



## INVESTMENT GUIDE

Doing business in Italy

# Investment Guide

Updated March 2010

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# 1. Country's Profile

## 1.1 Political System

Italy is a republic with a democratic parliamentary system.

Sovereignty belongs to the people, who exercises it in accordance with the principles enshrined in the Constitution that came into effect on 1 January 1948.

The Italian Republic recognises and guarantees the inviolable rights of human beings.

All citizens have equal social dignity and are equal before the law, without regard to gender, race, language, religion, political beliefs, and personal or social status.

The Constitution lays down the principles of a democratic system through the separation of powers: executive power is wielded by the Government, legislative power by the Parliament, and judicial power by the judiciary.

### President of the Republic

The President of the Republic is the Head of State. Elected by a joint session of the Parliament along with representatives of each Region, the President represents national unity, and serves for a seven-year term.

The President:

- Promulgates laws, issues decrees with the force of law, and issues regulations
- May request the Parliament to reconsider a law
- May dissolve one or both Houses of Parliament and call new elections
- Is the commander in chief of the armed forces and chairman of the Supreme Council of Defence (Consiglio Supremo di Difesa)
- Declares war on the basis of a decision taken by the Parliament
- Chairs the Supreme Council of the Judiciary (Consiglio Superiore della Magistratura)
- Appoints Senators for life
- Appoints the Prime Minister and, upon his/her advice, Ministers
- Appoints one-third of the judges of the Constitutional Court
- Has the power to grant pardons and commute punishments
- Ratifies international treaties.

The President acts a mediator in the event of a political crisis.

### The Parliament

The Italian Parliament is composed of the Chamber of Deputies and the Senate. The two Houses have similar powers and functions, nevertheless they differ in several concerns – namely:

- Number of representatives (630 in the Chamber of Deputies - 315 in the Senate plus senators-for-life)
- Electoral system (except for 6 seats assigned to the constituency of Italians abroad, Senate seats are allocated to competing lists of candidates in the

individual regional constituencies proportionately to the relevant population and possible allocation of a regional majority bonus. Except for 12 seats assigned to the constituency of Italians abroad, Chamber of Deputies seats are allocated on a national basis proportionally to competing lists of candidates and possible allocation of a majority bonus)

- Voting age (18 years for the Chamber of Deputies – 25 years for the Senate)
- Election eligible age (Deputies at least 25 years old – Senators at least 40 years old).

The Parliament primarily exercises legislative power.

#### The Government

The Government must enjoy the confidence of both Houses, and is composed of the Prime Minister (officially the President of the Council of Ministers) and his/her Ministers, jointly constituting the Council of Ministers.

The Prime Minister conducts and is responsible for Government general policies. He ensures the unity of general political and administrative policies, promotes and coordinates ministers' activities.

Upon enabling authority granted by the two Houses of Parliament, the Government has the power to issue legislative decrees with the force of law. In exceptional cases of necessity and urgency, the Government also has the power to issue decree-laws, subject to Parliamentary ratification (within 60 days in order to gain the force of law).

The Government encompasses a number of major interministerial committees in charge of coordinating issues addressed by ministries, i.e.:

- The Interministerial Committee for Economic Planning (Comitato Interministeriale per la Programmazione Economica - CIPE)
- The Interministerial Committee for Credit and Savings (Comitato Interministeriale per il Credito e il Risparmio - CICR).

#### The Constitutional Court

Compliantly with the Constitution, the Constitutional Court judges over disputes concerning: the constitutionality of State and Regional laws and acts having the force of law; conflicts arising over the attribution of powers between the State and the Regions, and between Regions themselves; as well as charges brought against the President of the Republic.

## 1.2 The Judiciary – Jurisdictional System

The legal system is organised into the following jurisdictional functions:

- Ordinary, attributed to ordinary courts
- Administrative, attributed to Regional Administrative Courts (Tribunali Amministrativi Regionali - TAR) and the Council of State (Consiglio di Stato)
- Financial, attributed to the Court of Auditors (Corte dei Conti) in the area of State accounting
- Tax, attributed to Regional Tax Commission and Provincial Tax Commission.

The Judiciary is autonomous and fully independent from the power of the other Government branches.

### 1.3 Local Governments

The Italian Republic is organised into Regions, Provinces, Municipalities, and metropolitan areas.

Italy encompasses 20 Regions, 5 of which ruled by special statute (i.e. Valle d'Aosta, Trentino-Alto Adige, Friuli-Venezia Giulia, Sicily and Sardinia). The Regions, in turn, are divided into 112 Provinces (2 not yet operative) and 8,101 Municipalities.

### 1.4 Reforms

The Italian Government is committed to implementing a series of national and local reforms.

#### Federal reforms

Constitutional Law n. 3 of 3 October 2001 assigned new legislative powers to Italy's Regions in important sectors, such as foreign trade, education and local administration.

Regions also have decision-making power in all the issues in which European laws exert their impact at regional level.

The central Government retains exclusive jurisdiction over the following issues:

- Foreign policy
- Immigration
- Religion
- Defence
- National currency
- Electoral laws
- Public Administration
- Public security
- Citizenship
- Justice
- Essential assistance provided by the National Healthcare System
- Pensions
- Civil Defence (Civil Protection).

The central Government and Regions exert concurrent legislative power over the following areas:

- Regions' relations with the European Union and other foreign countries
- Foreign trade
- Education



- Scientific and technological research and support to innovation in productive sectors
- Land-use regulation and planning
- Civilian ports and airports
- Major transportation and navigation networks
- Energy production, transportation and national distribution
- Harmonisation of public budgets, and coordination of public finances and tax system.

Within concurrent legislation issues, Regions exert legislative power except for the definition of fundamental principles, reserved to State legislation.

Legislation on tourism is entirely entrusted to Regions. At central Government level, the Ministry for Tourism is in charge of elaborating, in joint cooperation with Regions and the Autonomous Provinces of Trento and Bolzano, general orientations, principles and objectives for valorisation and competitive development of the national tourist system.

#### Local Taxes

Article 119 of the Italian Constitution provides Regions, Provinces, Municipalities, and metropolitan areas with financial autonomy. Local governments thus have the power to establish and collect taxes, transferring the due share to central Government.

Local governments' representatives participate in the Parliamentary Commission for Regional Affairs.

### National reforms

The Italian Government has implemented numerous structural reforms to encourage competition and long-term market growth. National reforms have addressed Italy's corporate law, tax system and labour market, and are also aimed at promoting and supporting the international expansion of Italian enterprises, research and development, and e-government initiatives for bureaucracy streamlining.

## 2. Doing Business in Italy

### 2.1 Background

In principle, foreign investors wishing to start up a new business in Italy may operate subject to conditions of treatment reciprocity, i.e. when a similar right is granted to Italian investors operating in the State of origin of the concerned foreign investor. Verification of such treatment reciprocity prior to starting a business in Italy is not necessary whereby the foreign investor:

- Is a citizen of a Member State of the European Union
- Is a citizen of one of the States of the European Economic Area (i.e. Iceland, Liechtenstein, and Norway)
- Is a citizen of a country holding a specific international agreement with Italy - i.e. agreement governing international investment, treaty of friendship and trade, or other such agreements
- Has – as individual – refugee or stateless person status.

In order to verify whether the required reciprocity conditions are actually met, see the individual “Country Reports” issued by Italy’s Ministry of Foreign Affairs (MAE) on:

[http://www.esteri.it/MAE/IT/Ministero/Servizi/Stranieri/Elenco\\_Paesi.htm](http://www.esteri.it/MAE/IT/Ministero/Servizi/Stranieri/Elenco_Paesi.htm)

For the official list of treaties held with Italy, see the online database published by MAE on:

<http://itra.esteri.it/itrapgm/>

#### Starting a business

Foreign investors can set up a business activity in Italy by:

- Establishing as a Sole Trader
- Establishing an Italian company
- Establishing a secondary (registered) office or branch of a foreign company
- Opening a representative office of a foreign company.

Further details on the above options are provided on the following pages.

#### Regulatory reference framework

Regardless of the method selected to start up a business activity in Italy, foreign investors will be supported by a legislative and regulatory framework acknowledged as one of the most advanced and dynamic in Europe, and primarily based on:

- The body of corporate law set out in the Italian Civil Code, extensively reformed in 2003
- The Unified Text on Financial Intermediation - TUIF (Testo Unico in materia di “intermediazione finanziaria” – namely Legislative Decree 58/1998), which includes specific provisions for publicly listed companies. The above Legislative Decree was repeatedly amended – i.e. first by Law 262/2005, as amended, including provisions to protect savings and rule financial markets, as well as by Legislative Decrees 164/2007 and 229/2007, as amended, issued in

implementation of EU Directives 2004/39/EC and 2004/25/EC, as amended, respectively, aimed at harmonising the legislations of Member States concerning financial markets and tender offers.

- Legislation on legal persons liability (Legislative Decree 231/2001, as amended)
- Legislation on personal information protection (Legislative Decree 231/2001, as amended)
- Legislation on workplace safety and hygiene (Legislative Decree 81/2008, as amended)
- Legislation on fire prevention and electrical systems safety (Presidential Decree 577/82, Legislative Decree 139/2006 and Law 46/90, as amended) as well as environmental legislation (Legislative Decree 152/2006, also known as the Environmental Code, as amended).

#### Registering the business

- Companies established in Italy by natural persons or foreign legal persons, and/or
- Foreign company branches

shall be registered in the relevant Business Register; whereas

- Sole traders established by a foreign investor
- Foreign company branches
- Foreign company representative offices

shall be registered with the relevant Repertorio Economico-Amministrativo (REA), Italy's Economic and Administrative Index.

The relevant Business Register and REA offices are set within the Chamber of Commerce, Industry, Crafts and Agriculture (CCIAA) relevant for the site where the company, secondary offices, sole trader, branch or representative offices are located, respectively. As to registration procedures, as of 1 April 2010 a business may be started via on-line transmission of a single communication (so-called Single Notification), either to the Business Register or REA, accordingly. The Single Notification includes all information on the business to be started, as well as all relevant information for tax, welfare (social security) and insurance purposes, to be transmitted by the Business Register or REA to:

- The Revenue Agency, for Tax ID number and VAT number application
- INAIL (Workers' Compensation Authority), for insurance purposes
- INPS (National Social Security Institute), for employee or self-employed worker registration.

The Single Notification may be directly sent by the investor as long as he/she possesses:

- A digital signature device (smart card, CNS – National Service Card, CRS – Regional Service Card, CIE – Electronic ID Card, Business Key) that can be purchased at CCIAA (or other accredited institutions c/o CNIPA – National Public Administration Information Technology Centre)

- Credentials to use the TELEMACOPAY service, which allows all administrative procedures to be completed at the relevant Chamber of Commerce (credentials are received 48 hours after stipulating the contract downloaded at [www.infocamere.it/telepay.htm](http://www.infocamere.it/telepay.htm), which also indicates contract application and delivery procedures)
- Software applications to fill out and transmit files, available for free download at [www.registroimprese.it](http://www.registroimprese.it) on the "COMUNICAZIONE UNICA" page
- PEC address, meaning a Certified E-Mail address. PEC is issued by the Providers registered in the Public List held by CNIPA, available on: [http://www.cnipa.gov.it/site/it-IT/Attivit%C3%A0/Posta\\_Elettronica\\_Certificata\\_\(PEC\)/Elenco\\_pubblico\\_dei\\_gestori/](http://www.cnipa.gov.it/site/it-IT/Attivit%C3%A0/Posta_Elettronica_Certificata_(PEC)/Elenco_pubblico_dei_gestori/).

Should the investor not intend to directly send the Single Notification, he/she can entrust a qualified professional (notary, certified accountant) to digitally sign and transmit the "Single Notification for business establishment" on line. To such end, the investor shall grant non authenticated power of attorney (procura), as per the "procura" form enclosed with the Ministry for Economic Development (MiSE) Bulletin n. 3616/C dated 15 February 2008.

As by law, specific deeds may only be filed with the competent Business Register by a notary. Therefore, whereby the investor does not grant power of attorney to a notary for Single Notification transmission, such Notification may be managed by several signers, as the relevant software application allows for a single file to be shared by several persons or professional offices, also via e-mail, thus simplifying compiling and signing functions performed in different moments.

Once sent to the competent Company Registry or REA by the investor, the Single Notification is subject to a series of binding checks. In the event of negative outcome, the Single Notification shall be considered inadmissible and the system will immediately notify the user at his/her PEC address.

Alternatively, should all checks be successfully passed, the Single Notification will immediately be recorded and the relevant receipt will be issued, thus authorising immediate business establishment<sup>1</sup>. For such purpose, the receipt will be sent to the company's PEC and, whereby the applicant is a representative, to the PEC address from which the Single Notification was sent.

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*1) Unless the regulation applicable to the specific type of business to be established requires additional licenses or authorisations ( See pages XX and XX)*

## 2.2 Starting up a Business in Italy...

### ...by establishing an Italian company

Italy's corporate law primarily differentiates between:

#### Partnership

- Partnerships, generally characterised by:
  - Unlimited joint and several liability of partners for company obligations, hence all partners' current and future assets secure such obligations
  - Each partner is a director of the company with administrative powers
  - Non-transferability, either inter vivos or mortis causa, of the partner status except whereby authorised by all other partners; And

#### Corporations

- Corporations, generally characterised by:
  - Legal personality, autonomous from company owners' personality
  - Limited liability for company owners, i.e. each owner's liability is limited to the cash or assets he/she has contributed to the company
  - Separation of ownership and administrative powers; hence company owners are not necessarily also company directors, and directors are not necessarily company owners
  - Ownership as freely transferable, either inter vivos or mortis causa.

#### Limited liability company

The most widespread types of companies in Italy are: Società per Azioni – S.p.A. (joint stock company – JSC) and Società a responsabilità limitata – S.r.l. (corporation with shareholders whose liability is limited by shares – Ltd).

Both types of companies are to be established via a Memorandum of Association – either a unilateral instrument (whereby there is one founder only) or a contract (in the case of multiple founders). The document is complemented with the Articles of Association (or By-Laws) of the company, i.e. the set of rules governing the company's operations through its existence. Whereby company's owners should decide to change one or more of such rules over the years, the Articles of Association shall be consistently amended, whilst the Memorandum of Association shall remain unchanged over time. Accordingly, consideration shall always be ensured to the Articles of Association currently in force.

#### Società per Azioni (S.p.A.)

A Società per Azioni (namely a joint stock company – JSC) is the primary form of corporation, i.e. it best meets the needs of enterprises requiring significant capital.

#### Share capital and shares

S.p.A. share capital may not be lower than € 120,000.00, and is divided into "shares". The share capital amount is determined at the moment the S.p.A. is founded and shall be subscribed by those establishing the company. In the event of a single founder, one subscription only will therefore exist; in the event of multiple founders, all shall subscribe (varying) portions of share capital until the whole capital has been subscribed.

Via capital subscription, each owner (or shareholder) undertakes to pay the share of capital subscribed upon execution of the Memorandum of Association. Payment

can take place either by transferring a sum of money to the S.p.A. (to its cashier or onto a current account in the company's name) or, whereby expressly provided in the Memorandum of Association, via payment in kind or transfer of receivables, whose value shall be equal to the amount of capital subscribed.

In the case of multiple founding shareholders, those paying the capital subscription in cash are not required to pay the entire amount of their share(s) up front. They are entitled to deposit 25% initially and agree to pay the remaining 75% at a subsequent date consistently with the administrative body's (i.e. board of directors) request.

Conversely, whereby paid in kind or via transfer of receivables, the share capital is to be paid in its entirety.

In the event of a single founder, he/she shall pay the entire share capital subscription up front, regardless of whether payment is in cash or kind (i.e. goods or receivables).

Any share premium the founding shareholders might wish to pay for the shares shall be paid in its entirety upon S.p.A. establishment.

Once the Memorandum of Association has been filed with the competent Business Register and the S.p.A. company has thereby been listed, shares representing its own share capital may then be issued.

Shares can either be:

- "Material", i.e. physical securities issued by the company. As per specific laws, such securities shall be registered (i.e. bear the name of their holder/s); or
- "Immaterial", i.e. they shall still be registered; nevertheless, the methods of validation and circulation will be defined by the Articles of Association of the issuing company.

In general, the par value of each share corresponds to a fraction of the share capital. Whereby shares do not have a specified par value, that is to be determined by dividing the share capital by the number of shares issued.

Each shareholder is assigned a number of shares proportionately to the portion of subscribed share capital, whose value shall not be greater than the amount contributed, except whereby the Articles of Association call for a different allotment of shares.

Generally speaking, shares shall all be of equal value and provide their holders with equal rights. However, either at the time the S.p.A. is established or subsequently, different categories of shares to which different rights are attached may be created (e.g. preference shares with priority in earnings distribution, postponement of losses, or in the event of company liquidation; shares with limited voting rights; shares in favour of employees; redeemed shares; shares with ancillary rights; tracking stocks; redeemable shares; savings shares, and so on). In such cases, the company may, within the limits set by law, freely determine the features of the various categories of shares, as long as all shares of a given category shall bear the same rights.

In addition to shares, S.p.A. may also issue bonds (i.e. securities representing a debt the company has with the bondholders) up to a given

amount. The Italian law governs the terms of bond issues, bondholders' rights and obligations, and conversion ratios in the event of conversion of bonds into shares.

Furthermore, following the corporate law reform (as of 1 January 2004), S.p.A.s may now issue hybrid financial instruments, which grant property and participation rights but not voting rights. In such cases, the company's Articles of Association govern the procedures and conditions for the issuing, the rights granted to holders, the penalties in the event of non-performance of obligations, and, whereby allowed, the rules governing their circulation.

The corporate law reform also established that (as of 1 January 2004) S.p.A.s may separate a portion of their equity and earmark it exclusively to a specific business deal ("segregated asset pool"), by issuing financial instruments for participation in the deal and specifying the rights of such instruments' holders, while limiting to the segregated asset pool any liability for obligations arising from the business deal. S.p.A.s may also enter financing agreements for specific business deals, specifying that all or a portion of the revenues generated by the deal shall be earmarked to repay the debt in whole or in part ("segregated financing").

#### Corporate bodies

#### Shareholders' Meeting

The Shareholders' Meeting is the S.p.A. sovereign corporate body, i.e. the forum within which its shareholders form their will as to the company, then implemented by the administrative body. The shareholders pass resolutions collectively. Resolutions legitimately passed during the meeting are binding for all shareholders, including those absent and those who voted against the resolution passed; nevertheless, in some cases it is possible for such parties to withdraw from the company, following procedures established by law.

Shareholders may meet in ordinary or extraordinary sessions, depending on the items to be addressed, assuming that such items are expressly provided for by law or by the company's Articles of Association. Issues entrusted to Shareholders' ordinary Meeting include: approval of financial statements and, depending on company's corporate governance model, appointment or termination of administrative and control bodies, as well as shareholders' accountability to such bodies. By contrast, regardless of the company's form of corporate governance, Shareholders' extraordinary Meetings are convened to resolve amendments to the Articles of Association (including those resulting from extraordinary operations, e.g. mergers), liquidators appointment, replacement and related powers definition, as well as to address any other matter expressly entrusted by law to Shareholders' extraordinary Meetings.

Finally, bondholders meetings and ad-hoc meetings for holders of special categories of shares may also be convened. If shareholders' resolutions (meeting in either ordinary or extraordinary sessions) should compromise the rights of bondholders or non-ordinary shares' holders, the resolution shall also be approved by the concerned bondholders or special shares' holders.

All meetings are to be called via specific notices, compliantly with the

procedures in place. Participation in such meetings may also take place via audio or video conferencing systems, as long as expressly allowed by the company's Articles of Association. Only whereby all shareholders, as well as the majority of the administrative and control bodies' members, are present and the entirety of share capital is represented, may the meeting be deemed properly convened without prior notice (i.e. plenary session). Meetings may also include a specified second call (or subsequent calls if allowed by the Articles of Association) whereby the necessary quorum is not reached in the previous call.

Resolutions passed during Shareholders' Meetings are recorded in ad-hoc minutes by the person appointed as meeting secretary, except in the event of specific extraordinary meetings requiring the minutes to be drawn up by an ad-hoc notary (see p. 25). The minutes are signed both by the chairman and the secretary of the meeting and maintained in a dedicated file.

### **Administrative body**

The administrative body is responsible for company management. In performing ordinary and extraordinary management tasks, it is not bound to seek approval from shareholders for its actions, except for corporate administration acts expressly subject to shareholders' approval as by law.

As a result, the administrative body may legitimately reject any unwarranted intervention by shareholders and ignore related directives or instructions in discharging the obligations expressly defined by law or by the Articles of Association or when pursuing the company's interests with due diligence.

Shareholders may however revoke the appointment of administrative body members who fail to pursue company's interests, as well as initiate legal action against them in specified circumstances. This could result in the directors being required to pay damages to the company for losses resulting from their conduct or failure to act, without prejudice to the possibility that such conduct could constitute a criminal offence.

The administrative body composition depends on the company's corporate governance model (see the following section).

### **Control body**

The control body is responsible for overseeing company management and/or auditing its accounts, although the latter may also be entrusted to an independent auditing firm.

In any event, the control body composition depends on the corporate governance model adopted by the company (see the following section).

## **Corporate governance**

Following the corporate law reform, three models of corporate governance may currently be adopted when establishing an S.p.A. – namely:

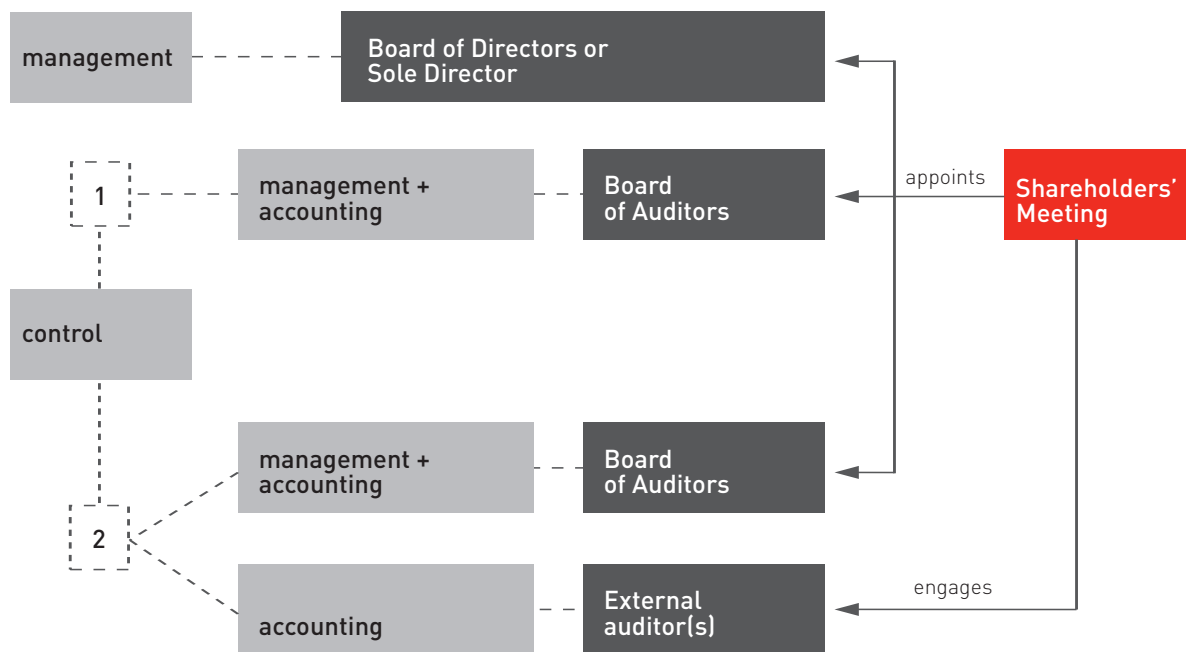
### **Ordinary model**

The ordinary model is most similar to the model used prior to the mentioned reform and provides for the highest level of protection, i.e. clear separation between management and control functions.



Under this model:

- Company management is entrusted to an administrative body, either composed of multiple directors (i.e. Board of Directors) or a single director (i.e. sole director). The Board of Directors may delegate some



of its administrative powers to an executive committee or a chief executive officer (Managing Director).

Directors – whether members of the Board of Directors or company's sole director – are appointed by shareholders to terms of max. three financial years, which expire on the date of the Shareholders' Meeting called to approve the financial statements for the final financial year of their term. Directors may be re-elected unless otherwise specified in the Articles of Association, and/or removed from office at any time – damages may be claimed by removed directors in the event of termination without just cause.

When appointing the members of the Board of Directors, shareholders also appoint its Chairman.

Resolutions issued by the Board of Directors are approved on a collegial basis. For resolutions to be valid, the following conditions are required: (i) presence of a majority of directors in office, except whereby the Articles of Association require a larger quorum; and (ii) favourable vote by absolute majority of the members present, unless otherwise specified in the Articles of Association. The Italian law also provides for the use of a "casting vote" (i.e. a vote that counts twice) for the Chairman of the Board of Directors in the event of a deadlock.

Resolutions issued by the Board of Directors shall be recorded in the relevant meeting minutes, maintained in a dedicated file. Resolutions

issued by a sole director are to be recorded in their ad-hoc file.

- Management control is entrusted to a board of auditors composed of either 3 or 5 standing auditors and 2 alternate auditors. At least one standing and one alternate auditors shall be entered in the Register of Auditors maintained by Italy's Ministry of Justice, whereas the other members of the Board shall be registered in the rolls of relevant professions as specified by Italy's Ministry of Justice (e.g. for lawyers, accountants, labour consultants) or be full university professors in a legal or economic academic subject.

Shareholders' Meeting shall appoint both the members and chairman of the Board of Auditors. Members serve terms covering three financial years, expiring on the very date of the shareholders' meeting called to approve financial statements for the final year of their term in office. Auditors may only be removed from office for just cause. The removal resolution shall be approved by a court, following ad-hoc hearing with the party concerned.

The Board of Auditors shall meet at least every 90 days. The appointment of any standing auditor who misses two Board meetings over the same financial year without proper justification shall lapse.

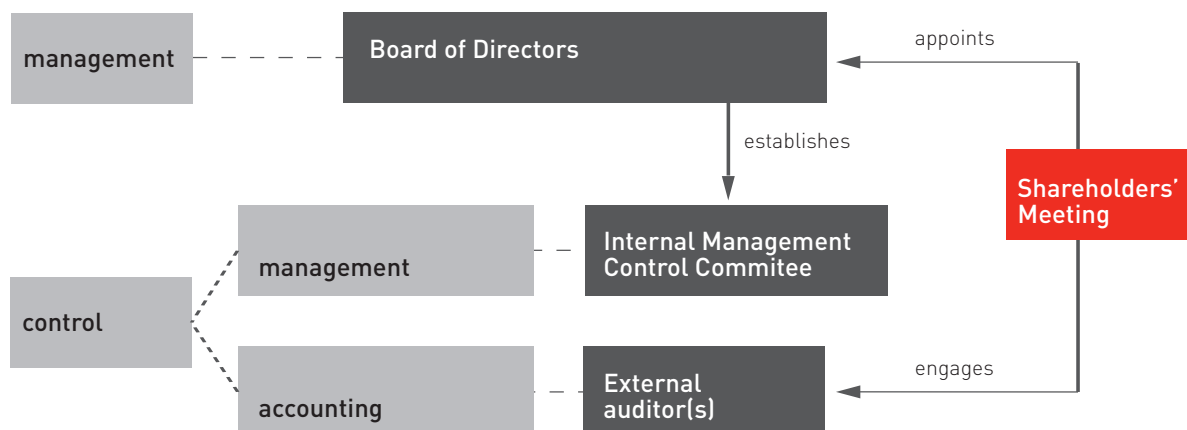
Board of Auditors meeting minutes shall be maintained in a dedicated file.

- Accounts are audited by an external auditor or auditing firm enrolled in the Register of Auditors maintained by Italy's Ministry of Justice. However, whereby an S.p.A. is not publicly listed or not required to issue consolidated financial statements, and whereby expressly allowed by its Articles of Association, the accounts may be audited by the Board of Auditors. In such cases, all members of the Board of Auditors (both standing and alternates) shall be entered in the Register of Auditors maintained by the Ministry of Justice.

The Shareholders' Meeting engages the external auditor(s) or auditing firm to audit the accounts of an S.p.A. The appointment covers three financial years, expiring on the very date of the Shareholders' Meeting called to approve the financial statements for the final year of their office. The engagement may only be revoked for just cause after obtaining the Board of Auditors' opinion. The resolution for revocation shall be approved by a court, following an ad-hoc hearing with the party concerned.

### One-tier model

The one-tier model provides an alternative to the ordinary model and the two-tier model (described below). Compared with the other structures, the one-tier model, whose adoption shall be specifically indicated in the Articles of Association, facilitates the exchange of information between management body and control body, and thus has a simplified, more flexible structure.



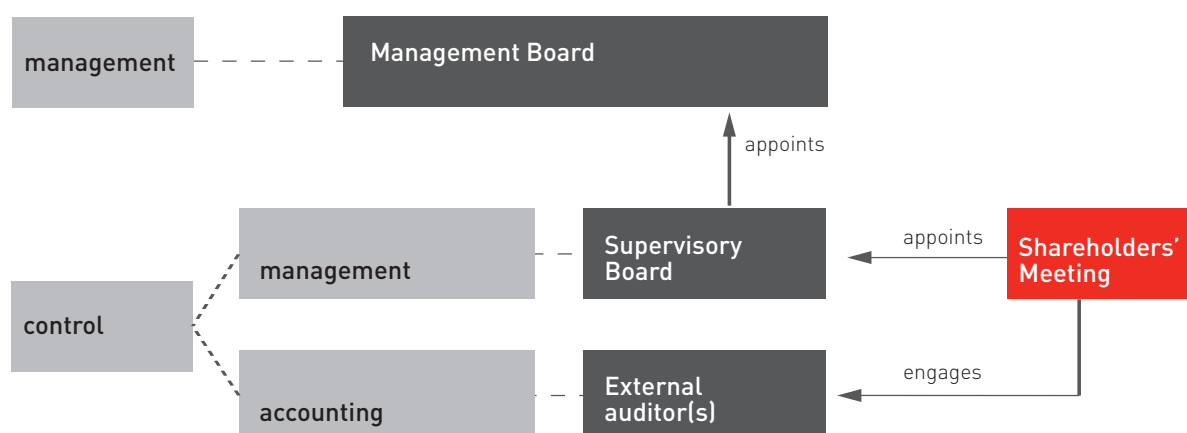
Under this model:

- Company management is entrusted to a Board of Directors
- Management control is entrusted to a Management Control Committee appointed within the Board of Directors
- Accounts are audited by an external auditor or auditing firm entered in the Register of Auditors maintained by the Ministry of Justice.

The Board of Directors' members, as well as the external auditor(s) or auditing firm engaged to audit the accounts, are appointed by the Shareholders' Meeting.

### Two-tier model

The two-tier model is an alternative to the ordinary model and the one-tier model. Once again, adoption is allowed only whereby specifically indicated in the company's Articles of Association.



Under this model:

- Company management is entrusted to a Management Board, which may delegate some of its administrative powers to one or more of its members. The Management Board members may not be appointed to the Supervisory Board (see below)
- Management control is entrusted to a Supervisory Board, which appoints the Management Board members. The Supervisory Board fulfils a number of important tasks performed by shareholders under the ordinary model
- Accounts are audited by an external auditor or auditing firm entered in the Register of Auditors maintained by the Ministry of Justice.

The Supervisory Board members, as well as the external auditor(s) or auditing firm engaged to audit accounts, are appointed by the Shareholders' Meeting. Besides such appointing tasks, shareholders' decisions are limited solely to major matters for the company. As such, the structure proves best suited to larger organisations led by a highly qualified independent management team.

The ordinary model currently turns out to be the most widespread form of corporate governance in Italy.

#### Sole shareholder

The corporate law reform made it possible for an S.p.A. to be established via a single shareholder, i.e. sole shareholder, who benefits from limited liability only whereby:

- Share capital is wholly subscribed and paid up
- Legal obligations on disclosure of existence of a sole shareholder, replacement thereof or establishment (or re-establishment) of multiple shareholders have been met.

### Società a responsabilità limitata (S.r.l.)

A Società a responsabilità limitata (S.r.l.) – i.e. private limited liability company (Ltd) – has a much more streamlined corporate structure than an S.p.A., particularly due to the broader freedom that Italian law grants to the founding shareholder(s) in establishing its functioning, organisation and other features and adapting them to their specific needs. Indeed, the Memorandum and Articles of Association may derogate from much of the legislation governing an S.r.l.

#### Capital and capital shares

S.r.l. capital may not be lower than € 10,000.00 and is divided into “shares”. The amount of capital is determined at the time the S.r.l. is established and (likewise S.p.A.s) shall be subscribed in its entirety by founding shareholder(s).

Equally to S.p.A.s, in the case of multiple founders, those paying the subscription of capital in cash are not required to pay the entire amount of their share up front; they may deposit 25% initially and agree to pay the remaining 75% at a subsequent date compliantly with the administrative body's request. Conversely, sole shareholders are required to pay their capital contribution in its entirety, likewise shareholders intending to make payment in kind or via transfer of receivables.

Any premium on shares shall always be fully paid up front.

Unlike S.p.A.s, shareholders may also contribute the value of services provided to an S.r.l. by one or more of them. The subscribed capital shall be paid in its entirety

by those shareholders electing to contribute the value of services provided; such contribution shall take the guise of a formal undertaking by the shareholder(s) to provide such services to the S.r.l.

Each S.r.l. shareholder holds only one share, which represents a varying portion of subscribed capital. In the case of sole shareholder, his/her share represents the whole capital.

Unless otherwise specified in the Memorandum of Association, the value of each share is calculated proportionately to the value of the shareholder's contribution to the company, and his/her rights (e.g. voting rights, and the right to share in profits) are also proportionate. For instance, if a shareholder holds 60% of an S.r.l. capital, he/she is the owner of a share equal to 60% of total capital, is entitled to 60% of the company's earnings, and his/her vote represents 60% of the quorum required for passing shareholders' resolutions.

Nevertheless, shareholders may establish – either in the Memorandum of Association or, subsequently, in the Articles of Association – shares not proportionate to the value of the contribution to the company, and may also establish special rights for specific shareholders.

#### Corporate bodies and governance

#### Shareholders' Meeting

Shareholders may take decisions provided for by law or company's Articles of Association in the collegial manner typical of Shareholders' Meetings. However, the Articles of Association may also provide for such decisions (unless related to specified matters) to be taken through more streamlined procedures, such as written consultation or written consent.

In an S.r.l., no distinction is drawn between ordinary and extraordinary Shareholders' Meetings. The law establishes one quorum for convening meetings and one for passing resolutions, with meetings being called only once. Nevertheless, the Articles of Association may provide for meetings to be reconvened, electing to abide by the rules governing an S.p.A. as to quorums. For an S.r.l., the procedures for convening a Shareholders' Meeting are much less formal (i.e. by fax or e-mail); nevertheless, the minutes recording shareholders' resolutions are to be drawn up by an ad-hoc notary exclusively when amendments to the Articles of Association are entailed. Finally, plenary Shareholders' Meetings (see section on S.p.A.s) for S.r.l.s are considered validly convened whereby – in addition to the requirement for the whole capital to be represented – all shareholders and members of the Board of Auditors are present or those absent have been duly informed and no objection has been raised on the items set on the agenda.

As mentioned – with the exception of specified issues – shareholders may take decisions through written consultation or written consent, compliantly with the company's Articles of Association. Generally speaking, within a written consultation procedure, shareholders vote in writing upon the proposal being presented; on the contrary, within the written consent procedure, the document containing the proposal is distributed among shareholders, who then sign the document whereby they approve it.

S.r.l. Shareholders' Meeting minutes and any decisions taken through written consultation or consent procedures shall be maintained in dedicated files.

### Management body

Unless otherwise specified in the Articles of Association, S.r.l. administration is entrusted to one or more shareholders appointed by the shareholders themselves. As such, an S.r.l. may be administered by a Sole Director or by multiple Directors. In the latter case, the company may adopt one of the following administration systems:

- **Board of Directors** – The Board acts similarly to an S.p.A. Board of Directors. Moreover S.r.l. Articles of Association may specify that Board resolutions shall be approved by written consultation or written consent. Likewise S.p.A.s, the Board of Directors of an S.r.l. may also delegate specific powers to a Managing Director.
- **Several Administrators** – Management is entrusted to multiple directors acting individually with the exception of specified matters (i.e. preparation of financial statements, mergers, spin-offs, capital increases delegated by Shareholders' Meeting to management body) requiring decisions to be made collectively.
- **Joint Administration** – Management is entrusted to multiple directors who decide company operations unanimously. The requirement for joint administration may also be restricted to specific directors only.

The Articles of Association may establish that multiple administration systems be used, each for a specific set of issues for which the administrative body is called upon to decide. In any event, all directors' decisions shall be documented in a dedicated file.

### Control Body

S.r.l. tasks such as management control and accounts auditing are entrusted to the Board of Auditors compliantly with the same procedures established for S.p.A. Control Body is not mandatory, except under the following circumstances:

- Capital is equal to or greater than € 120,000.00
- At least two of the following thresholds are exceeded in two consecutive financial years:
  - Total assets equal to € 4,400,000.00
  - Revenues from sales and services equal to € 8,800,00.00
  - Average of 50 employees over the year.

If the Board of Auditors is appointed after such thresholds have been exceeded, the requirement to maintain the Board elapses if the two of the above thresholds are not exceeded in two consecutive financial years.

### Sole shareholder

Even prior to the corporate law reform, the Italian law provided for S.r.l.s to be established by or account for a single shareholder. The sole shareholder benefits from the limited liability typical of such companies under the same circumstances as for S.p.A.s with sole shareholder (see p. 15).

## Establishing S.p.A. or S.r.l.

Pending completion of the testing, as follows the standard practice currently in force for establishing S.p.A.s or S.r.l.s.

### Notary

Shareholder(s) intending to establish a company in Italy shall contact a notary, who will gather the necessary information and draw up a draft of the Memorandum and Articles of Association.

All founding shareholders shall be present upon company establishment. In the event a founder is a foreign company, the company representative shall have a power of attorney.

The power of attorney shall be:

- Authenticated by a notary in the State where the foreign company is registered. Through authentication, the foreign notary certifies that the power of attorney has been issued by an entitled party; and
- Legalised by the Italian consular or diplomatic authority in the State where the foreign company is registered. Legalisation provides legal force to a foreign document in Italy, and consists in the official certification of the legal authority of the foreign notary who authenticated the document, as well as of authenticity of the notary's signature. Legalisation is not necessary whereby:
  - The foreign State is a signatory to the Hague Convention of 5 October 1961 abolishing the requirement for legalisation of foreign public documents. Please see: [http://www.hcch.net/index\\_en.php?act=conventions.text&cid=41](http://www.hcch.net/index_en.php?act=conventions.text&cid=41)  
In such cases, the power of attorney will require an "apostille" (postil), i.e. simpler process than legalisation, issued by the competent public authority; or
  - The foreign company is registered in Belgium, Denmark, France or Ireland, hence the Brussels Convention of 25 May 1987 concerning the abolition of the legalisation of documents in the European Community Member States shall apply (Law 106 of 24 April 1990); or
  - The foreign State holds a bilateral convention with Italy abolishing the requirement for legalisation of foreign public documents translated into Italian, if drawn up solely in a foreign language, except whereby the Italian notary expressly declares that he/she has a sufficiently good knowledge of the concerned foreign language. The translation shall be sworn by the translator at the dedicated office of an Italian court.

Founders who are natural persons may also issue a power of attorney if they do not intend to appear in person before the notary for the signing of the Memorandum and Articles of Association.

### Share capital

Prior to the execution of the Memorandum of Association, the founders shall establish the company's share capital. Briefly, if share capital is paid in cash, shareholder(s) shall open a temporary account with an Italian bank or Italian branch of a foreign bank, and shall deposit:

- At least 25% of the future company's share capital in the event of multiple shareholders; or
- 100% of the future company's share capital in the event of a sole shareholder; and
- 100% of any share premium paid for the shares or capital parts of the company being created.

Once the deposit has been made, the bank hosting the temporary account will provide shareholder(s) with a receipt certifying that the deposit has been made and its purpose is the establishment of a company. The deposit is returned whereby the company is not established within 90 days.

Whereby share capital is to be settled by payment in kind (either assets or receivables):

- The shareholder(s) establishing an S.p.A. shall request the competent court in the location in which the company will have its registered offices to appoint an expert appraiser;
- The shareholder(s) establishing an S.r.l. shall appoint an expert appraiser or auditing firm entered in the national Register of Auditors or in the special Register maintained by Italy's Companies and Stock Exchange Regulator, i.e. CONSOB (Commissione Nazionale per le Società e la Borsa), namely the public authority responsible for regulating the Italian securities market.

#### Sworn report

Once appointed, the expert shall provide the shareholder(s) with a sworn report describing the assets or receivables to be transferred (or, for S.r.l.s., the services to be provided), as well as certification that their value is at least equal to the value attributed to them for the purpose of determining share capital and possible share premium, as well as the measurement criteria adopted.

Shareholder(s) shall then appear – either in person or through a representative with power of attorney – before the notary, who, having:

- Examined the bank receipt certifying the deposit in the temporary account of the cash payment of subscribed share capital; and/or
- Attached to the Memorandum of Association the sworn report issued by the expert appraiser on the assets or receivables contributed in payment of subscribed share capital; and
- Verified that the relevant government permits have been obtained and any other requirements of special laws on establishment of companies engaged in specific business lines have been met, then proceeds with the formal reading and execution of the Memorandum and Articles of Association. Pursuant to law, the Memorandum of Association shall specify:



**S.p.A.**

- 1) the identity of the shareholder(s), whether individuals or legal persons, as well as the number of shares assigned to each
- 2) the name of the company<sup>2</sup> and the municipality in which the company and any secondary offices are to be located
- 3) the business of the company
- 4) the amount of capital subscribed and paid up
- 5) the number and par value (if specified) of shares, their features and the procedures for issue and circulation
- 6) the value assigned to the assets and receivables transferred where share capital is settled, in whole or in part, through payment in kind
- 7) the rules by which profits are to be allotted to shareholders
- 8) any benefits granted to the sponsors or founding shareholders
- 9) the governance system adopted, the number of directors and their powers, and an indication of which directors have powers to represent the company
- 10) the number of members of the board of auditors
- 11) the appointment of the first directors and statutory auditors or the members of the supervisory board – depending on the corporate governance structure selected – and, where applicable, the party responsible for auditing the accounts
- 12) at least a close approximation of the total start-up costs charged to the company
- 13) the duration of the company or, for companies with an indefinite duration, the period of time (which shall not exceed one year) after which a shareholder may withdraw

**S.r.l.**

- 1) the identity of the shareholder(s), whether individuals or legal persons, as well as the value of the capital parts assigned to each
- 2) the name of the company<sup>2</sup> and the municipality in which the company and any secondary offices are to be located
- 3) the business of the company
- 4) the amount of capital subscribed and paid up
- 5) the contributions of each shareholder and the value assigned to any assets and receivables transferred
- 6) the share held by each shareholder
- 7) the rules governing the operation of the company, including administration and representation
- 8) the individuals entrusted with running the company and any parties appointed to audit the accounts
- 9) at least a close approximation of the total start-up costs charged to the company

*2) For obvious practical reasons, newly established companies with foreign shareholders often engage an accounting firm to keep their books and perform the formalities and obligations required by Italian government offices.*

**Business Register**

The Memorandum of Association must also specify the Director expressly charged with withdrawing the amounts deposited in the temporary account.

Once the Memorandum and Articles of Association have been stipulated, the business shall be registered within the next twenty days in the Business Register by transmitting the above Single Notification<sup>3</sup>.

The Law establishes the Memorandum and Articles of Association shall be registered by the notary who drafted the deed or by a director of the newly established company who, within twenty days of deed stipulation, shall send the Single Notification enclosed with Ministry for Economic Development (MiSE) Bulletin n. 6316/C dated 15 February 2008 (power of attorney is not required). Alternatively, the Single Notification may be sent by the founding shareholder or, in the event of several founding shareholders, by any of them.

Whereby the Single Notification is successfully registered, the newly established company shall receive a Tax ID number and a VAT number from the Revenue Agency in addition to INAIL insurance policy and a welfare (social security) position number from INPS.

The company may be considered officially established only after the Memorandum and Articles of Association are registered with the competent Business Register office.

Foreign directors of Italian companies are required to obtain an Italian Tax ID number, to be applied for either at the relevant Revenue Agency office or the Italian consulate in the concerned director's home State.

Once the company has been established, the person designated in the Memorandum of Association as entitled to withdraw the amounts deposited in the temporary account may perform such withdrawal. The amount received – representing the company's share capital – can then be deposited into a final account in the company's name.

For S.p.A.s only, whereby capital has been paid in kind, Directors shall verify the appraisals in the expert's sworn report within 180 days from the company establishment date and make any necessary changes to the estimates whereby there are demonstrable grounds. Until then, the shares corresponding to payments in kind may not be transferred to third parties and shall therefore remain deposited within the company. Whereby the value of the transferred assets or receivables is assessed to be more than one-fifth lower than the value estimated at the time of contribution, the company shall reduce the share capital proportionately and cancel a corresponding number of shares. Alternatively the contributing shareholder may either pay the difference in cash or elect to withdraw from the company, returning the contribution, whereby possible, in kind.

**Start-of-business notice**

The company shall then file a start-of-business notice (DIA – Denuncia di Inizio Attività) with the municipality in which its registered offices are located. The notice form is commonly available at the Commerce Office of the relevant municipal government. Business may actually begin no sooner than 30 days from the date of notice receipt by the municipal government, assuming that no objections are

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*3) See page 6*

raised. The Business Register shall be notified once business has begun, by submitting a copy of the start-of-business notice as registered by the relevant municipal government.

In some cases, companies shall also obtain an administrative permit/license from the competent administrative office in order to begin operating. In such instances, business may only begin once the permit/license has been obtained. Once business has begun, the Business Register shall be notified by submitting a copy of the permit/license along with the copy of the start-of-business notice.

### ...by opening a branch

Foreign company branches are separate – though not legally autonomous – units of the company itself. They enjoy organisational autonomy and decision-making authority delegated from the company head office.

An Italian branch of foreign company enables the company to operate in Italy with a more streamlined, cost-effective structure than if a full subsidiary were established in the Country. Furthermore, a foreign company can utilise a branch to conduct the same business in Italy as abroad – impossible whereby the foreign company were merely to open a representative office, unable to conduct any direct production-related activities.

As far as internal organisation is concerned, we need differentiate between a branch proper and a secondary (registered) office.

#### Secondary office

A foreign company secondary office is usually managed and represented by a permanent company representative having general power of attorney (known as an “istitutore”, as invested with a “procura institoria”), who conducts business for the secondary office on behalf of the company and handles its external relations in the Country.

#### Branch Proper

Conversely, a branch proper – at least in principle – is administered and legally represented by the administrative body and legal representative of the foreign company, although, in practice, companies frequently appoint a local manager (istitutore) to run the branch.

For tax purposes, both secondary offices and branches are considered as permanent establishments and are therefore subject to taxation. They shall thus keep their own books, submit VAT and income tax returns to tax authorities (Revenue Agency) each year, and file the annual report of the foreign company with the relevant Chamber of Commerce.

### Opening a branch or secondary office

The standard practice implemented for opening a branch or secondary office is hereinafter described:

Before opening, the “istitutore” is required to hold an Italian Tax ID number (Codice Fiscale), even when of foreign nationality. Whereby the branch has no permanent representative but it is managed and represented by the director and legal representative of the foreign company, an Italian Tax ID number (Codice Fiscale) is however required.

The Tax ID number can be requested either to the Revenue Agency office relevant

for the area where the branch or secondary office is to be opened or from the Italian consulate in the State where the foreign company is registered.

The following documents shall then be filed with the competent Business Register, in the event of secondary office establishment, or with the competent REA, in the case of branch establishment:

- Copy of the Memorandum and Articles of Association of the foreign company. The document shall be authenticated by a notary in the State where the foreign company is registered, legalised by the Italian consulate or other diplomatic authority in that State or provided with an apostille (i.e. postil), as appropriate, and translated into Italian<sup>4</sup>, if necessary.
- Certificate (original, not a copy) issued by the competent body in the State where the company is registered (e.g. Chamber of Commerce, Business Register, etc.) declaring the company is validly formed and compliant with the laws in force in that specific State. Such certificate shall specify the foreign company's representative and be complemented with a sworn translation in Italian certified by an Italian court or, whereby possible, by the Italian consulate or embassy to the State where the foreign company is registered.
- Copy of the document (depending on the legal system governing the foreign company, either a resolution or other documented decision by the administrative body or shareholders, etc.) which substantiates the company's intention to open either a secondary office or branch in Italy. The document shall indicate (i) the address where the secondary office or branch is to be opened; (ii) the person designated as "institore"; and (iii) the management and representation powers entrusted to such designated person. The information specified under points (ii) and (iii) above – which may also be specified in an ad-hoc general power of attorney act (procura institoria) – is not required whereby the foreign company does not intend to appoint a permanent representative for the branch. The company document substantiating the foreign company's decision (whether or not accompanied by a separate general power of attorney) shall also be authenticated by a notary in the State where the foreign company is registered. Whereby necessary, the document shall also be legalised or accompanied by an apostille and a sworn translation in Italian. Before being filed with the relevant Business Register or REA, the document shall also be filed by an Italian notary with the Italian Notarial Archives. The Italian notary shall then certify such filing via an act included in the documents filed with the Business Register or REA.
- A number of forms prepared by the Chamber of Commerce, varying depending on whether the establishment is either a secondary office or a branch.

In order to file the above documents with the Business Register or REA, the legal representative of the secondary office or branch (or granted power of attorney as per the form enclosed with Ministry for Economic Development Bulletin n. 3616/C dated 15 February 2008) shall transmit the above Single Notification. Hence the Revenue Agency will provide the branch with its own Tax ID number and VAT number.

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<sup>4</sup> See pp. xx Legislation, apostilles, and sworn translations

### ...by opening a representative office

Whereby a foreign company wishes to get a feel for the Italian market before locating a business or aim to promote its business, a representative office may be opened in Italy.

Current Italian legislation does not provide an official definition of “representative office”. It is therefore standard practice to refer to the OECD Model Convention so as to avoid double taxation and prevent tax evasion (Article 162 of Presidential Decree 917/1986, Italy’s uniform income tax code).

It is also standard interpretative practice to distinguish between a “mere” representative office and a representative office that does not merely perform representation functions.

What is a “mere” representative office?

It is the fixed place of business of a foreign company in Italy engaged only and exclusively in marketing and promotional activities, or scientific or market research, or other information gathering activities. In other words, a “mere” representative office merely plays an auxiliary or preparatory role for the foreign company to enter the Italian market, and may not conduct production-related or commercial activities.

As such, for tax purposes, a “mere” representative office is not considered a “permanent establishment” of the foreign company and is therefore not subject to taxation. Accordingly, such an office is not required to keep books, publish financial statements or file income tax or VAT returns. It is, however, required to maintain ordinary accounts in order to document expenses (e.g. personnel costs, office equipment, etc.) to be covered by the foreign company’s head office.

The establishment of a “mere” representative office shall be simply reported to the relevant REA based on the location where the concerned office is to be started. The filing shall be carried out by the legal representative of the foreign company, endowed with an Italian Tax ID number (or by specifically designated third party with special power of attorney and Italian Tax ID number), through Single Notification. Upon receipt, the Revenue Agency will provide the “mere” representative office with ad-hoc Tax ID number. .

What distinguishes a “representative office that does not merely perform representation functions”?

First, while such an office may not engage in production-related or commercial activities, it, unlike a mere representative office, may provide third parties with non-commercial or preparatory services to the company’s business (i.e. display, purchasing and storing goods, gathering information, advertising, research, and other ancillary or preparatory activities). Of course, governance of the relationship between this kind of representative office and third parties shall be agreed between the third party and the foreign company establishing the office.

Consequently, it is standard interpretative practice to consider such an office as a permanent establishment and thus subject to taxation. As such, in addition to

being registered with the competent REA and possessing a Tax ID number, the office shall also obtain a VAT number from the competent Revenue Agency office. The filing shall be carried out by the legal representative of the foreign company endowed with an Italian Tax ID number (or by specifically designated third party with special power of attorney and Italian Tax ID number) through Single Notification. Upon receipt, the Revenue Agency will provide the “mere” representative office with ad-hoc Tax ID number.

Unlike a “mere” representative office, it shall also keep separate books, file VAT and income tax returns each year and file the foreign company annual report with the relevant Chamber of Commerce.

## 2.3 Notary in Italy

In Italy, a notary<sup>5</sup> is a public official. Hence the documents prepared by an Italian notary are public instruments, i.e. documents backed by public faith and credit and, as such, having special legal validity. A document certified by an Italian notary is considered proof (i.e. it shall be considered true, also by courts) unless found to be false.

Thus, a notary may certify that the document is consistent with the intention of the parties and complies with mandatory laws (i.e. provisions of law that may not be superseded by parties’ will). Notaries also guarantee the veracity and legality of documents drawn up before them, providing personal assurance to clients as to contract legal soundness or other instrument being executed.

In Italy, notaries are self-employed professionals, providing impartial service for which they are legally responsible. They have extensive training in legal and fiscal matters and may practise their profession only after passing a national selective exam. It is therefore no coincidence that, as discussed in greater detail in previous sections, in the area of corporate law (as well as property and inheritance law), the Italian legal system requires notarisation for documents for which it is essential to ensure the highest degree of legality, as well as certify the identity of parties involved and content conformity with parties’ intentions. Furthermore, as notarisation requirements are established by law, the notary service rates are also set by law.

Notaries in Italy fall within the category of civil law notaries – rather than common law notaries (“notary public”) typical of the Anglo-American tradition and merely responsible for authenticating the signatures of those appearing before them. Therefore, as an Italian notary is required by law to protect the interests of all parties involved in executing the instrument concerned, such parties do not need additional legal counsel – unlike in common-law countries – in order to verify document legal validity. That ultimately results in considerable savings on professional fees and a significantly reduced risk of subsequent disputes over the document validity.

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5) For a detailed analysis of the notary profession in Italy, see the website “Consiglio Nazionale del Notariato” - [www.notariato.it](http://www.notariato.it).



## 3. Italy's Real Estate Law

### 3.1 Natural and Legal Persons

The persons bearing rights within the Italian juridical system are itemised as follows:

- Natural persons: Individuals
- Legal persons: Entities (of varying degrees of complexity) composed of natural or legal persons and whose assets are distinct from their components' (e.g. corporations).

### 3.2 Property Categories

Property is intended as items/assets over which rights may be exercised. It is essential to differentiate among the following categories:

- Real estate (or real property - immovable assets): land (including water sources and water courses) and all items annexed to the soil either naturally (e.g. trees) or artificially (e.g. buildings).
- Personal property (movable assets): all property assets other than real estate
- Registered personal property: personal property assets recorded in ad-hoc registers (e.g. ships recorded in the Italian shipping register – RINA, Registro Italiano Navale; or automobiles recorded in the Italian automobile public register – PRA, Pubblico Registro Automobilistico).

### 3.3 Possession and Detention of Real Estate

A natural or legal person may exercise the following rights over property assets:

- Possession - The power exercised over the property asset is such as to exclude a third party from exercising an analogous power
- Mere detention - Use of the property asset by one party, while recognising that other parties exert property rights.

Possession for a natural or legal person may consist of one of the following categories of real rights under civil law:

- Ownership right
- Right of enjoyment of the property owned by another party. The category includes:
  - Superficie (Superficies) – Limited right of ownership under which a person may build and own works above or below the ground level, which remain the property of another party (“nuda proprietà”)
  - Enfiteusi (Emphyteusis) – A party has the same power of enjoyment of real estate assets (usually for agricultural use) as the owner; nevertheless the



rightholder has the obligation to improve the land and pay the owner a periodic rent

- Usufrutto (Usufruct) – Right to enjoy real estate assets owned by another party, retaining any property product with an obligation to preserve its original intended use
- Uso e Abitazione (Use and Habitation) – Limited usufruct. Specifically: “Use” consists in the right to use another party’s property and, whereby productive, to gather the fruits to the extent necessary for the needs of the rightholder and his/her family; “Habitation” consists in the right to inhabit a building owned by another party within the limits of the needs of the rightholder and his/her family
- Servitù Prediale (Praedial Servitude) – Encumbrance on land (“servient tenement”) for the utility of other land (“dominant tenement”) belonging to a different owner. For instance, a right of way entitles the owner of the dominant tenement to pass over the servient tenement, and the latter owner is not entitled to prevent it.

On the other hand, a natural or legal person enjoys mere detention of real property assets in the following cases:

- Comodato (Gratuitous Use) – Contract under which one party (comodante) delivers to another party (“comodatario”) an asset/property for a specified time or use, with the obligation to return it but with no due payment of any consideration
- Locazione (Rental) – Contract under which one party (locatore) undertakes to allow another party (conduttore) to use a given property assets for a specified period of time against payment of consideration
- Affitto (Rental of productive property) – Type of rental where the contract scope consists in productive property asset enjoyment (e.g. factory or business). In such case, the person enjoying the asset (affittuario) shall manage the property in accordance with its economic intended use, also enjoying the products and other benefits deriving from the property against payment of consideration
- Leasing – Contract under which one party (lessor) grants the enjoyment of a property asset to another party (lessee) for a certain period of time in exchange of periodic payments. At the agreed termination date, the lessee may (pursuant to contract terms) either:
  - Surrender the property
  - Continue to enjoy the property, paying a reduced fee
  - Request property replacement, or
  - Become owner of the property asset upon payment of a price lower than the amount paid had the lessee not already enjoyed the property.

Two types of leasing arrangements are applied:

- Finance leases – A trilateral relationship involving the “lessor” (a company acting as financial intermediary), the “lessee” (utilising the asset) and the producer of the leased asset

- Operating leases - The lessor is also the asset producer. The lease payment usually covers additional services such as assistance, maintenance and insurance.

Special mention should be made of “sale and lease back contracts”, under which the leased asset is purchased by the lessor directly from the lessee, so as to ensure to the latter both the necessary liquidity up front as well as enjoyment of the asset.

Real estate assets may be possessed or detained by a single natural or legal person or by a number of persons. Whereby a number of persons are property co-owners or co-holders of real right of enjoyment of assets, common ownership (comunione) occurs and, as a result, ad-hoc rules – having a common root – apply: the right of each participant may be exercised only to the extent of the proportion specifically attributable to him/her, even though participants have invested in the asset as a whole.

### 3.4 Purchasing Real Estate

#### Property acquisition methods

Agreements to sell real estate assets or establish real rights of enjoyment thereof shall be in writing. Such instruments are enforceable against third parties once they have been recorded in local real estate registers.

Ownership or a real right of enjoyment of real estate assets can be acquired through usucaption (usucapione), i.e. by virtue of continued, open possession for twenty years, despite the absence of title.

#### Due diligence

Whereby a real estate transaction is undertaken, several factors shall be considered, varying consistently with the specific transaction type and item. Among major factors:

- Cadastral Registration – Check the property is recorded in cadastral registers, which also contain tax information on the asset
- Encumbrances – Check whether any encumbrance is set on the property (notably, mortgages, easements and other restrictive covenants) via title search of real estate registers
- Land and urban-planning intended use certification – Check the intended use of the property assets as established by the competent municipality. Inter vivos acts for transfer of real rights on real estate assets covering at least 5,000 square metres of land are null and void if stipulated without the land and urban-planning intended use certification. Any subsequent change to the intended use of the asset requires ad-hoc prior authorisation
- Building permits – Verify with or request from the competent authority the building permits required for:

- Constructing new buildings
- Changing the intended use of existing buildings
- Carrying out renovation work that modifies constituent elements of a building.

For other types of works (usually inside buildings), no prior authorisation is required, provided that the competent local authorities are notified of the start-of-work date.

- Environmental issues – Check whether pollution-related problems exist with the property. Whereby pollution levels exceed legally allowed limits, the owner, the holder of the real rights for the polluted area and/or the polluter shall bear all the costs of reclaiming the polluted site or implementing safety measures aimed at eliminating future pollution threat. Reclamation shall be carried out in accordance with administrative procedures under competent authorities' oversight. Failure to implement the reclamation plan may be punishable with an administrative penalty and result in criminal liability
- Pre-emption right by MIBAC – Ministero per i Beni e le Attività Culturali (Italy's Ministry for Cultural Heritage) – Check whether historic building restrictions or archaeological restrictions are set on the real estate asset. MIBAC holds pre-emption right in the event of sale (or contribution of assets to companies) of properties located in Italy and having historic/archaeological value. In such cases, the relevant deed shall be filed (by the seller, except in specified cases) with MIBAC within 30 days. MIBAC may exercise its pre-emption right within 60 days from the filing date.

### Buildings yet to be constructed

Special rules introduced in 2005 apply to transactions involving the sale of a building yet to be constructed (also including buildings that, at the time of contract signing, have not yet been built or have not yet attained a construction stage allowing for occupancy certificate issuance).

Most noteworthy and socially relevant provisions include:

- Requirement for the builder to provide a warranty to the buyer guaranteeing an amount equal to the sum paid by the buyer, to be enforced in the event of builder's financial trouble (e.g. bankruptcy)
- Requirement for the builder to provide the buyer with ad-hoc insurance policy protecting the latter also from any risk deriving from property defects
- Establishment of a solidarity fund (in 2006) for buyers who have suffered losses stemming from builders' financial trouble.

A building yet to be built may be purchased through a variety of contractual arrangements, all of which establishing the property may not be immediately transferred. Such arrangements include:

- Preliminary contract – Final contract arrangements. The parties sign a so-called "preliminary contract", in which they mutually commit to signing a second contract (so-called final contract) at some time in the future, and define

the essential terms thereof. Ownership may be transferred only upon final contract signing

- Contract for future asset sale – A single contract is signed, but the ownership transfer is only perfected when the entire asset has come into full existence
- Leasing<sup>6</sup>.

## 3.5 Rentals

### a) for residential use

Residential rental agreements are governed by specific provisions that apply to most types of buildings (buildings of artistic or historic importance are excluded).

The parties concerned may stipulate a rental arrangement through:

- Free contracts – The parties freely set the rent and its adjustments. Such contracts are valid for four years and, unless otherwise agreed, may be renewed for a further four years
- Standardised contracts – The contracts follow the form agreed between the major property owners' and renters' representative organisations. The term may not be shorter than three years and, at the end of the first term, unless the parties agree otherwise, such contracts are automatically renewed for a further two years<sup>7</sup>, with specific exceptions.

In both cases, the tenant may, for good cause, withdraw from the contract at any time, via six-month prior written notice to the owner.

### b) for non-residential use

Rental contracts for non-residential use (e.g. industrial or hotel properties) are governed by special rules.

The distinction between a rental for non-residential use and a rental for productive property lies in the fact that in the former case the contract solely concerns the property enjoyment, while in the latter case it comprises property enjoyment along with business activity management.

Rental contracts for non-residential use property envisage a minimum six-year term (nine for hotel property rentals) and are tacitly renewable for a further six years (nine years for hotel property rentals), unless one party provides the other with twelve-month prior written notice of its intention to withdraw from the agreement (eighteen months for hotel property rentals). In addition, prior to the end of the first term, owners may refuse renewal only in specific circumstances – i.e. whereby they intend to:

- Use the property as their own residence, or intended to their spouse or relatives (descendants and ascendants to the second degree)

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<sup>6</sup>) See page 28.

<sup>7</sup>) In some circumstances (e.g. either work or health related reasons), the parties may agree to a term of fewer than three years ("short-term contracts").

- Use the property for a business activity of their own, of their spouse or relatives (descendants and ascendants to the second degree)
- Carry out substantial renovation works on the property.

The rent can be freely set by the parties, apart from the periodic increases provided for by law.

In the event of rental agreement termination not due to breach, withdrawal or cancellation by the tenant, the latter is entitled to compensation equal to eighteen months' rent (twenty-one months for hotel property) based on the amount of the last month's rent paid.

Compensation is doubled in the event the property is used by the owner or a new tenant for an activity similar to that conducted by the outgoing tenant within one year from previous contract termination. Nevertheless, no right to compensation occurs whereby:

- The property is used for activities not involving contact with the public
- The property is used for professional activities or temporary nature activities
- The agreement regards the rental of buildings serving railway stations, ports, airports, highways, service areas, hotels and resorts.

### 3.6 Business

A business (azienda) is an aggregation of property assets (real estate, personal property and registered personal property) organised by entrepreneur(s) in order to conduct the enterprise. In other words, a business is the set of assets through which entrepreneurs (whether as a sole proprietor or a company) carry out their activities.

A business (or business division – "ramo d'azienda", i.e. with operational autonomy) may be transferred along the following patterns:

- Sale – The seller is prohibited for a period of no more than five years from engaging in a business competing with the purchaser's business, unless the parties agree otherwise
- Rental and usufruct – In both cases, special rules apply, including:
  - Obligation for tenant (affittuario) and usufructuary to conduct the enterprise activity through the same firm (ditta), i.e. the trade name under which the business activity is conducted, which distinguishes the business
  - Obligation for tenant and usufructuary to manage the business without changing its intended use
  - Obligation for owner and usufruct grantor to refrain from engaging in an activity competing with tenant and usufructuary's activities throughout the rental or usufruct term
- Contribution to company capital, as a result of which the transferor, in exchange for the business (or business division), receives a stake in the share capital of the transferee.

### 3.7 Investment Funds

Asset management companies (Società di Gestione del Risparmio - SGR) establish and manage investment funds, through which they invest units subscribers' savings.

An initial distinction is to be made between:

- Open-end funds – Subscribers may request units redemption at any time as provided for in the fund regulation (i.e. the document describing the fund characteristics, its operation, participation methods, units redemption procedures, etc.)
- Closed-end funds – Subscribers may request units redemption only at established dates.

A further distinction concerns the type of investment made, namely:

- Securities investment funds – which invest in securities (equities, bonds, government securities)
- Real estate investment funds (only closed-end) – which invest in real estate, real rights of enjoyment of real estate assets and shares in real estate companies.

### 3.8 Listed Real Estate Investment Companies

Società di investimento  
immobiliare quotate

“Società di Investimento Immobiliare Quotate – SIIQs” (namely, listed real estate investment companies) were introduced in Italy in 2007, inspired to Real Estate Investment Trusts (“REITS”) in the United States.

Companies that elect to adopt SIIQ status receive special tax treatment. Company qualification is subject to compliance with specific requirements, namely:

- Company shall be an either: (i) S.p.A. (Società per Azioni), namely a joint stock company, domiciled in Italy for tax purposes and whose primary business is real estate asset rental; or (ii) a corporation resident in other European countries – in such case, the relevant regulation will be applicable to such corporations as per “stable organisations”<sup>8</sup>
- Company shares shall be traded on a regulated European market
- No shareholder may directly or indirectly hold more than 51% of the voting rights and more than 51% of the rights to share in the profits
- At least 35% of the company shares shall be held by shareholders who do not directly or indirectly own more than 2% of the voting rights and more than 2% of the rights to share in the profits.

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<sup>8</sup> As per the Unified Text on Income Tax (TUIR – Presidential Decree N° 917 dated 22 December 1986), “Stable Organisation” means “permanent business offices where the resident corporation fully or partially runs its business on State territory”.



## 4. Intellectual and Industrial Property Rights

### 4.1 A Secure Setting for Innovation

Foreign companies investing in the Italian market can rely on the same legal protection of Intellectual Property Rights (IPR) granted to Italian companies, and covering all the key areas (patents, trademarks, copyright and designs) that foreign companies are used to enjoying in their home countries. The foundations of this legal certainty rest on Italy's membership of and respect for all the leading international agreements/treaties on IPR.

As a founding member of the European Union, Italy is at the forefront of European IPR developments and provides some of the most modern and up-to-date intellectual property practices in the world. Recently introduced innovations include new measures to combat counterfeiting, protection for internet-related intellectual property rights, merging and simplifying patent and trademark rules, and the advent of online filing options for applications (for further information: [www.wipo.int](http://www.wipo.int)).

### 4.2 International IP Agreements/Treaties Ratified by Italy

#### International IP Treaties ratified by Italy\*

Paris Convention for the Protection of Industrial Property (signed in 1883)

Bern Convention for the Protection of Literary and Artistic Works (signed in 1887)

Madrid Agreement Concerning the International Registration of Marks (signed in 1894)

Madrid Agreement for the Repression of False and Deceptive Indications of Source on Goods (signed in 1951)

Nice Agreement signed in 1957 concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (came into force on 1961)

Lisbon Agreement for the Protection of Appellations of Origin and their International Registration signed in 1958 (came into force on 1968)

European Patent Convention (EPC) (signed in 1973)

Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations signed in 1961 (came into force on 1975)

Locarno Agreement Establishing an International Classification for Industrial Designs signed in 1968 (came into force on 1975)



Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms signed in 1971 (came into force on 1977)

International Convention for the Protection of New Varieties of Plants (UPOV) and Contracting Parties to the International Convention for the Protection of New Varieties of Plants (UPOV) signed in 1961 (came into force on 1977)

Strasbourg Agreement Concerning the International Patent Classification (1980)

Brussels Convention Relating to the Distribution of Program-Carrying Signals Transmitted by Satellite signed in 1974 (came into force on 1981)

Patent Co-operation Treaty (PCT) signed in 1970 (came into force on 1985)

Hague Agreement Concerning the International Deposit of Industrial Designs signed in 1961 (came into force on 1987)

Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure signed in 1977 ("Institution" Advanced Biotechnology Center - ABC, came into force on 1996)

Protocol relating to the Madrid Agreement Concerning the International Registration of Marks signed in 1989 (came into force on 2000)

Agreement on Trade Related Aspects of Intellectual Property Rights signed in 1994 (came into force on 1995)

Patent Law Treaty (PLT) (signed in 2000)

*\*) For further information: [www.wipo.int](http://www.wipo.int)*

## 4.3 Italy's IP Legislation: Basic Principles

### Patent Law

Under the Italian system, new products or processes may be patented in any technological field.

It is not allowed, however, to patent methods for human or animal therapy, plant varieties or essentially biological methods for producing plants or breeding animals. The system in force does not acknowledge as "invention" any discovery, scientific theory or mathematic method, project, rule or method for intellectual or commercial activities, games and computer applications.

Filed inventions may be patented as long as they fulfil the following features:

- Industrial application, in one or more sectors
- Novelty: the filing party shall not disclose any information before the filing date of the patent application
- Inventiveness: the invention shall represent a technological advance that would be non-obvious to experts in the relevant field of industry.

The filing of an Italian patent can represent the basis for a claim in any member Country of the Paris Convention.

### Trademark Law

Italy's trademark system grants trademark owners the exclusive right to use new, lawful and distinctive signs capable of graphical representation, including the right to request seizure of any counterfeited goods, as set down in the TRIPs Agreement.

Under Italian law, three-dimensional graphically represented signs, sound and colour combinations and original shades of colours are also enforceable marks.

Using symbols aiming to indicate the trademark has been filed and/or registered is not mandatory under Italian law.

A trademark enjoys protection since the filing date with the UIBM - Ufficio Italiano Brevetti e Marchi (Italy's Patent and Trademark Office).

Protection is also granted to non-registered trademarks, in accordance with the Paris Convention on unfair competition.

Trademarks are valid for ten years from the filing date, renewable for an unlimited number of subsequent ten-year periods.

The international classification of goods and services in Italy is based on the Nice Agreement criteria.

Trademark licensing for all or part of the related goods and/or services may also be transferred.

### Copyright Law

Italy's copyright law is based on the principles of the Berne Convention for protection of literary and artistic works.

An author's original work is protected by copyright from the moment it is created. No application or other formalities are required to enjoy intellectual property protection.

Copyright protected works of authorship include literary works, motion pictures, musical works, sound recordings, software, databases, architectural works, and drawings amongst others.

Protection lasts for the author's lifetime plus a further seventy years. Different terms apply to secondary works of authorship.

### Design Protection

A "design" qualifies for protection whereby it features:

- Novelty: no such design was available to the public prior to the application filing
- Individual character: the overall impression provided to an informed user must differ from any other design publicly available prior to the application filing.

Following registration, the design is protected for one or more five-year periods from the filing date, renewable for a total of up to twenty-five years.

The registration of a design gives the holder(s) the exclusive right of use (i.e. to make, offer, put on the market, import, export) and of preventing any third party from using it without their prior consent.

#### 4.4 Italy's IP Legislation: Recent Developments

In the past five years Italy has further increased its Intellectual Property Rights protection system.

##### New Provisions

###### Setting up of 12 Intellectual Property Tribunals

Under Law Decree No. 168 of June 27, 2003, the Italian Government has established 12 Intellectual Property Tribunals (Sezioni Specializzate in materia di Proprietà Intellettuale) in the following major Italian cities: Bari, Bologna, Catania, Florence, Genoa, Milan, Naples, Palermo, Rome, Turin, Trieste, Venice.

###### Adoption of EC Directive 29/2001 on the harmonization of certain aspects of copyright and related rights in the information society (the "Information Society Directive")

Italy was one of the first EU countries to amend its domestic copyright laws to keep pace with the provisions of the Information Society Directive, embodying the provisions of the WIPO (World Intellectual Property Organization) Copyright Treaty and the WIPO Performances and Phonograms Treaty of 1996. Law Decree No. 68 of April 9, 2003, brought the changes into effect.

###### Setting up of the "Alto Commissariato per la lotta alla contraffazione"

Law Decree March 14, 2005 converted by Law no. 80 dated 14 May 2005 established an Anti-counterfeiting Committee to co-ordinate the fight against piracy and counterfeited goods. Administrative sanctions for individuals who put into the market counterfeited goods have been increased by from Euro 1,032 up to Euro 20,000.

###### "Made in Italy"

The 2004 Fiscal Law also recognized a new form of collective label to distinguish and increase demand for Italian-produced goods worldwide. Using the "Made in Italy" label on non-Italian originating goods and services is punishable by law. A National Fund of 35 million Euro in 2004, 55 million in 2005, and 35 million in 2006 has been available to encourage Italian companies to adopt the label.

Furthermore, in May 2002 the Italian Parliament granted the Government law-making powers to reorganise and update the current patent and trademark rules into a "Consolidated Text" (Testo Unico).

**Industrial Property Code**

Aiming to simplified procedures and enhanced coordination, on 10 February 2005 the Government enacted Legislative Decree No. 30/2005 (“New Industrial Property Code”), which provides for the following major changes to the previous regulation:

- Reorganisation into a single law of the regulation applicable to trademarks, patents and designs
- Introduction of “Industrial Property” wider definition
- Reform of the regulation applicable to inventions created by employees and researchers in universities and research public centres
- Reorganisation and enlargement of tasks entrusted to the UIBM (Italy’s Patent and Trademark Office)
- Better definition of the 12 Intellectual Property Tribunals competences, and application to legal proceedings on Industrial Property Rights of dispute resolution mechanisms and special procedures for corporate law disputes pursuant to Law 5/2003
- Stronger criminal sanctions for serious infringement of Industrial Property Rights
- New actions aimed at fighting piracy and goods counterfeiting.

The New Industrial Property Code provides for a new definition of Industrial Property which expressly includes origin designations (denominazioni d’origine), geographical indications (indicazioni geografiche), and company confidential information. Company confidential information is intended as “secret” information – its configuration is not known or easily accessible by sector experts; it has an economical value due to its secrecy; it is subject to adequate control procedures to keep such information secret; or it relates to tests conducted on products prior to their marketing.

With reference to inventions created by employees, in accordance with the New Industrial Property Code: they belong to the given employer as long as they relate to the tasks defined in the employment contract, and specific compensation is thus paid to the employee. If a specific compensation for the invention is not envisaged by the employment contract and the invention is created in the performance of the employment relationship, the invention, whereby patented, belongs to the employer but a fair compensation shall be paid to the employee. Whereby the above conditions are not met and the invention relates to the employer’s field of activity, the invention belongs to the employee but the employer is granted with an option right to use on an either exclusive or not exclusive basis, or purchase the invention.

Whereby an agreement is not reached between employer and employee on the amount of the fair compensation, or of the invention consideration, the assessment thereof is entrusted to a panel of arbitrators.

Online application and registration of utility models, trademarks, industrial and design patents is also admitted.

Criminal sanctions for infringement of Industrial Property Rights are now stricter. Furthermore, in determining the amount of damages arising from counterfeiting, the relevant judiciary courts shall be entitled to consider also the proceeds

obtained by the counterfeiter and the royalties he/she should have paid to be granted the license to use the Industrial Property Right infringed.

The Italian Government has moreover enacted a stricter regulation aimed at protecting Industrial Property owners by means of corrective measures, injunctions and damage compensation.

Furthermore, a new definition of piracy has been introduced, based on which piracy acts on Industrial Property Rights are deemed as those acts carried out with fraud and in a systematic way.

Article 133 of the above mentioned New Industrial Property Code specifically regulates domain names, and, specifically, enables the relevant judiciary authorities to issue a preliminary injunction as a consequence of illegal use of a domain name, or, otherwise, establish its temporary transfer.

The UIBM will offer online users access to a new database of Italian patents and trademarks.

## 5. Italy's Tax System

### 5.1 Italy's Tax System Reform

Italy's corporate taxation system recently underwent a major reform, with subsequent additional amendments.

The main features of the new tax system are:

- Reduction of corporate income tax rate (IRES) to 27.50%
- Partial exemption (95%) of capital gains on the sale of equity investments in companies registered either in Italy or abroad (so-called "Participation Exemption")
- Abolition of tax credit system for dividends and introduction of partial tax exemption (95%) of dividends from equity investments in companies registered either in Italy or abroad
- Introduction of a ceiling on the interest expense deductibility equal to 30% of the gross operating income of industrial or commercial companies
- Introduction of a ceiling on interest expense deductibility for financial companies (96%)
- Introduction of a group taxation mechanism under which Italian and foreign companies belonging to the same group may compute a single taxable income for the parent company resident in Italy
- Tax exemption of capital gains reinvested in start-ups.

### 5.2 Taxes and Withholdings

#### Direct Taxes

##### Individual Income Tax

Individual Income Tax (IRPEF) is governed by Italy's Income Tax Consolidated Text (Testo Unico delle Imposte sui Redditi – TUIR). Individuals resident in Italy for tax purposes are subject to IRPEF on income earned either in Italy and abroad. Individuals not resident in Italy for tax purposes are subject to IRPEF only on income earned in Italy. Taxable income is taxed at progressive rates currently ranging between 23% and 43%<sup>9</sup>.

##### Corporate Income Tax - IRES

Corporate Income Tax (IRES) is also governed by TUIR. Companies resident in Italy for tax purposes are subject to IRES for income earned in Italy and abroad. Companies not resident in Italy for tax purposes are subject to IRES only for income earned in Italy. Taxable income is taxed at a 27.50% rate<sup>10</sup>.

##### Regional Business Tax - IRAP

The Regional Business Tax (IRAP) is a local tax levied on the value of production generated in each tax period in Italian Regions by subjects engaged in business activities.

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<sup>9</sup>) For further details, see *Individual Income Tax* (page 57).

<sup>10</sup>) For further details, see *Taxation on Resident Companies* (page 51), and *Taxation on Non Resident Companies with Permanent Establishment in Italy* (page 51)

Non-resident companies are subject to IRAP only on the value of production generated by permanent establishments in Italian territory.

## Indirect Taxes

<b>Value Added Tax (VAT)</b>	Italian rules governing Value Added Tax (VAT - IVA) comply with the relevant Community directives. In principle, the system is designed so as to ensure such tax is only paid by final consumers, as businesses can generally deduct VAT paid at intermediate stages of production. VAT is generally levied on each sale of goods and/or services carried out in Italian territory. The ordinary VAT rate is 20%.
<b>Registration fees and other property transfer duties</b>	<p>Registration fees are levied on specific written instruments made in Italy or written instruments made abroad whereby they regard the transfer of real property or enterprises located in Italian territory. The tax base and applicable rate vary in relation to the type of instrument and the parties involved.</p> <p>Property transfers are also subject to other duties (namely: imposta ipotecaria and imposta catastale), due in respect of the formalities associated with the registration and/or transfers in public real estate/cadastral registers.</p> <p>Registration fees and other property transfer duties are either fixed (€168.00) or proportional to the value of the asset being transferred – i.e. 3% - 15% rates for registration fees depending on the instruments or assets involved; 2% for imposta ipotecaria, and 1% for imposta catastaria</p>
<b>Municipal Property Tax - ICI</b>	Municipal Property Tax is annually due from owners and holders (resident in Italy or abroad) of real rights in immovable property located in Italian territory, with the exception of households' primary residence. The tax base is equal to the value in the relevant property registers, stemming from the imputed property income multiplied by a given coefficient. The rate is set by each municipality within a range varying between 0.04% and 0.07%.
<b>Inheritance Tax</b>	Inheritance Tax is applied to transfers of assets or rights as a result of death (with the exception of transfer of Italian government securities, receivables from the Italian State, or units in investment funds in the amount of any Italian government securities held). Inheritance Tax is levied on the value of the individual shares assigned to each heir at a rate varying between 4% and 8%.
<b>Donor's Tax</b>	<p>Donor's Tax is applied to transfers of assets or rights as a result of donations or other gratuitous transfers, and to establishment of restrictions on intended use.</p> <p>Donor's Tax is levied on the value of individual shares assigned to each beneficiary at a rate varying between 4% and 8%.</p> <p>In the case of immovable property, the imposta ipotecaria (2%) and the imposta catastale (1%) are due in addition to inheritance or donor's tax, without prejudice to the benefits applicable to primary residences.</p> <p>Transfers of enterprises or controlling stakes in enterprises to descendants or spouses are exempt from inheritance or donor's tax. The beneficiary is required to continue the business activity or retain control for five years from the transfer date.</p>

## Withholding Taxes

The three main withholding taxes are levied on dividends, interest and royalties.

### Withholding Taxes on Dividends

Dividends distributed by Italian or non resident companies received by individuals outside the scope of a business activity are subject to a 12.5% withholding tax in settlement of whereby they concern non-qualifying holdings.

Qualifying holdings consist of shares (other than savings shares) and any other investment in the capital or equity of a company to which are attached voting rights in the ordinary Shareholders' Meeting exceeding 2% or 20%, if the securities are traded on a regulated market, or 5% or 25% in other cases.

Dividends received by individuals outside the scope of a business activity regarding a qualifying holding in Italian companies are not subject to withholding tax, whereas those regarding foreign companies are subject to a 12.50% withholding tax on account for the taxable portion of profit – i.e. 49.72% of the total (with a consequent filing requirement and deduction of any credit for taxes paid abroad), net of any withholding tax applied in the foreign country. In applying the withholding, account is taken of double taxation agreements which could provide for the reduction or elimination of the tax.

Whereby dividends are distributed by a foreign company resident in a State under a privileged tax regime (tax havens), they shall be subject to taxation in full, unless the taxpayer receives a positive response to an opinion request (interpello<sup>11</sup>) from the Revenue Agency.

Dividends received by parties other than individuals not resident in Italy are generally subject to a 27% withholding tax in settlement (the rate is reduced to 12.5% for dividends paid to holders of savings shares). However, whereby non-resident parties are companies or entities subject to corporate income tax in the countries entered in the so-called white list, the rate is equal to 1.375%.

### Withholding Tax on Interest

In principle, interest on current accounts and deposit accounts with banks, as well as bonds and similar securities, received by persons resident in Italy for tax purposes is subject to a withholding tax of either 27% or 12.5%, generally applied on account (gross interest is included in taxable income and the withholding is deducted from the gross tax). However, whereby the interest is received by residents outside the scope of a business activity, the withholding tax is applied in settlement and interest is not part of the overall taxable income.

Interest on current and deposit accounts, as well as bonds and similar securities, received by non-residents is not subject to any withholding tax, with the exception of persons resident in tax havens, for whom a 12.50% withholding tax applies.

In general, interest on loans is subject to a 12.5% withholding tax on account if received by persons resident in Italy for tax purposes other than persons engaged in the business activity. If interest is received by persons not resident in Italy for tax purposes, the withholding tax is applied in settlement.

The withholding tax rises to 27% whereby the recipient is resident in a tax haven as

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<sup>11</sup> See Opinion requests (page 56).



identified in ad-hoc ministerial decree.

The withholding tax may be applied at a lower rate if so provided for in any double taxation agreement<sup>12</sup> between Italy and the recipient's residence State.

In compliance with the EU Interest and Royalties Directive, withholding tax is not due on interest paid by companies resident in Italy for tax purposes or by permanent establishments in Italy of companies resident in the European Union to (i) resident companies, or (ii) permanent establishments of companies resident in other Member States of the European Union. In accordance with the Directive, the benefit is applicable if requirements concerning minimum holdings are fully met.

**Withholding Tax on Royalties** Royalties generated in Italy and received by subjects not resident in Italy for tax purposes are subject to a 30% withholding tax in settlement.

In specific cases, the taxable amount is reduced by 25% of total royalties. The withholding may be applied at a lower rate if so provided for in any double taxation agreement<sup>13</sup> between Italy and the recipient's residence State.

In line with the EU Interest and Royalties Directive provisions, withholding tax is not due on royalties paid by companies resident in Italy for tax purposes or by permanent establishments in Italy of companies resident in the European Union to (i) companies resident for tax purposes, or (ii) permanent establishments of companies resident in other Members States of the European Union. In accordance with the Directive, the benefit is applicable if requirements concerning minimum holdings are fully met.

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<sup>12</sup> See *International Agreements/Treaties*, page 52

<sup>13</sup> *ibidem*

## 5.3 Taxation on Corporations Resident in Italy

### Corporate Income Tax - IRES (Imposta sul Reddito delle Società)

#### Entities subject to corporate income tax, rate and tax period

Corporate Income Tax (IRES) applies both to corporations either resident or not resident in Italy.

Companies resident in Italy for tax purposes are subject to IRES both for income earned in Italy and income earned abroad.

Companies not resident in Italy for tax purposes are subject to IRES only for income earned in Italy.

For tax purposes, the following forms of corporation are considered resident in Italy:

- Società per Azioni (S.p.A.)
- Società a responsabilità limitata (S.r.l.)
- Società in accomandita per azioni (S.a.p.a.).

Also considered Italian residents are foreign companies and entities having their administrative headquarters or their main activities in Italian territory for most of the tax period. In specific circumstances, the administrative headquarters of foreign companies and entities is presumed to be located in Italy in any case.

Partnerships (società in nome collettivo, società in accomandita semplice) are not subject to IRES. The income produced by such entities is usually taxed pursuant to the rules envisaged for Individual Income Tax (IRPEF)<sup>14</sup>, with the income being directly attributed to partners on the basis of their percentage holding in the entity. However, partners may elect to tax such income separately at the same rate envisaged for IRES (27.50%). The option may be exercised on the condition that such income is not distributed (pursuant to ad-hoc ministerial decree establishing the relevant implementation provisions).

For tax purposes, the tax period coincides with the financial year, as established in the Articles of Association or By-Laws. If not otherwise specified, the tax period coincides with the calendar year. The IRES rate is equal to 27.50%.

#### Trusts

Trusts whose registered office is in Italy and foreign trusts whose administrative headquarters and/or primary business are in Italy, are also subject to IRES.

The headquarters of foreign-registered trusts are presumed to be located in Italy if the trust is established in a country on the black list and:

- At least one of the trustors and at least one of the beneficiaries are resident in Italy for tax purposes; or
- An Italian resident makes a contribution to the trust involving transfer of

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<sup>14)</sup> For further details, see *Individual Income Tax* (page 57).

ownership of immovable property or establishment of restrictions on the intended use of such property.

### Taxable income

Taxable income is determined pursuant to TUIR provisions. Generally speaking, all income received by corporations resident in Italy for tax purposes is considered as corporate income (redditi d'impresa), regardless of its nature, and is taxed in accordance with the rules governing its specific category.

Taxable income is composed of net income produced (anywhere) over the tax period, as reported in the income statement, adjusted up or down in accordance with TUIR provisions. Taxable income does not include exempt income and/or income subject to withholding tax in settlement.

Without prejudice to a number of specific exceptions, the positive and negative components of income are considered on an accruals basis for tax purposes (one exception concerns dividends, included in taxable income on a cash basis). In order to determine taxable income for IRES purposes, it is necessary to distinguish between positive and negative components of income.

### Positive components of income

- Revenues

Revenues include proceeds from: a) sale of goods and services whose production or exchange is the business focus; b) sale of raw and ancillary materials and semi-finished goods; c) sale of shares, bonds and similar securities not classified as non-current financial assets.

- Capital gains

Capital gains include the positive income components generated by the sale of company assets other than revenue-generating assets (typically, capital gains are generated by the sale of non-current assets).

Capital gains are included in taxable income for the tax period in which they are performed or, whereby the assets have been held for at least three years, in equal instalments through five years beginning in the year they are performed. Such rules also apply to capital gains generated by equity investments (other than those qualifying for participation exemption) recognised under non-current financial assets in the last three financial years.

### Participation Exemption

#### Partial exemption of capital gains on the disposal of equity investments

95% of capital gains realised by companies resident in Italy for tax purposes on the disposal of equity investments in corporations/partnerships resident in Italy or abroad are IRES-exempt.

Equity investments eligible for such treatment are those classified as non-current financial assets, engaged in commercial activities, held continuously for at least twelve months and resident for tax purposes in a country or territory other than a tax haven (white list countries).

Capital losses, write-downs and expenses related to the disposal of equity

investments qualifying for the participation exemption are not deductible.

#### **Exemption of capital gains on the disposal of equity investments reinvested in start-ups**

Capital gains earned by resident individuals and non-residents of any nature on the disposal of equity investments in partnerships and corporations established no more than seven years earlier and held for at least three years do not form part of taxable income whereby they are reinvested in companies engaged in the same business within two years of their performance.

#### **Partial exemption of dividends**

Dividends received from corporations resident for tax purposes in Italy or a State or territory other than a tax haven are excluded from taxable income for IRES purposes in the amount of 95%.

#### **Negative components of income**

In general, negative components of income (costs and expenses) can be deducted from taxable income as long as they:

- Are related to the business, i.e. contribute to producing taxable income
- Are acknowledged in the income statement.

Costs and expenses generally related to the production of exempt income and taxable income can be deducted in an amount corresponding to the ratio of taxable revenues to total revenues.

#### **Interest – Deductibility ceiling**

Industrial and commercial companies can fully deduct interest expense and similar charges (not capitalised in the cost of assets) in an amount equal to interest income and similar revenues. The excess may be deducted up to a ceiling of 30% of Gross Operating Profit – GOP (Risultato Operativo Lordo – ROL). GOP (ROL) is equal to the difference between item A (Production Value) and item B (Production Costs) in the income statement, increased by depreciation and amortisation of property, plant and equipment, and intangible assets and lease payments.

Interest expense that cannot be deducted (due to limit exceeding) can be carried forward to subsequent tax periods if and to the extent in which the amount of interest expense and similar charges for such periods is less than 30% of GOP (ROL).

As from 1 January 2010, the GOP (ROL) portion not used in a given tax period as it exceeds interest expense may be carried forward to increase GOP (ROL) in subsequent years.

Specific rules apply in the case of companies participating in the consolidated taxation mechanism<sup>15</sup>.

A 96% ceiling on interest expense deductibility was also introduced for financial companies.

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<sup>15</sup> See: *Taxation on a consolidated basis* (p. 48).

### Tax losses, withholding taxes and tax credits

#### Tax losses

Tax losses arising in a given tax period can be deducted from taxable income in subsequent periods up to a maximum of five years. Tax losses may not be deducted from taxable income generated in previous tax periods.

Tax losses arising in the first three tax periods following the company establishment date may be deducted from total income in subsequent tax periods with no time limit, as long as losses concern a new business.

#### Withholding taxes

Income received by corporations resident in Italy for tax purposes are subject to withholding tax in a limited number of situations (e.g. interest on current and deposit accounts, interest on specific bonds and similar securities).

Dividends and royalties are not subject to withholding tax.

Withholdings on income received by companies resident for tax purposes in Italy are generally made on account, and thus represent an advance payment of IRES. Income subject to withholding tax is included in the recipient's taxable income, and withholdings are subsequently deducted from gross IRES.

#### Credits for taxes paid abroad

If taxable income includes income earned abroad, corporations resident in Italy for tax purposes are entitled to deduct any tax effectively paid on such income abroad from their gross IRES liability.

Tax credit for paid taxes is equal to the lesser of:

- Tax paid abroad
- Portion of Italian tax related to the income earned abroad (on the basis of the foreign income ratio to overall gross income).

A number of double taxation agreements introduced by Italy grant specified tax credit to individuals resident in Italy for tax purposes, even whereby the tax levied in their origin State is less than the credit, or no taxes are levied at all.

### Taxation on a consolidated basis

Companies resident in Italy for tax purposes belonging to the same group may elect to adopt the consolidated taxation mechanism.

Under such mechanism, the subsidiaries' income is attributed to the parent company.

Exercising the consolidated taxation option therefore involves calculating a single taxable income for the entire group, represented by the algebraic sum of the companies' net profit or loss included within the consolidation scope.

Regardless of the size of the stake held by the parent company, the consolidation process considers the entire net income of subsidiaries.

The taxation mechanism enables offsetting the taxable income of some group companies against the tax losses generated by other group companies.

The option of electing consolidated taxation is subject to compliance with a number of conditions, namely:

- The parent company shall be resident in Italy for tax purposes or, if resident abroad, shall be resident in a country with which Italy holds a double taxation agreement. In addition, its holdings in the companies included in the consolidation scope shall be attributable to a permanent establishment in Italy
- Subsidiaries shall be resident in Italy for tax purposes, subject to the ordinary IRES system and not benefiting from any tax rate reduction
- Consolidated companies shall be controlled by their respective parent company. To such end, as from the start of each tax period the parent company shall directly or indirectly hold a majority of voting rights in the ordinary Shareholders' Meetings of the subsidiary, and be directly or indirectly entitled to more than 50% of the subsidiary profits
- The parent company and its subsidiaries shall follow the same financial year (i.e. the same tax period) and shall exercise the option for consolidated taxation jointly.

The option election has duration of three years and may not be revoked.

The consolidated taxation mechanism does not have to be adopted by all subsidiaries.

Group taxable income is determined by the parent company as the algebraic sum of the taxable income of each consolidated company.

Non-deductible interest expense and similar charges attributable to a participant in the consolidated taxation mechanism (i.e. expense exceeding 30% of GOP - ROL<sup>16</sup>) can be used to reduce group taxable income if and to the extent other participants in the consolidated taxation mechanism have not entirely used the available GOP (ROL) for deduction. The rule also applies for any excess carried forward, with the exception of excess generated prior to participation in the consolidated taxation mechanism. To such end, under specific conditions, the GOP (ROL) attributable to the group's foreign companies may also be computed whereby the latter would satisfy the requirements for participation in the consolidated taxation mechanism if resident in Italy.

#### Taxation on a pass-through basis

Under the rules governing taxation on a pass-through basis (i.e. transparency regime), shareholders of corporations resident in Italy for tax purposes can elect to include the income of the companies in which they own a stake in their own taxable income(s).

More specifically, under the pass-through taxation mechanism, the corporation taxable income is directly attributed to each shareholder in proportion to its holding in the company. The option of electing pass-through taxation may only be exercised if a number of specific conditions have been met, including:

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<sup>16</sup> See Interest - Deductibility Ceiling (page 47).

- Shareholders shall be corporations resident in Italy or resident abroad if the latter are not subject to withholding tax at source on dividends
- The percentage holding in profits and voting rights in the Shareholders' Meeting held by each shareholder shall be no less than 10% and no greater than 50%
- The option shall be jointly elected by the company and all its shareholders. The option election has a three-year duration and may not be revoked.

### **Regional Business Tax - IRAP (Imposta Regionale sulle Attività Produttive)**

The Regional Business Tax (IRAP) is a local tax levied on the value of production generated in each tax period in Italian Regions by, among others, corporations resident in Italy for tax purposes.

The Reform required the Government to gradually eliminate IRAP by first enabling the gradual deduction of labour costs and other currently non-deductible costs from taxable income as calculated for IRAP purposes.

#### **Taxable income and tax rate**

Taxable income for IRAP purposes is equal to the net value of production generated in each Italian Region and calculated as the difference between the macro-categories A and B (with the exception of a number of items) of the income statement as drawn up on the basis of Italian National Accounting Standards (for entities drawing up their financial statements in accordance with International Accounting Standards - IAS, the corresponding items are considered).

For industrial and commercial enterprises:

- Positive components include all income, with the exception of: a) capital gains generated by the disposal of companies and equity investments); b) specified extraordinary income components; c) financial income (dividends, interest)
- Negative components include all costs and expenses, with the exception of: a) labour costs (with some exceptions); b) interest and finance charges; c) specified capital losses and negative components of extraordinary income. IRAP is not deductible from taxable income as calculated for IRES purposes. Industrial and commercial companies are subject to an ordinary IRAP rate of 3.9%. Regions may however change the rate by up to one percentage point for some specific sectors. Whereby the rate is changed by Regions, it is adjusted on the basis of a 0.9176 coefficient.

The production value is considered to be produced in a given Region if the company has a fixed office located in the given Region for at least three months of the tax period. The net value of production is allocated among the Regions in which the company's business is conducted on the basis of labour costs attributable to each Region.

A number of deductions from IRAP taxable income are envisaged for

- New hiring
- Research and development personnel

- Employees hired upon permanent contracts

in order to reduce the so-called “tax wedge”, i.e. the difference between the overall cost incurred by the enterprise for employees and the net compensation received by such employees.

## 5.4 Taxation on Non-Resident Corporations with Permanent Establishment in Italy

### Corporate Income Tax (IRES)

The income earned by companies not resident in Italy for tax purposes through a permanent establishment in the Country is considered as Italian source income and is therefore subject to IRES. Except for a number of specific exceptions, the definition of permanent establishment as per TUIR equals the definition provided by the OECD Model Double Taxation Convention.

In general, comprehensive income produced by non-resident companies through permanent establishment in Italy shall be calculated on the basis of a specific income statement for the permanent establishment operations, pursuant to the same rules governing the accounts of companies resident in Italy for tax purposes.

However, for permanent establishments in Italy of non-resident companies, a number of components of income generated in Italy and directly received by the foreign company (i.e. without permanent establishment participation) are nevertheless included in the taxable income of the permanent establishment (so-called “force of attraction” of the permanent establishment).

More specifically, the “force of attraction” operates for:

- Capital gains and losses of assets associated with commercial activities conducted in Italian territory
- Profits distributed by corporations and entities resident in Italy for tax purposes
- Capital gains on the disposal of assets located in Italy and equity investments in companies resident in Italy for tax purposes.

Generally speaking, the force of attraction of the permanent establishment does not operate whereby the foreign company is resident, for tax purposes, in a Country with which Italy holds a double taxation treaty or agreement<sup>17</sup>. In this case, the income attributable to the permanent establishment is solely limited to the corporate income actually produced by that given establishment.

### Regional Business Tax (IRAP)

Non-resident companies are subject to IRAP only on the value of production generated by permanent establishments located in Italian territory. The value of production is calculated in accordance with the same rules applied to resident companies.

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<sup>17</sup>See *International Agreements/Treaties* (page 52).



## Branch Tax

Italian tax legislation does not establish any additional tax on the repatriation of income earned by non-resident companies through permanent establishments in Italy.

## 5.5 International Agreements/Treaties and Community Directives

Italy has established agreements/treaties with the following countries to avoid double taxation:

### Double Taxation Agreements and Treaties

Albania	Ecuador	Israel	Netherlands	Tanzania
Algeria	Egypt	Yugoslavia***	Pakistan	Thailand
Argentina	United Arab Emirates	Kazakhstan	Poland	Trinidad and Tobago
Australia	Estonia	Kuwait	Portugal	Tunisia
Austria	Ethiopia	Lithuania	United Kingdom	Turkey
Bangladesh	Philippines	Luxembourg	Romania	Ukraine
Belgium	Finland	Macedonia	Russia	Uganda
Brazil	France	Malaysia	Senegal	Hungary
Bulgaria	Georgia	Malta	Syria	Soviet Union ****
Canada	Ghana	Morocco	Singapore	Uzbekistan
Czechoslovakia*	Germany	Mauritius	Spain	Venezuela
China**	Japan	Mexico	Sri Lanka	Vietnam
Cyprus	Greece	Mozambique	United States	Zambia
South Korea	India	Norway	South Africa	
Ivory Coast	Indonesia	New Zealand	Sweden	
Denmark	Ireland	Oman	Switzerland	

\* The agreement between Italy and Czechoslovakia applies to the Czech Republic and the Slovak Republic.

\*\* The agreement between Italy and China does not apply to Hong Kong or Macao.

\*\*\* The agreements between Italy and Yugoslavia apply to Serbia and Montenegro, Croatia, Slovenia and Bosnia Herzegovina.

\*\*\*\* The agreement between Italy and the Soviet Union applies to: Belarus, Moldova, Armenia, Azerbaijan, Kyrgyzstan, Tajikistan and Turkmenistan.

Such agreements/treaties generally establish more favourable tax treatment for subjects not resident in Italy than would normally apply under domestic legislation.

Most of the above agreements/treaties are based on the OECD Model Double Taxation Convention.

### **The EU Parent-Subsidiary Directive**

Italy has transposed the provisions of the EU "Parent-Subsidiary Directive", intended to prevent double taxation of the profits produced by companies resident in a given EU Member State for tax purposes (subsidiary companies) and distributed to companies resident in another EU Member State for tax purposes (parent companies).

Under the new rules governing dividend taxation, dividends received by parent companies resident in Italy for tax purposes are IRES-exempt in the amount of 95%, regardless of the percentage holding in the subsidiary and period for which the investment is held.

Under specific circumstances, dividends received by a parent company resident in another EU Member State are exempt from withholding tax or are entitled to reimbursement of any withholding applied.

The parent company is eligible for exemption, whereby it inter alia holds a direct shareholding in a subsidiary resident in Italy for tax purposes equal at least to 10% for dividend distributions.

Withholding exemption is granted whereby the minimum shareholding in the Italian subsidiary has been held without interruption for at least one year as of the dividend payment date. Alternatively, the parent company may request reimbursement of the paid withholding tax once the minimum holding period has elapsed.

### **The EU Merger Directive**

Italy has transposed the provisions of the EU Directive on a common system of taxation on mergers, divisions, transfer of assets and exchanges of shares among companies resident for tax purposes in different EU Member States.

In line with the Directive provisions, Italy's tax law governs the conditions under which the tax neutrality envisaged for such restructuring operations shall apply.

### **The EU Interest and Royalties Directive**

The Directive abolishes withholding tax at source on payments of certain forms of interest and royalties between associated companies resident in different Member States of the European Union. The Directive establishes an exemption from all withholding taxes on interest and royalty payments in the source EU Member State, with taxation only in the Member State in which the beneficial owner of the payments is resident.

The Italian Government implemented the Directive via Legislative Decree 143 of 30 May 2005 (entered into force on 26 July 2005).

Entitlement to the exemption from withholding tax on payments made to companies resident in EU Member States is subject to the following conditions:

- The companies receiving the payments are final beneficiaries, not mere intermediaries
- The company making (receiving) the payment has a direct minimum holding of at least 25% of the voting rights in the company receiving (making) the payment, or a third company has a direct minimum holding of at least 25% of the voting rights in both the company making the payment and the company receiving it
- The shareholdings to which the voting rights indicated in the previous point are attached have been held without interruption for at least one year.

Satisfaction of the conditions and qualifications necessary to be eligible for the exemption shall be established by way of supporting documentation at the time the payment is made.

The implementing decree also introduces a 30% withholding tax on compensation paid to non-residents for use or grant for use of industrial, commercial or scientific equipment located in Italian territory.

## 5.6 Transfer Pricing

Transfer pricing refers to the set of rules that, for tax purposes, govern the determination of prices in international transactions between companies belonging to the same group.

Italian tax legislation establishes that the components of income generated by transactions with foreign companies belonging to the same group shall be measured at their so-called "normal value", i.e. on the basis of the average price of the same or similar goods and services in a free market at the same commercialisation stage.

In 1980, Italy's financial and tax authorities issued a circular illustrating methodologies and criteria for correct determination of transfer prices. In general, such criteria are compliant with the instructions issued by the OECD.

Taxpayers may ask tax authorities in advance to assess the appropriateness of the methodologies they have adopted.

The "International Ruling" procedure is completed with the signing of an agreement with the tax authorities, binding for a maximum of three years.

## 5.7 Foreign Subsidiaries and Associates

Italian law establishes provisions applicable to certain foreign subsidiaries and associates, namely Controlled Foreign Companies (CFCs<sup>18</sup>). Such rules are intended to prevent the allocation of taxable income to companies resident for tax purposes in Countries with privileged tax regimes (tax havens), identified on the basis of an ad-hoc ministerial decree.

More in detail, under specific conditions (e.g. percentage of holdings in the foreign company benefiting from the privileged tax regime), the income

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*18) Foreign Controlled Company (CFC) regulation, pursuant to Article 127-bis of TUIR.*

generated by the CFC, regardless of actual receipt, is attributed to the Italian shareholders in proportion to their shareholding size. In other words, regardless of the actual distribution of profits, the income generated by the CFC is included in the taxable income of the controlling party resident in Italy and, as such, is subject to Italian taxation.

CFC rules do not apply whereby:

- The CFC actually engages in industrial or commercial activities in the State in which it is located
- The shareholding does not give rise to a transfer of income to States where such income would enjoy a privileged tax regime.

In order to claim exemption from CFC rules, the parent company resident in Italy for tax purposes shall submit a prior request to Italy's Revenue Agency.

## 5.8 Taxpayer Requirements

### Income tax returns

Each year, taxpayers shall declare their taxable income by submitting a tax return to the relevant tax authorities.

Corporations resident in Italy for tax purposes shall submit their tax returns electronically by the end of the seventh month following the final month of their tax period.

Individuals resident in Italy for tax purposes shall submit their tax returns by 31 July, if electronically. Alternatively, individuals shall submit their returns in hardcopy (paper form) through an authorised intermediary (bank or post office) by 30 June.

### IRAP returns

Taxpayers subject to the Regional Business Tax (IRAP) shall submit separate corporate income tax returns compliantly with the same procedure followed for personal income tax returns.

### Payment deadlines

In general, payment of IRES and IRAP for each tax period is broken down into two advance payments and one final balance payment.

More specifically, for a given tax period:

- The first advance payment is due by the sixteenth day of the sixth month following the first month of the tax period
- The second advance payment is due by the final day of the eleventh month following the first month of the tax period
- The balance is due by the sixteenth day of the sixth month following the first month of the tax period.

In general, the same rules for payment of IRPEF and IRAP also apply to individuals resident in Italy for tax purposes.

## 5.9 Audits and Disputes

### Audits

Tax authorities conduct both formal and substantive audits of income tax returns.

Formal audits are designed to correct material errors and calculation mistakes made by taxpayers. The outcome of the check is notified to taxpayers, with a specification of the reasons for the adjustment to the amounts declared, which also enable the taxpayer to correct the data reported or settle the discrepancy quickly.

Substantive audits are intended to adjust taxable income or the VAT turnover reported by the taxpayer.

In such audits, the tax authorities may carry out inspections at the taxpayer's premises.

Following such checks, whereby omissions or violations are found, the competent tax authorities will issue an assessment.

### Deadlines for assessments

For the purposes of assessments related to income tax and VAT, the deadline is 31 December of the fourth year following the year in which the tax return was submitted.

If no tax return was submitted, the deadline is extended until 31 December of the fifth year following the year in which the return should have been submitted.

The above deadlines are doubled (31 December of the eighth year following the year in which the tax return was submitted or 31 December of the tenth year following the year in which the return should have been submitted) whereby the taxpayer has committed a violation for which the authorities are required to file a complaint accusing the taxpayer of one of the offences envisaged in Legislative Decree 74/2000.

### Disputes

Notices of assessments and/or penalties issued by tax authorities can be appealed to bodies responsible for adjudicating tax disputes.

Appeals against notices of assessments and/or penalties shall be lodged with the Provincial Tax Commission within 60 days from notification. Rulings of the Provincial Tax Commission may be appealed both by tax authorities and taxpayers to the Regional Tax Commission. The rulings of the latter may be appealed to the Court of Cassation (Corte di Cassazione – Italy's Supreme Court of Appeal) by tax authorities and taxpayers only for legality questions.

### Opinion requests

Taxpayers can request an opinion from tax authorities concerning interpretative uncertainties in the application of tax regulations to specific cases.

Taxpayers may also request a special type of opinion (pre-filing opinion) to govern international issues concerning transfer prices, royalties and dividends.

The response to the request is valid for three years and, assuming no change in the factual or legal circumstances, is binding on tax authorities.

## 5.10 Taxation on Individuals

Natural persons resident in Italy are subject to Individual Income Tax (IRPEF) on income produced in Italy and abroad.

Non-residents are only subject to IRPEF on their Italian income.

The tax period coincides with the calendar year.

### Tax residence

Residents are individuals who, for more than half of the tax period:

- Are entered in the Register of Italian residents; or
- Have their domicile or residence in Italian territory.

Pursuant to the Italian Civil Code, “residence” is the place in which individuals have their habitual abode, while “domicile” is the place in which their affairs are primarily conducted (the centre of their vital interests).

Unless otherwise demonstrated, residents also include Italian citizens removed from the Register of Italian residents who have emigrated to a State or territory with a privileged tax regime, as per ad-hoc ministerial decree.

### Income and taxable income - categories

IRPEF is applied to individuals with income falling within one of the following categories:

- Real property income
- Investment income (e.g. dividends, interest)
- Compensation of employees (e.g. salaries)
- Income from self-employment (e.g. professional fees)
- Corporate income
- Other income (e.g. capital gains on the sale of shares or similar securities).

Each of the above categories has different rules for determining taxable income.

Both exempt income and income subject to withholding tax in settlement (e.g. interest on bonds, dividends) are excluded from the calculation of taxable income.

Specific income components are taxed separately (except whereby the taxpayer elects to include such income in ordinary income, if envisaged as an option). These include severance pay, capital gains on the disposal of enterprises owned for more than five years, income from withdrawal from a partnership, and so forth. Separate taxation takes account of the fact that certain forms of income are formed over a number of years. Therefore, instead of the ordinary marginal IRPEF rate, income is taxed at the same rate that would apply to half of total income in the two previous years.

Compensation of employees earned from an activity performed abroad is taxed as per ad-hoc ministerial decree, regardless of the compensation actually received.

### Tax rates

The following tax rates (by income bracket) apply:

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

The gross tax is determined by applying IRPEF rates to global income, i.e. to the sum of all the incomes in the above categories, net of specific deductible expenses (medical expenses, alimony payments, and pension and welfare/social security contributions).

The net tax liability is determined by subtracting from the gross tax:

- Exemptions for employees (the amount declines as income increases)
- Standard deductions for specific categories of income (compensation of employees and similar income, income from self-employment, and corporate income for persons qualifying for simplified accounting)
- Other deductions (e.g. primary residence and medical expenses).

The tax to be paid is calculated by subtracting any tax credit and withholding tax on account from the net tax.

The global income calculated for tax purposes, net of deductible expenses, is also subject to a regional IRPEF surtax, ranging between 0.9% and 1.4%, and a municipal IRPEF surtax – the rate is set by the State with a consequent reduction of IRPEF rates (to date, no rate has been established). Individual municipalities may adjust the base rate up to a maximum of 1.2%.

## 5.11 International Accounting Standards (IAS)

Article 25 of Law 306 of 31 October 2003 concerning the exercise of the options provided for by Regulation (EC) 1606 of 2002 granted the Italian Government enabling authority to extend the adoption of international accounting standards to the separate financial statements of listed companies in Italy, as well as to the separate and consolidated financial statements of other companies whose securities are not listed on regulated markets in the European Union. The Decree also provided for the option of adoption of international accounting standards by commercial companies.

In implementation of the enabling authority, the Government issued Legislative Decree 38 of 28 February 2005. In addition to regulating the accounting aspects, the Decree also introduced legislative amendments governing the tax effects of the transition to/adoption of international accounting policies. The amendments were designed to ensure neutrality of transition/adoption, notably to prevent the transition to/adoption of the IAS from creating a benefit or disadvantage in respect of companies that draw up their accounts on the basis of the accounting standards ordinarily applicable to commercial companies.

However, with the 2008 Finance Act, the principle of tax neutrality has given way to differential treatment depending on the tax involved.

In particular, entities adopting IAS are required:

- For income tax purposes, to apply the qualification, recognition and classification criteria envisaged in international accounting standards (IAS)
- For IRAP purposes, to calculate taxable income on the basis of the items corresponding to those adopted by persons applying Italian national accounting standards.

In addition, the 2008 Finance Act introduced numerous specific tax rules for IAS adopters. For instance:

- The value changes (increases or decreases) acknowledged in application of IAS in respect of shares, bonds and similar financial instruments held for trading (not recognised under non-current assets) are now material for the purposes of direct taxation. Dividends from shares, units and similar instruments held for trading are fully taxable for the beneficiary. Conversely, no changes were made as to the immateriality for tax purposes of changes in values recognised for shares, units and similar instruments held as non-current assets (i.e. "not held for trading")
- Rules governing dividend washing<sup>19</sup> do not apply to IAS adopters, subject to specific rules under which the tax cost of shares, units or instruments comparable to shares meeting the requirements of the participation exemption application (with the exception of the holding period) is reduced by an amount equal to the tax-exempt share of dividends received during the holding period.

The implementing and coordination provisions governing such changes will be established via ad-hoc ministerial decree.

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<sup>19</sup>See Participation Exemption (psge 46).





## 6. Incentive Programmes

### 6.1 Introduction

The incentive programmes run by the European Union and national and local institutions help sustain regional development and enhance local competitiveness by supporting business, strengthening initiatives already under way or being launched, providing enterprises with support services and promoting and sustaining research, innovation and training.

National investment incentives include a range of measures designed to encourage:

- Creation of new production plants and expansion of existing ones (e.g. Development Contracts)
- Investments to revive industrial areas (e.g. Law 181/89)
- Technology, research and innovation (e.g. Industria 2015, the Technology Innovation Fund – FIT, Innovation Contracts, and the Research Incentive Fund – FAR)
- New investments and research (e.g. tax credits).

Other opportunities are offered by the European cohesion policy for 2007-2013, focused on boosting growth and employment in Member States on a regional basis.

The European cohesion policy focuses on specific priority areas including knowledge and innovation, transport, environment protection, human capital, entrepreneurship, and economic modernisation.

In order to strengthen Italy's subsidies effectiveness and impact, the Italian Government has merged the planning of both national and European funds. Approximately € 125 billion will therefore be available in Italy over the 2007-2013 period so as to support investment, mainly focusing on the Country's Southern Regions.

The EU policy, with its seven-year programming cycles, is implemented through national, regional and inter-regional Operational Programmes, which plan expenditure under the Structural Funds, namely:

- European Regional Development Fund (ERDF), which finances infrastructure development and productive investments to generate employment, with special emphasis on enterprise support; and
- European Social Fund (ESF), aimed at enabling the unemployed to access the labour market, mainly by supporting training programmes.

Table 1 - Distribution of Structural Funds in Italy by sector

European Regional Development Fund 2007-13	%
Culture	2.9%
Energy	9.1%
Environmental protection and risk prevention	11.2%
Improving access to employment and sustainability	0.4%
Improving human capital	1.5%
Improving the social inclusion of less-favoured persons	0.2%
Increasing the adaptability of workers and firms, enterprises and entrepreneurs	0.0%
Information society	7.7%
Investment in social infrastructure	5.2%
Mobilisation for reforms in the fields of employment and inclusion	0.2%
Research and technological development (R&TD), innovation and entrepreneurship	29.5%
Strengthening institutional capacity at national, regional and local level	0.7%
Technical Assistance	2.8%
Tourism	3.3%
Transport	18.7%
Urban and rural regeneration	6.6%

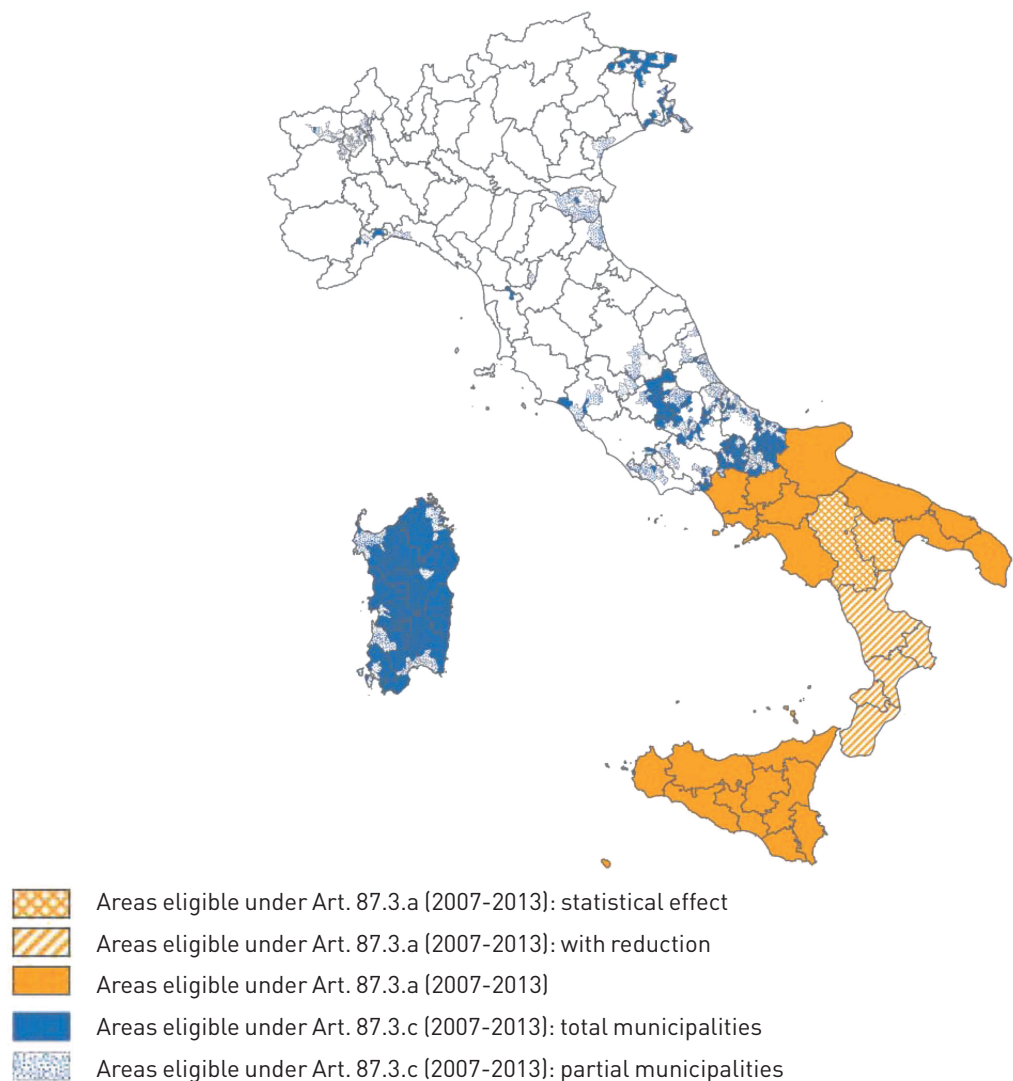
European Social Fund 2007-13	%
Improving access to employment and sustainability	34.2%
Improving human capital	34.0%
Improving the social inclusion of less-favoured persons	8.7%
Increasing the adaptability of workers and firms, enterprises and entrepreneurs	15.2%
Mobilisation for reforms in the fields of employment and inclusion	1.5%
Strengthening institutional capacity at national, regional and local level	2.8%
Technical Assistance	3.6%

## 6.2 Eligible Areas for Incentives

European funds are intended to finance regional policy over the 2007-2013 period with three new objectives, namely:

- The "Convergence" objective (areas under Art. 87.3.a), aiming to speed up the convergence process in the EU less developed Member States and Regions by improving growth and employment conditions
- The "Regional Competitiveness and Employment" objective (areas under Art. 87.3.c), aiming to anticipate economic and social changes, and promote innovation, entrepreneurship, environment protection and labour market development, including the regions not covered by the "Convergence" objective; and
- The "European Territorial Cooperation" objective, designed to improve cross-border, trans-national and interregional cooperation in sectors involved in urban, rural and coastal development, as well as to promote the development of economic relations and networking of small and medium-sized enterprises (SMEs).

Figure 1 - EU Regional Policy Objective Areas for 2007-2013



### 6.3 Aid: Beneficiaries and Intensity

Regardless of the type of financial aid – whether drawing on European or national funds – the size of the subsidy may not exceed the level set by the European Union consistently with geographical area and size of business concerned (see Tables 2-3). The business size (micro, small or medium) is established on the basis of specific parameters fixed by the European Union, shown in the table below.

Table 2 - EU Parameters for Defining Micro, Small and Medium-Sized Enterprises

		Medium-Sized Enterprise	Small Enterprise	Micro Enterprise
and/or	Employees - fewer than (number)	250	50	10
	Turnover not exceeding (million euros)	50	10	2
	Balance sheet total not exceeding (million euros)	43	10	2
	Independence requirements	No more than 25% of the share capital and voting rights to be held by an enterprise or jointly by several enterprises not meeting the definition for a small or medium-sized enterprise.		

Businesses that do not meet the above parameters are considered as “large enterprises”.

Where aid is small with no significant impact on competition among Member States, the de-minimis rule applies: the enterprise may be granted a maximum of € 200,000 over three years with no requirement to provide the European Commission<sup>20</sup> with prior notice.

20) In accordance with Commission Regulation (EC) 1998/2006 of 15 December 2006, the rules governing State Aid do not apply to minor aid (de minimis). The overall sum of de minimis aid granted to the same undertaking shall not exceed €200,000 over three financial years.

The following table provides a breakdown of incentives available for investments in Italy.

Table 3 - Aid intensity

Areas in 87.3.a)	LE	ME	SE	LE	ME	SE
	until 31.12.2010			01.01.2011 to 31.12.2013		
Calabria	40%	50%	60%	30%	40%	50%
	until 31.12.2013					
Campania, Apulia, Sicily	30%	40%	50%			
	until 21.12.2010			01.01.2011 to 31.12.2013*		
Basilicata	30%	40%	50%	20%	30%	40%

Areas in 87.3.c)	LE	ME	SE	LE	ME	SE
	until 31.12.2010			01.01.2011 to 31.12.2013		
Sardinia	25%	35%	45%	15%	25%	35%
	until 31.12.2013					
Abruzzo, Friuli Venezia Giulia, Lazio, Molise	15%	25%	35%			
Lazio	-	25%	35%			
Emilia Romagna, Lazio, Liguria, Piedmont, Valle d'Aosta, Veneto	10%	20%	30%			
Lazio, Marche, Tuscany, Umbria	-	20%	30%			

Areas in 87.3.c) being phased-out	LE	ME	SE
	until 31.12.2008		
Abruzzo, Emilia Romagna, Lazio, Liguria, Lombardy, Marche, Molise, Piedmont, Tuscany Umbria, valle d'Aosta, Veneto	10%	20%	30%

\* Unless the Region's relative per capita GDP has fallen below 75% of the EU-25 average based on the three-yearly average indicated in the latest Eurostat data

## 6.4 Support Measures

The main forms of subsidies include:

- Capital grants – The financial aid is granted in two or three instalments and paid directly to the enterprise following the presentation of all documentation regarding the costs borne in implementing the investments. Beneficiaries will not be required to return the received amount
- Operating grants – Include grants to cover operating expenditures
- Interest-rate subsidies – In the form of lower-than-market interest rates on the loan obtained
- Tax credits – A form of tax relief for new investments (tangible and intangible assets) and employment. It consists in a reduction in tax liabilities to be calculated on the basis of parameters defined by law
- Equity participation – Aimed at providing support to enterprises operating in industrial and service sectors for initiatives involving new facilities, expansion and modernisation operations in given geographical areas
- Guarantees – The State or another entity covers the cost of guarantees that the beneficiary is required to pledge in order to obtain a medium/long-term loan.

## 6.5 Procedures

Incentives to foster enterprise development are awarded compliantly with three different procedures:

- Automatic – Applying to measures not requiring prior project assessment. No technical, economic or financial evaluation of the expenditure programme is required before the measures can be activated. The support is approved provided the applicant meets the requirements rendering it eligible for the programme (e.g. tax credits)
- Assessment-based – Applying to broader and more complex investment programmes which will undergo technical, economic and financial viability evaluation (profitability, financial plan for covering expenses, future cash flows, objectives to be achieved, etc.) in consideration of the objectives being pursued. Such subsidies may be awarded either via “tender” procedures based on merit rankings, or on the basis of “first come, first served” mechanisms, where no comparative assessment of the investment programmes is conducted and cases are examined in chronological order of receipt of applications and as long as funds are available (e.g. Law 181/89)
- Negotiated – Applying to projects involved in broader territorial or sectoral development programmes. The content of the programmes to be implemented are agreed upon with the competent public administration, defining total investment and details of financial support within the framework of a full-fledged multilateral, programmed negotiation (e.g. Development Contracts and Programme Contracts).

## 6.6 Incentives

The national investment support system offers a variety of incentives (including tax relief) to support investments in productive activities research and development and training programmes.

### Incentives for industrial development

#### Programme Contracts and Development Contracts

A Programme Contract is an agreement between Italy's Ministry for Economic Development (MiSE) – acting through Invitalia (the governmental agency for inward investment promotion and enterprise development) – and the companies involved, with a view to implementing an industrial project with associated research activities (experimental development).

The total amount of eligible expenditures and costs for the project shall at least amount to € 40 million. Within the project scope, the productive investment plan proposed by the sponsoring entity shall foresee eligible expenditures for at least € 25 million.

Investment programmes falling within the manufacturing, mining, power generation and agricultural and fish processing industries are eligible. Support is provided in the form of grants or interest subsidies, as well as combinations of the two forms. Invitalia is responsible for technical management of Programme Contracts.

Within the broader effort to simplify the tools for attracting private investment – mainly in Italy's Southern Regions, crucial for strengthening the Country's productive capacity – Invitalia will shortly assume (as per Article 43 of Legislative Decree 112/2008, ratified by Law 133/2008) responsibility for managing a measure aimed at supporting industrial projects, i.e. "Development Contracts".

The mechanism is designed to help attract foreign investment and facilitate the implementation of corporate development plans.

The Agency will handle all the stages of the procedure, from receipt of applications to funding grant. Fast-track authorisation procedures will also be put in place for the approved investment projects. Development Contracts will replace Programme Contracts as incentive tool.

#### Law 181/89

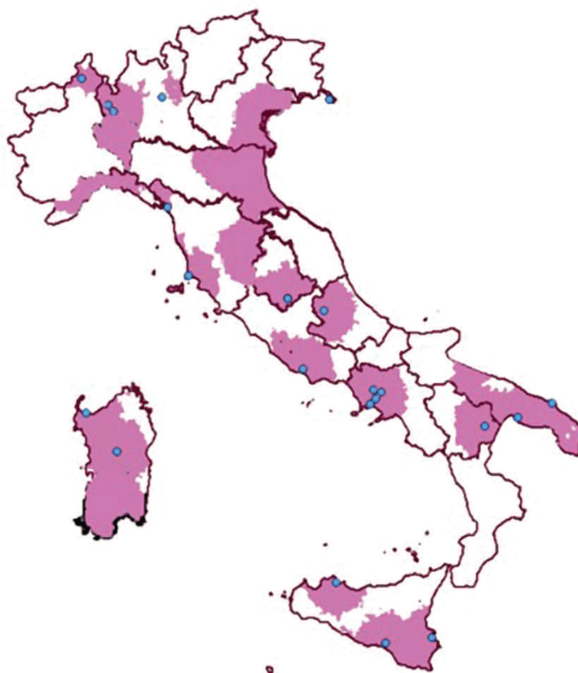
Law 181/89 establishes a support mechanism for re-industrialising and revitalising industrial areas. The funds are managed directly by Invitalia, responsible for assessing projects and distributing the envisaged funds.

In order to apply for the subsidies, it is necessary that the shareholders of the beneficiary company invest at least 30% of the planned overall investment via their own capital. Investments involving the building of new production facilities, and/or operations of expansion, modernisation, relocation, restructuring and reactivation of existing facilities – only when generating new jobs – are eligible for support.

Companies of all sizes operating in mining, manufacturing, power generation and service industries and those active in the processing and marketing of agricultural products, and investing in subsidised areas under Law 181/89 are eligible (Figure 2).



Figure 2 - Subsidies under Law 181/89 – Eligible Areas



A full list of the eligible municipalities and related gross grant equivalent (GGE) may be consulted on line at:

[www.invitalia.it/on-line/ita/Home/Competitivitadelleimprese/RilancioareeindustrialiLegge18189/Dovesiapplica.html](http://www.invitalia.it/on-line/ita/Home/Competitivitadelleimprese/RilancioareeindustrialiLegge18189/Dovesiapplica.html)

The subsidies consist of grants to cover up to:

- 25% of eligible investments in Central and Northern Italy
- 40% of eligible investments in Southern Italy.

Initiatives located in Southern Regions may also obtain soft loans covering up to 30% of eligible investments.

Grants and subsidised financing are awarded providing that Invitalia acquires a temporary minority stake in the beneficiary company, which can be repurchased over a five-year period.

### Incentives for technological innovation and research

#### Industry 2015

Inspired by Italy's new industrial policy, the programme establishes strategic guidelines to ensure development and competitiveness of the Country's economic system, and defines new tools aimed at encouraging investment – i.e. Industrial Innovation Projects, Enterprise Networks, and the Fund for Corporate Finance.

#### Industrial Innovation Projects

Such support measures are aimed at promoting investment in high-innovation programmes within strategic sectors for Italy's development – i.e. energy efficiency, sustainable mobility, new technologies for living, new technologies for Italian export industries, and innovative technologies for cultural heritage.

## Enterprise Networks

An enterprise network is a form of contractually-based coordination among enterprises. It is specifically designed for SMEs seeking to achieve critical mass and greater market power without being forced to merge under the control of a single entity.

## Fund for Corporate Finance

The Fund for Corporate Finance is intended to make it easier for enterprises (notably SMEs) to obtain credit and risk capital. The Fund will support operations involving the adoption of new credit risk mitigation instruments and private equity initiatives proposed by banks and/or financial intermediaries. The criteria and priorities for carrying out the deals are determined in accordance with guidelines established by Italy's Ministry for Economic Development (MiSE).

### Technological Innovation Fund

Established by Law 46/82, the Fund aims to finance programmes in advanced high-tech sectors, supporting industrial research projects and establishment of research centres. The Fund can also be used in conjunction with Programme Contracts. In such cases, the Fund is available to enterprises that undertake a comprehensive investment programme envisaging the industrialisation of research results. The mechanism is administered by Italy's Ministry for Economic Development.

### Innovation Contracts

Innovation Contracts are a new intervention tool implemented by Italy's Ministry for Economic Development aiming to enhance the Country's technological patrimony by supporting relevant development projects aimed at technological product and process (TPP) innovation enhancement.

Innovation Contracts are aimed at innovation projects with eligible costs higher than € 10 million and are implemented via a negotiated procedure involving the Ministry for Economic Development, companies, and public and private research bodies.

### Research Incentive Fund

Created via Legislative Decree 297/99, the Fund supports applied research programmes for development of new products, production processes and services, and in order to promote existing technologies. It is administered by Italy's Ministry for Education, University and Research (MIUR).

Research and development activities thus financed fall within the following categories:

- Industrial Research – defined as “research or studies aimed at acquiring new knowledge for development of new products, production processes or services, or to significantly improve existing products, production processes or services. It includes the creation of complex components for complex systems required for industrial research, specifically designed for validation of generic technologies”
- Experimental Development – which consists in the acquisition, combination, organisation and use of existing scientific, technological, commercial and other knowledge and skills to produce plans, projects or designs for new, modified or improved products, processes or services. This can include any other activity aimed at conceiving, planning and documenting new products, processes and services which may include the preparation of designs, drawings, plans and

other documentation not intended for commercial use. Experimental development also includes the construction of prototypes for commercial purposes and pilot programmes for technological or commercial testing, whereby the prototype is the finished commercial product, and its manufacturing cost is too high for it to be used only for demonstration or validation purposes.

#### **Territorial Research and Development Initiatives**

The aim is to enhance competitiveness of high-export productive areas through research and development, in order to strengthen key technologies, products and innovative processes.

To such end, the Italian Government has developed a policy focused on the formation of technology districts. At present, the formally approved districts throughout the Country are 29, specialising in different areas (e.g. nanotechnologies, wireless technologies, biotechnologies, logistics, cultural heritage, mechatronics).

#### **Seventh Framework Programme**

The Seventh Framework Programme for Research and Technological Development (FP7) is the EU primary tool for funding research over the 2007-2013 period. The Programme is aimed at research centres, scientific or technological organisations, governments and companies. Any organisation operating in one of the EU Member States may take part in the Programme, which provides for a variety of grants covering up to 100% of eligible investment costs (for further information on the Seventh Framework Programme, please see the Contact Points listed at: [http://cordis.europa.eu/fp7/ncp\\_en.html](http://cordis.europa.eu/fp7/ncp_en.html)).

#### **Competitiveness and Innovation Framework Programme (CIP)**

The Competitiveness and Innovation Framework Programme (CIP) aims to encourage the competitiveness of European enterprises (notably, small and medium-sized enterprises) by supporting innovation activities by granting better access to financing, delivering regional support services and promoting better use of information and communication technologies (ICT) to develop the information society. The Programme also promotes energy efficiency and use of renewable energy (For more information, visit [http://ec.europa.eu/cip/index\\_en.htm](http://ec.europa.eu/cip/index_en.htm)).

### **Tax incentives**

#### **Tax Credit for Investments**

The measure concerns costs borne by enterprises in researching and developing new products. Enterprises are eligible for a tax credit equal to 10% of the costs borne for industrial research and pre-competitive development. The figure can rise to up to 40% whereby the costs refer to projects conducted with universities and public research entities. In any event, costs cannot exceed € 50 million over any given tax period for the purposes of calculating the relevant tax credit.

Aiming to encourage employment in the Italy's Regions such as Calabria, Campania, Apulia, Sicily, Basilicata, Sardinia, Abruzzo and Molise (the so-called Mezzogiorno Area), this type of incentive takes the form of a tax credit for companies that expand their permanent workforce<sup>21</sup>.

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*21) The amount of funding is currently under redefinition.*

## Training incentives

Human capital development is essential for enterprises to grow, as continuous career training addresses the need for personnel ready to face the ever-changing labour market.

### Law 236/93

Law 236/93 funds individual and corporate training programmes throughout Italy. Projects may either involve training needed within an enterprise as part of an overall transformation process, or individual training required to improve personal skills. Projects regarding training in technological and organisational innovation, safety and quality and environmental protection will be eligible, primarily whereby the projects are aimed at improving enterprise competitiveness and raise employment levels. The programme is run by local bodies in charge of publishing calls for applications.

### European Social Fund

The European Social Fund (ESF) is implemented through specific Regional Operational Programmes. Applications for training programme funding are submitted in response to calls for applications either through Italy's Ministry of Labour, Health and Social Policy or through regional governments' labour offices. Each project (or set of projects submitted either jointly or in response to the same call) shall be presented via the application forms available from the regional or provincial governments, following the directions contained in the call.



## 7. Italy's Labour Law

### 7.1 New Flexibility for Employers

Italian Labour Law has become a significant factor in attracting foreign investors to Italy. Decree 276/03 introduced major changes to employment rules increasing market flexibility so as to help reduce unemployment.

Two major changes stand out:

- New types of contracts to enable companies to tackle special growth trends for limited periods, and allow them to significantly reduced labour costs over decreased output periods
- New regime for independent contractors now enables job placements only whereby necessary for performing specific projects.

Some such new provisions are already in force and being successfully applied by companies.

Labour is regulated by Italy's Constitution, Civil Code, the Workers' Bill of Rights (Statuto dei Lavoratori), and other relevant laws and decrees. Employment terms and conditions are also periodically fixed by collective labour agreements within the various professional categories.

### 7.2 Italy's New Labour Market

#### New types of Contracts

##### Job Sharing

Job Sharing involves two or more employees sharing joint responsibility for a single position. Job sharers can choose their own schedules at their own discretion. Each person's pay is directly proportional to his/her personal performance. Contracts shall be in writing.

##### Job on Call

Job on Call relates to a professional activity performed on a discontinued or intermittent basis. Job on Call contracts shall be in writing, and either set upon fixed or open terms. Regardless of the professional activity nature, job on call may be performed by employees younger than 25 and older than 45 (also whereby retired). Such contracts shall also make provisions for a stand-by allowance equal to at least 20% of the salary envisaged by the applicable collective labour agreement.

##### Staff Supply

Staff Supply enables clients of employment agencies to avail of the labour activity performed by workers holding employment agreements with employment agencies. Both clients and employment agencies are jointly liable for payment of employee wage and social security contributions and for compliance with workplace safety regulations in force.

Staff Supply contracts set down the rights and obligations of employment agencies as well as their clients, and can either be open-term or fixed-term contracts.

Open-term contracts (so-called 'staff leasing' contracts) are used frequently for porter and cleaning work, transportation and warehouse services, managerial consultancy services (including human resources management) and call centre management. As to the agreement between the employment agency and the employee, contracts may consist in job sharing, part-time, job on call, training employment and starter's contracts.

Generally speaking, technical, production-related, organisational and stand-in positions require fixed-term contracts. Pursuant to Legislative Decree no. 368 of 6 September 2001, the Italian Ministry of Labour, Health and Social Policy has extended the scope of application of fixed-terms contracts.

#### Ancillary Labour

Ancillary labour covers:

- Voluntary sector
- Occasional work by individuals at risk of social exclusion
- Regularly performed household help work.

Ancillary work may be performed by: a) unemployed for longer than a year; b) housewives, students; retired and/or disabled people, and individuals hosted by recovery communities/rehabilitation centres; c) non-EU workers regularly living in Italy and having lost their jobs.

#### Training Employment Contracts

Three categories of On-the-Job Training Contracts (Contratti di Apprendistato) are envisaged, covering:

- Training and learning workers' rights and duties
- Apprenticeship leading to a professional qualification following on-site training and professional skill learning
- Training leading to a diploma or other types of professional qualifications.

#### Starter's Contracts

"Starter's Contracts" (Contratti di Inserimento) cover individual projects for developing workers' skills in specific fields for subsequent reintegration in the job market.

Under Starter's Contracts, workers cannot receive salaries two ranks lower than those envisaged by the applicable collective labour agreements for jobs requiring the same or (equivalent) qualification pursued by Starter's Contracts.

#### Part-Time Work

"Part-time" work describes a working week of shorter duration than the full working week. It may be horizontal (reduced daily working time), vertical (full time but for limited periods with reference to weeks, months or years) or mixed (a combination of both). Part-time work requires workers' prior consent whereby not specifically provided for by the relevant collective labour agreement.

#### Secondment

"Secondment" applies whereby an employer, in order to satisfy its own interest, makes one or more employees temporarily available to another subject in order to carry out specified work activities.

Secondment involves the transfer of an employee ('secondee') to a different production unit located at least 50 km away from his/her usual workplace. Secondment is allowed only for technical reasons or needs related to production, organisation or replacement. The employer remains liable for the legal and economic treatment of the secondee.

### Autonomous or “Atypical Workers”

“Project-based Collaboration Contracts” (Contratti a Progetto) are strictly related to one or more specific projects, work plans or development phases, which an independent collaborator manages autonomously aiming to achieve specified results. The collaborator carries out the required activity at his/her own discretion but aiming to successful development of the relevant overall project.

Such contracts shall detail in writing the duration of the relationship and the remuneration package, which shall be proportional to the quantity and quality of the work performed.

### Employment Agencies

Italy’s Ministry of Labour, Health and Social Policy has established and keeps a register of all authorised employment agencies. A specific regulation has been enacted to set forth the requirements applicable to the agencies in terms of professional skills. Differentiated into various categories by functions, such agencies may operate only whereby authorised by the above Ministry. New rules currently allow setting up multifunctional agencies.

### Employment Services

Employment services are public structures that now substitute old job placement offices, in order to help job demand better meet job offer, prevent unemployment, and support people exposed to unemployment risks.

Employment services offer various types of provisions, such as:

- Information and orientation for people looking for a job
- Intermediation between job demand and offer
- Consultancy to companies.

### Outsourcing and Transfer of Business

A ‘transfer of business’ refers to contractual (re)assignments, mergers, lease agreements or usufruct. It may also refer to a partial transfer of business (ramo d’azienda) identified by transferor and transferee at transfer time.

Following a partial or complete transfer of business, employment relationships are then entrusted to the transferee, and employees fully maintain their rights and obligations. Accordingly, the new controller may not terminate or otherwise amend the terms and conditions of the employment contracts related to the transferred business.

Transferor and transferee are jointly liable to employees for any and all debts owed them at the date of transfer (including severance pay, so-called TFR).

The transferor and transferee of a business with at least fifteen employees shall give joint notice to the relevant trade unions, at least twenty-five days prior to its transfer. Notice should specify the reasons for the transfer, possible consequences for the employees, and any subsequently planned action which may affect them.



Trade Unions may request an assessment of the transfer's impact on the concerned employee(s) to be jointly conducted with both transferor and transferee. Non compliance with such request constitutes "unfair labour practice" and may cause workers' union representatives to take legal action before the competent Labour Court. The Court may impel the transferor and/or the transferee to fulfil the consultation request.

## Employment Regulation

A synthesis of general employment regulations currently in force is hereinafter provided.

### Hiring

There is no general requirement for an employment contract to be in writing, although most collective labour agreements envisage it. Fixed-term and part-time contracts shall be in writing. Fixed-term contracts are permissible under certain circumstances, such as for seasonal work or for replacement of temporary vacancies.

### Competition and Confidentiality

Employees shall not conduct business in direct competition with their employer, divulge confidential or classified information about their employer's business or production methods, or use such information to cause prejudice to the employer.

### Inventions

With reference to inventions created by employees, in accordance with the New Industrial Property Code enacted on 10 February 2005, they belong to the employer as long as they relate to the tasks defined in the employment contract and specific compensation is paid to the employee.

If a specific compensation for the invention is not envisaged by the employment contract and the invention is created in the performance of the employment relationship, the invention – whereby patented – belongs to the employer but a fair compensation shall be paid to the employee.

Whereby the above conditions are not met and the given invention relates to the employer's field of activity, the invention shall belong to the employee, but the employer is granted with an option right to either use the invention on an exclusive/not exclusive basis or to purchase it. Whereby an agreement is not reached between the employer and the employee on the amount of the fair compensation or invention consideration, the assessment thereof shall be entrusted to an ad-hoc panel of arbitrators.

### Pay and Benefits

No minimum wage is set as such, nevertheless the Italian Constitution guarantees the right to fair pay. Collective labour agreements regularly define minimum levels of wages and indemnity benefits.

## Working Time

Averagely, 8 working hours per day are established. The maximum working week consists of 48 hours (including overtime) over a reference period of maximum 4 months.

### Overtime

Rules on overtime are set by collective labour agreements. If not specified otherwise, overtime cannot exceed 250 hours per year. Failure by the employer to comply with such limits may result in the levy of administrative fines.

### Holidays & Vacation

In Italy there are 11 religious and national holiday days. The Constitution guarantees everyone the right to one rest day per week (usually Sundays). Employees are entitled to an annual vacation period of 4 weeks.

## Absence from Work

<b>Sick Leave</b>	Sick employees have the right to retain their position, seniority and, for some categories of workers, regular pay for a period of up to 6 months or more, depending on the applicable collective labour agreement.
<b>Personal Leave</b>	Employees are entitled to 15-day fully-paid leave for getting married and occasional off-days for family responsibilities, including the death of a relative or child's sickness
<b>Maternity / Parental Leave</b>	Women may take maternity leave with 80% pay in the 2 months before delivery and the 3 months afterwards. Italy's social security system bears the costs. Should a child's mother die or become seriously ill, the father (male employee) may take paternity leave under the same conditions envisaged for maternity leave.

## Work contract termination

<b>Dismissal</b>	<p>Under the Italian Law an employee is dismissible for:</p> <ul style="list-style-type: none"> <li>• Just Cause (Giusta Causa), meaning a serious breach by the employee of his/her duties or other behaviour that makes continuation of the working relationship unfeasible; or</li> <li>• Justified Grounds (Giustificato Motivo), namely: <ul style="list-style-type: none"> <li>- A breach by the employee of his/her duties which is not serious enough to constitute Just Cause – e.g. failure to follow important instructions given by the management, material damages to machinery and equipment, low performance (the grounds for dismissal being “subjective reasons”)</li> <li>- An objective reason, whereby the employer needs to reorganise production or labour force (i.e. making redundancies).</li> </ul> </li> </ul>
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Dismissals shall always be in writing and detail the reasons thereof.

Failure to comply with such provision makes the dismissal ineffective.

Should the employee deem to have been unfairly dismissed, he/she may appeal to the relevant court. The employer shall comply with the following rules:

- If the company employs up to overall 60 workers throughout Italy, or up to 15 in a single working unit, the employer may choose between either reinstating the dismissed employee or paying an indemnity (ranging between two-and-half and six-month pay)
- Under all other circumstances, the employee is entitled to reinstatement and compensation for damages amounting to five-month salary at least.

Failure to reinstate an unfairly dismissed employee results in an award of fifteen-month salary plus compensation for damages against the employer.

Following dismissal, whatever the cause or status (e.g. executive, white collar, or blue collar), employees are entitled to the following mandatory payments:

- Severance Pay (Trattamento di Fine Rapporto - TFR) – The amount is calculated by dividing each annual gross salary by 13.5. Severance pay is taxable and free of social security contributions

### Collective Dismissal for Redundancy

- Other sums – Whereby applicable, employees are entitled to indemnity for unused holidays, permits, and 13th and/or 14th monthly pay
- Notice period – Employees dismissed for reasons other than Just Cause are entitled to a notice period. Employers may exempt the employee from working during the notice period by paying him/her an indemnity equal to the salary payable for the whole notice period. Such indemnity is liable to social security charges.

If redundancy involves at least 5 employees for a 120-day period and an employer with 15 or more employees, the company shall duly consult with trade unions and comply with the “collective dismissal procedure”. Employees made redundant by certain categories of companies (e.g. industrial, employing 15 or more workers), and having at least 12-month seniority in the concerned company, shall receive an unemployment allowance from Italy’s National Social Security Institute (INPS, Istituto Nazionale della Previdenza Sociale) for a specified period.

For each employee made redundant, employers shall pay a financial contribution equal to thirty monthly instalments to INPS. Pending the outcome of any dismissal judiciary proceedings, the employer shall provide advance payment of the above contribution<sup>22</sup>.

## 7.3 Social Security & Assistance

### Costs

Adequate means for life needs are guaranteed to every resident (thus including also foreigners working in Italy) in case of accidents, diseases, invalidity, old age, and involuntary unemployment.

INPS (the National Institute for Social Security) and INAIL (Workers’ Compensation Authority, Istituto Nazionale Assicurazione contro gli Infortuni sul Lavoro) carry out such functions. The two Bodies provide services such as pension, indemnity and allowance for accidents, diseases, termination of work contract in case of reaching age limit or invalidity.

Employee and employer contributions jointly finance social security costs, calculated on gross earnings. Employers pay two-thirds of contributions whilst employees pay the remaining third.

Different calculation methods, contribution rates and terms of payment apply for dependent work or autonomous work.

INAIL manages mandatory insurance to protect employees against work accidents and occupational diseases. In particular, it guarantees economic allowance, sanitary and integrated services, provides information and training to SMEs with regard to workplace prevention, and ensure rehabilitation and indemnity to employees.

Compulsory insurance includes coverage in the event of damages incurred while commuting between the employee’s home and workplace, or between different workplaces.

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<sup>22</sup>) For further information: [www.inps.it](http://www.inps.it)

## Retirement Provisions

The Italian compulsory state pension system is financed via social contributions paid by the employer during workers' working life, and is based on actuarial fairness. The retirement age ranges between 57 and 65 years.

On 28 July 2004 the Italian Parliament approved a regulation envisaging substantial changes to the pension system then in force.

Starting from January 2008, the reform envisages retirement:

- After 40 years of contributions, or
- At 65 years of age (60 for women).

Such age requirements shall be increased by one year in 2010 and an additional year in 2014.

The reform includes incentives for workers who decide to continue working although eligible for public pension. Such incentives provide for an increase equalling social security contribution – i.e. plus 32.7% of gross salary for almost all categories of workers.

## Integrated Pension Funds

Supplementary pension provision in Italy is voluntary for workers and companies alike. The law guarantees freedom for individuals to subscribe to supplementary pension schemes whilst leaving companies free to choose whether to set up their own pension funds. Funds are substantially based on a pre-established contribution rate. Regarding disbursement, beneficiaries can generally withdraw up to 50% as a lump sum, then the entire or remaining amount as an annuity.

On 5 December 2005 the Italian Government approved Legislative Decree N°252 aimed at redefining, as from 1 January 2007, the entire regulation applicable to supplementary pension schemes for private company employees.

The new regulation notably provides for:

- Increase in the amount of financing flows dedicated to supplementary pension schemes
- Homogeneity in the supervision system applicable to the entire supplementary pension sector
- New taxation regime applicable to pension funds
- Monitoring the management of financial resources arising from workers contributions
- New financing system through contribution by the employee of his/her own severance pay (TFR - Trattamento di Fine Rapporto). In this respect, as from 1 January 2007 the employee shall be entitled to elect within a six-month term from his/her hiring date, at own discretion, (i) to leave the accrued severance pay within the employing company or (ii) to contribute it to a pension fund. If such six-month period elapses without any election by the employee, the accrued severance pay shall be contributed by the employing company to the pension fund mentioned in the relevant labour agreement based on an implicit

consent mechanism, i.e. silence-consensus (silenzio-assenso).

On 6 February 2007 the Italian Government approved Legislative Decree N°28, aimed at enhancing the regulation of supplementary pension funds.

Each pension fund shall define its own investment policy and its members shall be duly informed; on a three-year basis, the fund shall verify whether its investment policy meets subscribers' interest.

## **7.4 Compulsory Hiring of Disadvantaged Persons**

Undertakings with 15 or more employees are required to recruit personnel from "protected categories", such as widows, orphans, refugees, and disabled persons.

## **7.5 Workplace Safety**

Consistently with the specific features of job and workplace, employers shall adopt all necessary measures to preserve the psycho-physical integrity of employees.

As per law, employers shall carry out dedicated risk assessments and accordingly ensure adequate prevention and protection systems. Employees and their representatives are entitled to check the effectiveness of the implemented health and safety standards.

## **7.6 Labour Proceedings**

Special provisions of the Italian Code of Civil Procedure apply to labour proceedings. Labour proceedings are faster than ordinary proceedings since allegations and evidence are submitted to the court with the first statement of defence.

## 8. Living in Italy

### 8.1 Visitors, Work Permits and Residency

#### Business visits up to 90 days

A visa is required for business visits of fewer than 90 days. Citizens of EU Member States and certain other countries, such as the United States, Canada, Argentina, Brazil and Japan, are exempt.

#### Work permits and residency (beyond 90 days)

##### Non-EU citizens

In order to work in Italy, non-EU citizens shall obtain specific permit (*nulla osta*), which the future employer shall apply for with the One-Stop Shop for Immigration (*Sportello Unico per l'immigrazione*). The One-Stop Shop for Immigration will issue the above permit in accordance with the decree establishing immigration quotas. After receiving the permit, prospective workers shall go to the Italian consulate in their home countries. The consulate will notify them of the proposed contract and issue a visa within 30 days.

The permit is valid for 6 months from the issue date, within which the worker shall enter Italy. Within 8 days of arrival in Italy, foreign citizens shall go to the One-Stop Shop for Immigration that issued the permit to sign the work contract (*contratto di lavoro*) and apply for the permit to stay in the country (*permesso di soggiorno*).

##### Non-EU citizens - Consolidated Immigration Act

Regardless of immigration quotas, Article 27 (l) of the Consolidated Immigration Act (Legislative Decree 286/98) governs the procedures and conditions for issuing permits to work, entry visas and permits to stay in the country for certain categories of workers, including:

- Executives and highly-trained personnel of companies with their headquarters or branches in Italy
- Exchange or mother-tongue university lecturers; university professors and researchers aiming to work within academia or other income-producing activity in Italy
- Employees of employers headquartered abroad who are temporarily transferred to Italy.

##### European Union citizens

No permit is required for European Union citizens to stay in Italy. If you plan to stay in Italy for longer than three months, you have to register with the *Anagrafe* (Register of births, deaths and marriages) of the municipality in which you are domiciled and request the related certificate. In order to register, you are required to present documentation proving you are employed, studying or engaged in vocational training. Alternatively, you are required to demonstrate you have sufficient financial resources to support your own stay as well as health insurance.

### Italian residency

After receiving your permit to stay (permesso di soggiorno), you shall register with the Anagrafe of the municipality in which you reside.

Documents required:

- Permit to stay
- Valid passport.

Time required for issue: approx. 2 months.

**Tax ID number  
(Codice Fiscale)**

All Italian and foreign residents are required to have their own tax ID number (Codice Fiscale), even whereby not subject to Italian taxation. The number is used to identify persons in their dealings with government departments and other public entities, and can be requested at One-Stop Shop for Immigration (Sportelli Unici per l'Immigrazione), specific police headquarters (Questure), or local Revenue Agency offices (Agenzie delle Entrate).

## 8.2 Banking Services and Bank Accounts

### How to open a current account

Foreign residents can open an ordinary bank account.

Non-residents (those in Italy for fewer than six months per year) can, in principle, open a special bank account for foreigners.

A valid Tax ID number is required so as to open a current account. Some banks also require presentation of a residency certificate – although not a legal requirement.

Documents required:

- Tax ID number
- Permit to stay
- Valid identity document.

Current accounts earn interest. Interest is calculated based on the bank statement date, not the transaction date. Bank charges include a conventional fee expressed in value date days, which varies from bank to bank (in general, it is 1 day for cash deposits, 3 days for in-town checks, and 8-20 days for out-of-town checks).

### Payment cards

Debit cards are widely used and accepted throughout Italy. They may be used with automatic teller machines (ATMs) and for making payments in most shops, restaurants or similar commercial establishments.

### Cheques, cash and bearer passbooks

New rules for governing the use of cheques, cash, and bearer passbook savings accounts were introduced with Legislative Decree 231/2007, as amended by Decree Law 112/2008 (into effect as from 25 June 2008).

The most significant change lies in the fact that banks and Poste Italiane SpA (Italy's National Postal Service) now issue non-transferable cheques.

Transferable cheques can only be issued upon written request made to the bank. A stamp duty of € 1.50 is due on each cheque. Cheques may be honoured only whereby they bear the Tax ID number of endorser.

All cheques (whether transferable or not) for amounts equal to or greater than € 12,500 shall specify the beneficiary and be non-transferable.

The rules for transferable cheques apply to cheques already in circulation.

In addition, a limit of € 12,500 applies to cash transfers. Transfers of larger amounts can only be made through banks, Poste Italiane SpA, and electronic money institutions. Such rules also apply to transfers of bearer passbooks (bank and postal accounts) and bearer securities. The balance on bank and postal bearer passbooks shall be less than € 12,500.

### **Protection level**

All Italian banks participate in an official deposit protection system. The branches of banks registered in EU Countries can also elect to participate in the Italian deposit protection system to supplement the protection afforded by their home country systems.

Branches of non-EU banks authorised to operate in Italy shall participate in the Italian deposit protection system unless they participate in an equivalent foreign system.

## **8.3 Healthcare**

### **National Healthcare Service**

The National Health Service operates through local healthcare authorities (ASL - Aziende Sanitarie Locali) and provides medical treatment to all EU citizens under reciprocity agreements for healthcare.

In order to receive medical treatment, EU citizens shall obtain the European Health Insurance Card prior to departing their home country. The Card replaces the old E111 Form in use prior to 2006.

Non-EU citizens visiting Italy shall have private insurance coverage (Italian or foreign). The coverage shall be approved by the local police department (Commissariato di Polizia) within eight days of arrival. Coverage shall last for the entire visa duration.

### **How to obtain medical treatment**

Foreign workers (whether EU or non-EU citizens) are required to go to the nearest local healthcare authority (ASL) office to choose a general practitioner. By registering, a worker gains the right to receive a health card and number.



## Pharmaceuticals

Whereby necessary, general practitioners issue prescriptions for pharmaceuticals, which may be either partially or entirely paid for by the State.

## 8.4 Schools

Foreign families in Italy may choose among a wide array of Italian and international schools. The Italian school system encompasses three main cycles:

- Primary school (Scuola Primaria) 6-10 years of age (compulsory)
- Secondary school (Scuola Media Inferiore), 11-13 years of age (compulsory)
- High school (Scuola Media Superiore), 14-18 years of age (first two years are compulsory).

International schools in Italy are mostly British or American. Many of the international schools follow the British school system, and approximately 30 of them are members of the European Council of International Schools.

### American colleges, universities and research programmes

As many as 90 American educational institutions operate in Italy, of which 36 based in Rome and 30 in Florence. Most of them are members of the Association of American College and University Programs in Italy (AACUPI).

Other international schools, which can be found in many of Italy's major cities, adopt the course curricula applied in France, Spain, Germany and Japan.

### International Baccalaureate

Most international schools in Italy offer this university-prep programme (recognised by over 600 universities throughout the world) during the last two years of high school.

## 8.5 Driving License

A driving license issued by another EU Member State may be used in Italy.

Non-residents with a permit to stay in Italy can drive using their foreign or international driving licenses until they obtain Italian residency.

After one year of Italian residency, a person can apply for an Italian driving license.

Specifically:

- Non-EU citizens holding a foreign driving license issued by a country not holding a mutual recognition agreement with Italy's Department of Motor Vehicles (Ispettorato Generale della Motorizzazione) are required to obtain an Italian driving license
- Non-EU citizens holding a foreign driving license issued by a country holding a mutual recognition agreement with Italy's Department of Motor Vehicles (Ispettorato Generale della Motorizzazione) can exchange their driving license(s) for an Italian license without being required to take any driving exam.



INVITALIA

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