable income sourced in Italy from individual tax purposes; the exemption will be increased from 70% up to 90% for workers who have moved their residence in one of the regions of Abruzzo, Molise, Campania, Puglia, Basilicata, Calabria, Sardinia, Sicily (excepts from professionals' sportsmen whose income will be tax-free to the extent of 50%)

The benefit is granted for a period of five years; however, it can be extended for a further five tax periods to workers:

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- with at least one child who is underage or dependent and;
- to those who will have become owners of at least one residential real estate unit in Italy following the transfer or in the previous 12 months.

For the extended period, income is partially exempted up to 50%, or even up to 10% in case of workers having at least three children under age or dependent.

Furthermore, similar provisions are addressed to professors and researchers who move their tax residence to Italy. In this event, the benefits are valid for a period of six years, and can be extended up to eight, eleven, or thirteen years in total under certain conditions (number of minor children and purchase of residential real estate unit in Italy).

This favourable tax regime is also applicable to professional sportsmen; however, their income will be, in any event, tax-free up to 50%. In order to access the benefit, professional sportsmen will have to pay a contribution of 0.5% of their taxable amount, intended to economically support the relevant youth sections.

The tax regime for impatriates workers is also applicable to Italian citizens return to Italy as os from 2020, even if are not registered in the Registry of Italians residing abroad (AIRE) as long as they qualify as residents in another State under a double taxation treaty in force with Italy.

The tax regime of the impatriates workers has been changed by the 2021 Budget Law: the law allows for the extension of the tax regime also to individuals who have transferred their residence to Italy before the year 2020 and who, as of December 31, 2019, are beneficiaries of the ordinary favorable regime provided for the so-called impatriate workers

9.4. Advance tax ruling on new investments

As anticipated above, art. 2 of the DLgs 208/2015 provides for enterprises, whether resident or non-resident, that intend to carry on investments of at least 20 million of euros in italy a new ruling procedure in relation to the specific object of the investments.

The investments which quilify for the mentioned ruling are the followings:

- either starting a new business activity or expanding the existing one;
- restructuring an existing business in order to overcome or prevent potential breakdown;
- transactions aimed to the purchase of equity interests in an enterprice.

The 30 million threshold is calculated by taking into account all different kinds of financial resources (such as external loans) may necessary to allow the enterprice to make possible the investment in Italy. Thus, the scope of this provision is to enable the enterprices to obtain in advance a clear framework of the tax regime applicable to their investment plan.

The ruling must be filed to the tax authority in order to be accepted. Italian tax authorities must issue the tax ruling within 120 days from the notice/receipt of the tax ruling application.

If tax authority may request more detalied information/documentation, it will have 90 extra days to answer. If tax authority does not issue any ruling within the mentioned terms, it is intended to have agreed with the solution proposed by the applican in the tax ruling application.

The ruling is intended to be binding for the tax authorities as long as the facts and circumstances pictured in the application ruling remain unchanged.

9.5. Investments in innovative start-up companies

To create favourable conditions for the development of innovative enterprises Italy provides a new industrial policy for economic developmeent and competitiveness, especially in the high tech and high skills sectors.

Innovative startup are intended to be those companies with shared capital (i.e., limited companies), including cooperatives, the shares or significant registered capital shares, which generally are not listed on a regulated market. These companies must also meet several requirements, the main importants are;

- be new or have been operative for less than 5 years;

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- have their headquarters in Italy or in another EU country, but with at least a production site branch in Italy;
- have a yearly turnover lower than 5 million Euros;
- be of innovative character, which can be identified by at least one of the following criteria:
  (i) at least 15% of the company's expenses can be attributed to R&D activities;

  (ii) at least 1/3 of the total workforce are PhD students, the holders of a PhD or researchers; alternatively, 2/3 of the total workforce must hold a Master's degree;

  (iii) the enterprise is the holder, depositary or licensee of a registered patent (industrial property) or the owner of a program for original registered computers.

The favourable measures consist in cuts to red tape and fees and will apply once the above requirements.

9.6. Tax benefit for business acquisition

The measure at hand grants the possibility to benefit from a tax-free of the higher stepped-up values booked and attributed to capital goods resulting from mergers, demergers and contributions operation carried out from 1 May 2019 until 31 December 2022.

From a practical point of view, the bonus consists in the tax deductibility of higher depreciation costs booked to the P&L statement, within the limits of the ordinary deductible rates provided for by law, and the recognition of higher values when determining any future capital gains or losses.

The benefit forsees an exception to the principle of fiscal neutrality typical of merger, demerger, or contribution, accorfing to which the stepped-up value attributed to the assets is recognized for tax purposes only after the payment of taxes, once they are dismissed. Indeed, this measure provides that the higher value of goodwill and tangible or intangible capital goods, is considered to be fiscally recognized, within the limit of 5 million of euro

The measure applies as far as the subject resulting from the aforementioned transaction is an italian tax resident company, since no specific condition is required by the law with reference to the other parties involved in the business acquisition. Thus, being relevant exclusively the legal nature of the subject resulting from such operations, business acquisition can involve non-resident entities.

To this end, the tax incentive also applies in the case of contributions of going concern made by a foreign company to an Italian resident company. In such event, the benefit consists in the fiscal recognition of the higher values booked by the receiving party, after the contribution is made.

The measure foresees that the higher value of goodwill and the value attributed to tangible and intangible capital assets, as result of such operations, is recognized, for both corporate income tax (IRES)and regional production tax purposes (IRAP), at an overall amount not exceeding Euro 5,000,000.

Such a recognition starts as of the tax period following the one in which the business combination has occurred. However, the the benefit is subject to certain conditions:

- the company resulting from a business combination must be a joint-stock company resident in Italy;
- the companies involved in abusiness combinations must not belong to the same corporate group, or own more than 20% of the other, or be controlled even indirectly, by the same company;
- each of the companies must have been operating for at least two years;
- the company resulting from the business combination must not sell the assets involved in the transaction or enter into further combination operations during the first four years after the business transaction; otherwise, it will lose the benefit.

These conditions must be met at the time when the business combination is carried out and in the previous two tax period. However, in order to prevent the recapture of the benefits in the above-mentioned cases, taxpayers are allowed to submit a tax ruling to the Italian tax authorities.

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9.7. Allowance for corporate equity

The Budget Law 2020 re-introduced the allowance for corporate equity (ACE, also known as notional interest deduction - NID), which is a tax benefit introduced to promote the recapitalization of enterprices and to mitigate the different tax treatment applied to companies funded with debt and others funded with equity.

The qualifying equity increases may be inclusive of equity contributions, retained earnings (with the exception of profits allocated to a non-disposable reserve), shareholders credits' waiver. Elegibles beneficiaries of the favoruable measure are:

- resident companies;
- individual resident entrepreneurs;
- resident partnerships;
- other commercial resident entities,
- permanent establishments in Italy of non-resident companies.

The Ace allows a notional deduction from corporate income taxable base. The deduction corresponds to the net increase in the new equity brought in the entity, multiplied by a yearly fixed rate, which is 1,3% for FY 2020.

The Law Decree n. 73/2021 (the so-called "Sostegni Bis Decree") introduced a measure aimed to strengthen the ACE benefit for the FY 2021 only.

The actual rate of 1.3% has been increased to 15%.

9.8. Tax credits related to research and development

The research & development tax credit aims to encourage investments in R&D activities.

This benefit is available to any Italian resident company, including permanent establishments of non-resident subjects, regardless of their legal form, economic sector to which they belong, the size and tax regime for determining corporate taxable income.

If the services are provided to a foreign company, even a company belonging to the same group, it will be allowed t to benefit from the R&D tax credit, as long as the R&D activity is carried out in Italy.

The 2020 Budget Law replaced the forper research and development tax credit with a new tax credit recognized, as of 1 January 2020, for investments in research and development, in ecological transition, in technological innovation 4.0 and in other innovative activities.
In particular, the new tax credit is granted for:

- fundamental research, industrial research and experimental development in the scientific or technological field. For these activities, the credit is equal to 12% of the relative eligible expenses, within the maximum limit of 3 million euros per year;
- technological innovation activities aimed at improving new or existing products or processes. For these activities, the bonus is equal to:
  a) 6% of the relative eligible expenses, up to a maximum limit of 1.5 million euros per year or;
  b) 10% of the relative eligible expenses, up to annual maximum limit of 1.5 million euros,
- for design and aesthetic design activities. For these activities, the tax credit is equal to 6% of the relative eligible expenses, taken up to a maximum of 1.5 million euros per year.

For all enterprises seeking to claim an R&D tax credit, a proper certification will be mandatory as well as technical documentation describing the R&D project.

9.9. Patent box regime

Resident and qualifying non-resident persons deriving business income in Italy may opt for a patent box regime, provided that they either directly carry on R&D activities aimed at creating and developing qualifying intellectual properties or outsource them to universities, research institutions or equivalent entities, or unrelated companies (article 6 of DL 146/2021).

The election is valid for 5 tax years and cannot be revoked, but it can be renewed.

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Under the patent box regime, the amount of qualifying R&D expenses, relevant for both IRES and IRAP purposes, is increased by 110%.

Qualifying R&D expenses are those related to copyrighted software, patents, designs and models used directly or indirectly by the taxpayer to carry on its business activity.

9.10. Accelerated and enhanced depreciation

In order to support and incentivize companies that invest in new capital goods, purchased or leased, an additional IRES depreciation was granted for new investments in capital good carried out during the 2019 tax period.

The new 2020 Budget Law redefined tax benefits for those investments by turning the accelerated and enhanced depreciation into a tax credit. These new measures are granted for investments in new capital goods carried out from 1 January 2020 until 31 December 2020, or by 30 June 2021 if the following conditions are met:

- the purchase order has been accepted by the seller;
- at least 20% of the purchase cost has been paid.

In details, capital goods excluded from the application of the tax credit at hand are:

- those having a tax depreciation rate less than 6.5%;
- Vehicles listed in art. 164, paragraph 1, ITC;
- buildings and constructions;
- assets listed in Annex 3 attached to the 2016 Budget Law;

The extent of the tax credit depends on the type of investment and the relative amount.

For investments in tangible capital goods related to the industry 4.0 Plan (assets included in Annex A attached to the 2017 Budget Law), the percentage of the credit is up to:

- 40% for investments up to 2.5 million euro and,
- 20% for the amount exceeding 2.5 million euros, and up to the maximum limit of overall eligible costs of 10 million euros.

For investments in intangible capital goods related to the industry 4.0 Plan (assets included in Annex B attached to the 2017 Budget Law, as supplemented by the Budget Law 2018), the tax credit is up to 15% of the investment cost, up to a maximum of eligible costs of € 700,000.

For investments in new tangible capital goods other than the previous ones (not Industry 4.0), the tax credit is up to 6% of the investment cost, within the maximum limit of eligible total costs up to 2 million euros.

Beneficiaries of the tax credits at hand are all Italian resident companies, including permanent establishments of non-resident subjects, regardless of their legal form, economic sector, size and tax regime for determining taxable income.

Moreover, professional individuals can also benefit from this measure for investments on tangible assets only, other than those related to the industry 4.0 Plan. Land is not a depreciable asset.

9.11. Revaluation of sharoldings and lands

Individuals, certain partnerships, non-commercial and non-resident entities (to the extent the participation is not held through a permanent establishment in Italy) can benefit from the extension of a beneficial regime available in 2019 and in prior years, enabling to step up the taxable basis of:

- participations not traded on regulated markets, and;
- any lands (buldings land or agricultural ones)

The revaluation concerns assets held on January 1, 2020 and not related to business activity falling into one of the two categories above. Eligible taxpayers need to:

i. obtain an expert appraisal no later than June 30, 2020, certifying the participation's value as at January 1, 2020, and;

ii. pay a 11% substitute tax on such stepped up value.

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The substitute tax can be paid either entirely by no later than June 30, 2020, or in three equal annual installments, due on June 2020, 2021 and 2022 (the second and third installment will be subject to a 3% interest charge).

9.12. Revaulation of business assets

Individuals (including non-residents who carry out business activities through a PE), resident and non resident companies and entities, are granted the possibility to revaluate business assets for accounting and tax purposes, by paying a substitute tax on the new value attributed on those assets. Th election may apply to:

- tangible and intangible fixed assets (trade goods and immovable properties held by real estate trading companies are excluded);
- qualifying shareholdings (i.e., resulting in at least 20% voting rights in the ordinary shareholding meeting).

provided that the mentioned assets are included in the balance sheet related to the period ongoing on 31 December 2018.

It is possible to freely pick and choose the category of assets to be revaluated (however, all the assets of a same category shall be revaluated with no "cherry – picking" option) through the payment of a substitute tax of:

- 12% (16% under last year's version) for amortizable/depreciable assets and to;
- 10% (12% under last year's version) for non-amortizable/non-depreciable assets.

The asset revaluation is to be made in the FY 2019 financial statement.

Tax recognition of the new values for amortization/depreciation purposes occurs starting from the third FY following the one with reference to which the revaluation was made (from January 2022 for calendar year companies).

Tax recognition for capital gain purposes occurs starting from the fourth FY following the one with reference to which the step up was made (from January 2023 for calendar year companies).

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10. VAT

10.1. General

Value Added Tax (VAT) is a consumption tax.

The bulk of the VAT legislation is contained in DPR 633/1972

This law does not contain an explicit definition of taxable persons. The persons who fall within the scope of VAT are referred to in the various legislative provisions relating to taxable transactions and the obligations of those who make taxable supplies.
Tax is levied on the supply of goods and services made in the undertaking of (i) an enterprise or (ii) an artistic or professional activity. Therefore, taxable persons are entrepreneurs, artists and professionals. VAT is also levied on imports of goods from outside the European Union.

10.2. Taxable events

As a general rule, transactions are subject to VAT in the Italian territory if the the following requirements are met:

- objective requirement: a good or service must be transferred or performed
- subjective requirement: the operation must take place within a business activity or the practising of arts or professions;
- territorial requirement: the operation must be carried out within the Italian territory.

However, even if all the aforesaid requirements are met, some transactions are exempt, while others fall outside the scope of VAT.
The former ones are operations in compliance with the three above requirements, but VAT is not applied by express provision of law - such as medical and financial expenses, insurance premiums etc - the latter ones are instead not compliant at least with one of the requirements, thus, VAT will not be applicable in Italy.

The following transactions are also taxable:

- the intra-Community acquisition of goods in Italy by an entrepreneur, artist or professional in the course of a business, art or profession
- the intra-Community acquisition in Italy of new means of transport by any person
- the import of goods from outside the European Union into Italy

The recent italian tax-reform provides to change these conditions, according to UE's legislation.
The reference is to the misalignment items that have emerged because of the recent criteria developed by the Court of Justice.
In particular, the legislative measure will concern the territorially based presumption of taxation for the supply of goods, considering that the national legislation (Article 7-bis, paragraph 1 of Presidential Decree No. 633/1972) jointly regulates the supply of goods with transport and without transport, whereas the Community legislation (Article 32 of the VAT Directive 2006/112/EC) tends to keep the two cases separate.
The harmonization of the national rules with those of the EU will also refer to the objective precondition of VAT, through the transition from the legal concept typical of the Italian legal system to the substantive economic concept emphasized in the EU legal system.

10.3. Rates

In Italy the basic tax rate is 22% percent, which applies to most goods and services.

However, medicines, natural gas and electricity for domestic use, private telephone services, and most processed foods are taxed at 10 percent. Agricultural products, some foodstuffs and books are taxed at an even lower rate.

On of the objectives of the fiscal reform is to reduce the number and measure of rates: The main objective of rationalizing the number and measure of rates is to provide for a homogenization of the VAT treatment of similar goods and services, considering their social relevance and in conformity with EU law.

In line with the standards set forth in Directive 2006/112/EC (EU VAT Directive), as amended by the recent Directive 2022/542/EU, the following rates will have to be adopted:

- one standard rate of not less than 15 per cent;
- a maximum of two reduced rates of not less than 5 per cent;
- one reduced rate of less than 5 per cent;
- a so-called “zero rate”, i.e., an exemption with the right to deduct.

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10.4. Registration

A foreign operator, thus, is requiret to apply for an Italian VAT number of as national persons, before implementing the operation, unless it has a permanent enstablishment in Italy.

In order to comply with the VAT registration, the foreign operator has two choises:

- appointing an Italian VAT tax representative, responsible for fulfilling the obligations and exercising the rights laid down by the VAT regulations;
- identifying itself directly for VAT purposes in Italy, in order to fulfill and excercise the relevant obligations and rights.

Operators' resident in one of the EU countries (or in a non-EU state which ensures the exchange of info with Italian state) can opt for both of the above-mentioned options, while, residents of non-EU states can adopt the VAT tax representation only.

In the event the business is not registered for VAT in Italy and sells and delivers good from another EU member state to customers in Italy who are not VAT-registered (distance sales), it is required to register and account for VAT in Italy, through the direct identification when possible or by appointing a VAT representative, unless the value of the sales during the entire year do not exceed the amount of 35.000 euro.

As a consequence, an Italian taxable person for VAT purposes who sells and delivers good to individuals (not VAT-registered) enstablished in other EU countries will have take into account the value of the foreign threshold, beyond which therein it will be obliged to register and account for VAT.

10.5. Reverse charge and place of supply

As a general rule, when goods and services are supplied directly by business operators established in other Member States, customers resident and VAT-registered in Italy are liable to account for Italian VAT under the reverse charge mechanism; for this purpose, customers must complete the invoices issued by their suppliers by adding the relevant VAT rate and the amount of Italian VAT to be paid.

In the event goods and services are supplied by non-EU operators, Italian customers must issue a self-billed invoice, charging Italian VAT to them self.

Self accounting for VAT under the reverse charge principle essentially means that the purchaser charges it self on his/her member state VAT rate on the transaction and also allow itself a corresponding VAT deduction for the VAT suffered. Basically, there is no VAT payment involved.

Given that, the place of supply determines where VAT is charged and therefore what VAT rate is applicable.

The general place of supply for services will be the:

- place where the customer is established in case of the so called B2B transaction
- place where the supplier is established if services are supplied to private consumers
- place where the consumer is resident for telecommunications, broadcasting and e-services supplied to consumers located in UE

While, the place of supply in relation to goods generally follows the physical movement of goods according to the so called "destination principle".

10.6. VAT return

Starting from the 1th of january 2017, taxpayers have to submit to the Italian tax authority's quarterly communication of VAT settlements returns along with the relevant periodic communication of data invoices received and issue during the tax year.

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

- taxpayers who carry out monthly payments must pay the amount due by the 16th day of the month following the one to which the settlement refers or;
- in 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. An overall annual VAT return must be filed before the end of April of the following tax year.

10.7. Cross border transactions and data trasmission

Aso of 1st January 2019, cross border operations are subject to a specific reporting which will be submitted to the authorities, according to the new 2020 Budget Law, on a quarterly basis, by the end of the month following the relevant quarter.

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Such obligation aims at making available to the Revenue Agency the information relevant to the active and passive transactions with foreign countries (EU subjects, non-EU subjects).

The communication must be transmitted in the event ofoperations which are not documented with electronic invoices nor with customs bills.

Subjects obliged to proceed with the transmission of cross-border data are those required to comply with the obligation to issue an electronic invoice (both against other taxable persons and towards final consumers) and generally speaking, will be the taxable persons established within the territory of the Italian State, with the exception of:

- non-residents subjects directly identified (as specified by the Revenue Agency with the circular n. 13 / E of 2018);
- non-resident subjects who proceeded with the appointment of their own tax representative in Italy;
- foreign subjects who do not have a VAT number.

10.8. Intrastat

The Intrastat model, introduced soon after the abolition of customs barriers within the European Community in 1993 is still in force.
Indeed, the obligation to transmit Intrastat lists has not been deleted.
Consequently, the overall statements referring to sales and intra-community acquisitions of goods and services (operated and received) will have to be transmitted

10.9. Flat tax for earnings up to 65.000 €

A flat tax of 15% is envisaged for VAT registered individual already included in the flat-rate regime.

The 15% rate will apply for revenues up to 65,000 euros. The portion of income exceeding the above mentioned theshold will be subject to the ordinary progressive system.

10.10. VAT grouping

Taxpayers are allowed to opt for VAT grouping from the 1th January 2018 and the regime is will effective as of 2019. Indeed, taxable persons established in Italy carring out business or professional activities, for which financial, economic and organizational links are met, can be treated as one single taxable persons, identified with just one VAT number. As a consequence of the application of this regime then:

- transactions carried out between the taxable persons of the group will not be subject to VAT
- transactions carried out between a group member and a third party will be treated as being made by the group as an entity.

More precisely, to be part of a VAT group in Italy the taxable persons joining the VAT group must be resident for VAT purposes in Italy and have, as already anticipated, a

- Financial link based on common control exercised by an italian resident entity. The requirement is still met if it is based in a country that has an exchange of information agreement with Italy
- Economic link based on the same core business or in activities that are complementary and ancillary
- Coordination between the decision-making bodies of the involved entities

A group is set up by all the taxable persons who are enstablished in Italy and have the necessary links. The option is excercised by the representative of the group which (providing all the documentation and information required) is generally the parent company or, if the parent company is established outside Italy, the representative will be the VAT group member with the highest turnover or revenue.

The option is binding for three years and thereafter is automatically renewed if not revoked. If one member revokes the option, the whole group is dissolved. Any member that ceaces to meet the necessary requirements above mentionet, ceaces to be a member

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10.11. VAT: penalty regime
The VAT penalty regime provides several penalties according to the specific violation committed. The two main categories of violations regard those regarding to the VAT return and those regarding to failure to record transactions.

The first category concerns:

- Failure to submit an annual VAT return: in this event the penalty ranges from 120 to 240 percent of the amount the taxpayer should have declared in the return.

Submission of an innacurate VAT return: in this case the penalty ranges from 90 to 180 percent of the amount not declared or of the excess VAT credit declareThe second main category concerns:

- Failure to record transaction subject to VAT: in this event the penlty ranges from 90 to 180 percent of the VAT due;
- failure to record transactions that are VAT exempt or non- taxable: in this case the penalty ranges from 5 to 10 percent of the unrecorded amount, and with specific regar to the second one (failure to invoice certain out of scope transaction) will not be lower than 500 euro per violation;
- failure to record VAT-exempt or non-taxable transactions, which does not result in corporate income tax violations:
  in this case there is a reduced penalty that ranges from 250 to 2000 euro;
- violations concerning domestic reverse charge, if VAT has been paid by one of the parties, the penalty ranges from 250 to 10.000 euro.

10.12. VAT: criminal penalties
Law Decree no 124/2019 has tightened violations for tax offenses (set forth by the Legislative Decree no. 74/2000) by way of increasing personal penalties and lowering the relevant thresholds, to "make it easier" to trigger the application of those penalties. Accordingly, current personal penalties are the following:

- from 4 years to 8 years for filing a false tax return using invoices or other documents for non-existing transactions. However, when the amount of the fictitious invoices is lower than 100,000 €, still applies the previous reduced range (from 1.6 to 6 years of imprisonment);
- from a range of 3 years to 8 years for filing a false tax return by use of other methods of deception;
- from a range of 2 years to 4 years and 6 months for filing an unfaithful VAT tax return; in this event, criminal penalties only trigger when the two following conditions are met:
  i. the evaded tax is higher than 50,000 € (previously 150,000 €) and;
  ii. the under declared taxable base is more than 10% of the total turnover or, in any case, higher than 2 million € (previously 3 million €);
- from a range of 2 years to 5 years for failing to file a VAT tax return; in this event, criminal penalties trigger when the individual evaded tax is higher than 50,000 €;
- from a range of 4 years to 8 years for issuing invoices or other documents for non-existing transactions to support other's fraudolent conducs. However, when the amount of the non-existing transaction is less than 100,000 euro, still applies the previous reduced range (from 1.5 to 6 years of imprisonment);
- from a range of 3 years to 7 years for concealment and destruction of accounting documents;
- from a range of 6 months to 2 years to fail in making VAT payments, notwithstading criminal penalties (which have not been modified), the latters are triggered when the under-payment is higher than 150.000€ (previously € 250.000).

In case of conviction for some of the aforementioned tax offences, the Decree forsees, andercertain conditions, the "extended confiscation" (confisca allargata), which is a measure that allows to "freeze" the entire unjustified personal wealth considered to be, under a legal presumption, the result of undeclared profit

11. CUSTOMS

11.1. The European Union custom law
The process of unification in costums matter has been implemented through the enactment of the

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Union Customs Code adopted on 9 October 2013 and entered into force on 1 may 2016.

As a consequence of the unification on internal market, the reduction of barriers to international investment and trade and the need to ensure security and safety inside and outside the external borders of the Union, in Italy, as for the rest of th other EU countries, will be relevant:

- the classification of goods which is necessary as to select and apply the customs rules for each movement of goods and therefore to quote the import duty;
- the origin of goods (mentioned in label);
- the value of the transaction that is the price actually paid or payable for the goods once sold for export to the customs territory of the Union.

11.2. Custom declaration

All goods originating from third countries intended to go through customs procedure need a specific declaration for that purpose. More over, the declarant, in other to allow customs authorities do determine the dutiable amount, must provide specific information about transaction; indeed, he/she must indicate the classification code, origin, value, quantity, the consignor and consignee and, as said, the relevant customs procedure.

Thanks to UCC Community, in order to implement a quicker coordination between companies and customs authorities is required paperless exchange of information, in liu of submitting all data exchanges by using electronic data-processing systems.

11.3. European customs system: warehouse and VAT warehouse

Under the UCC specific procedures are provided as regards non-EU imported goods, in detail:

- Transit can be divided into internal and external transit.
  The internal transit consists in moving the goods from one point to another of the customs territory, crossing a country or territory that is not part of the European Community, without undergoing into any change in their customs status.
  The external transit consists in moving non-Union goods from one point to another inside the customs territory without falling into: import duties, other charges and trade policy measures;

- Storage: non-Union goods may be stored in the customs territory without being subject to: import duties, other charges and trade policy measure.
  Instead, Union goods are likely to be placed in the free zone procedure waiting for the decision to allow remission of import duties;

- Specific use - temporary admission: non-Union goods may be used in the customs territory with total or partial relief from import duties without involving any trade policy measure or other charges.
  The end-use procedure let goods be released for free movement on account of their specific use under a duty exemption or a reduced duty rate;

- Processing can be divided into the inward and the outward. Under the inward processing procedure, the non-Union goods may be used in the customs territory falling into: import duties, other charges and trade policy measures.
  Under the outward processing procedure Union goods can be exported in the customs territory with total or partial relief from duties.

11.4. Imports and VAT

All imports are subject to VAT. In Italy VAT is due when goods are introduced in the territory. VAT must be paid by the owner of the goods or by the holder of the goods at the crossing of the customs bord.

Transactions that are considered imports are:

- the release of goods for free movement under a customs-duty suspension arrangement;
- Inward processing (temporary import), These operations are liable to VAT if the goods are introduced for sale or house use;
- the temporary admission of goods for re-export without processing;
- re-imports for temporary export;
- the re-introduction of goods previously exported;

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The taxable base for VAT on imports is calculated by Italian VAT law and customs law.

Concerning the free float, a minimum threshold of 10% will be sufficient.

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