Deloitte.

Taxation and Investment in Italy 2016

Reach, relevance and reliability

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1.0 Investment climate

1.1 Business environment

Italy is a parliamentary democracy. The president is the head of state and is elected by a joint session of the parliament, along with representatives of each region. The president serves for a seven-year term. The parliament, which comprises the chamber of deputies and the senate, is elected every five years. Administrative power is held by the prime minister and the council of ministers, who are appointed by the president in consultation with party leaders.

Italy is organized into regions, provinces, municipalities and metropolitan areas.

Italy's overall economic structure is comparable to that of most other advanced OECD economies. Italy's principal trading partners are other EU member states, in particular, France and Germany.

Italy is an EU member state, as well as a member of the OECD. As an EU member state, Italy is required to comply with all EU directives and regulations and it follows EU regulations on trade treaties, import regulations, customs duties, agricultural agreements, import quotas, rules of origin and other trade regulations. The EU has a single external tariff and a single market within its external borders. Restrictions on imports and exports apply in some cases. Companies operating in Italy have access to a tariff-free market of consumers through the country's membership of the EU and free trade with Iceland, Liechtenstein, Norway and Switzerland through other agreements. Trade also is governed by the rules of the World Trade Organization (WTO).

EU member states		
Austria	Germany	Netherlands
Belgium	Greece	Poland
Bulgaria	Hungary	Portugal
Croatia	Ireland	Romania
Cyprus	Italy	Slovakia
Czech Republic	Latvia	Slovenia
Denmark	Lithuania	Spain
Estonia	Luxembourg	Sweden
Finland	Malta	United Kingdom
France		
EU candidate countries		
Albania	Montenegro	Turkey
Macedonia	Serbia	
European Economic Area (EEA) member states		
EU member states	Liechtenstein	Norway
Iceland		

OECD member countries		
Australia	Hungary	Norway
Austria	Iceland	Poland
Belgium	Ireland	Portugal

Canada	Israel	Slovakia
Chile	Italy	Slovenia
Czech Republic	Japan	Spain
Denmark	Korea (ROK)	Sweden
Estonia	Luxembourg	Switzerland
Finland	Mexico	Turkey
France	Netherlands	United Kingdom
Germany	New Zealand	United States
Greece		
Enhanced engagement countries		
Brazil	India	South Africa
China	Indonesia	
OECD accession candidate countries		
Colombia	Latvia	Lithuania
Costa Rica		

The General Directorate of Foreign Trade of the Ministry of Economic Development coordinates most promotion of foreign trade and foreign trade policy. It delegates some tasks to the Institute for Foreign Trade, whose main responsibility is to promote trade. The Ministry of Economy and Finance is involved in areas where there are revenue implications, such as customs duty or value added tax (VAT).

Special rules apply to trade with the Vatican and San Marino, both of which are sovereign enclaves surrounded by Italian territory.

Price controls

Government policy is based on efforts to liberalize markets so that market forces improve the quality of services, encourage investment and limit prices. The government retains the power to monitor prices or to introduce price controls through the Inter-ministerial Committee on Economic Programming.

A special committee within the Ministry of Economic Development monitors price increases and has the power to set prices.

Prices and tariffs may be set at the national or provincial level. Goods and services subject to rate-setting at the national level include drinking water, electricity, gas, highway tolls, prescription drugs reimbursed by the national health service, postal tariffs, radio and television licenses, telephone rates and certain fares for domestic travel.

Intellectual property

Italian law recognizes and protects all intellectual property, including patents (industrial inventions, utility models, designs and models, plant varieties, semiconductor topographies), trademarks and service marks and copyrights. The intellectual property code covers corporate confidential information, designations of origin and geographical indications. Registration does not provide protection for corporate confidential information, but using or revealing such information to third parties is illegal.

Holders of intellectual property rights can use specialized courts (with exclusive jurisdiction in disputes relating to intellectual property) to protect their rights. In addition, intellectual property owners who believe that infringing goods are being imported into Italy may request a suspension of the customs clearance of the suspected goods with the central Customs Agency in Rome. Penalties apply to the purchase or sale of counterfeit goods.

A preliminary injunction may be requested in trademark and patent infringement cases.

1.2 Currency

The currency in Italy is the euro.

Countries participating in the Economic and Monetary Union		
Austria	Greece	Malta
Belgium	Ireland	Netherlands
Cyprus	Italy	Portugal
Estonia	Latvia	Slovakia
Finland	Lithuania	Slovenia
France	Luxembourg	Spain
Germany		

1.3 Banking and financing

The *Banca d'Italia* (central bank) oversees the banking and credit industry.

Milan is the main financial center, followed by Rome and Turin.

1.4 Foreign investment

The Italian government generally favors foreign investment. Foreign companies may apply for a variety of business incentives on an equal footing with local firms.

Petroleum investment is subject to special rules. Prospecting, exploration and production permits must be obtained from the General Directorate of Energy and Mineral Resources of the Ministry of Economic Development. Special authorization must be obtained for foreign direct investment in air transport and coastal shipping, and for investment in the media.

1.5 Tax incentives

All incentives, which generally are based on the location and the size of the business, must comply with EU rules.

The European Commission closely monitors incentives (also known as state aid) for compatibility with EU competition rules. All but the smallest incentive schemes require the Commission's approval. When a company negotiates incentives, it must determine whether the incentives are subject to prior approval or subsequent investigation by the EU. In general, investors may benefit from up to EUR 200,000 of incentives over a three-year period without infringing EU rules or having to notify the European Commission.

Incentives are available in the form of capital grants, loans on favorable terms or tax credits. Some incentives are granted automatically, provided the applicant meets the requirements for access, while others require successful completion of evaluation procedures. Incentives available for larger local development programs involving the central and local government have a negotiation procedure.

The most widely used nationally provided incentives are granted for investment in new and existing production facilities, the revitalization of production areas, local development, research and development (R&D) and agro-industry.

Patent box regime

A new optional patent box regime for intellectual property (IP) applies as from 1 January 2015 (i.e. as from the 2015 fiscal year, for calendar year taxpayers), under which a taxpayer can partially exclude certain qualifying income derived from the licensing or the direct exploitation of intangibles from its tax base for purposes of the corporation tax (IRES) and the regional tax on productive activities (IRAP).

The patent box regime is available to Italian companies (and certain other bodies), as well as Italian permanent establishments (PEs) of nonresident entities that are resident in "white-listed" countries with an effective exchange of information with Italy.

The exemption is 40% in 2016 (increased from 30% in 2015), provided certain conditions are fulfilled, and will increase to 50% in 2017 and thereafter. If qualifying IP is used directly, the amount of income benefiting from the IP box regime is determined by applying for a specific agreement with the Italian tax authorities. A ruling also may be requested in the case of royalties paid by related parties, but this is optional. Exemptions for expenditure for R&D outsourced to related parties and IP acquisition costs are limited to 30% of R&D expenses incurred in-house or paid to unrelated third parties.

Capital gains arising from the sale of qualifying IP will not be included in taxable income if at least 90% of the proceeds is reinvested in the maintenance or development of other qualifying IP within the following two tax years.

The election to apply the patent box regime is irrevocable for five years and can be renewed.

Further regulations were provided by the ministerial decree dated 1 December 2015.

Research and development credit

Enterprises that invest in certain R&D activities during the period 2015-2019 may be entitled to benefit from a tax credit calculated on an incremental basis, up to EUR 5 million per year and per beneficiary. An annual minimum investment of EUR 30,000 per fiscal year is required. In particular, to the extent that the annual R&D costs incurred are higher than the average of the same costs incurred in the 2012 to 2014 fiscal years, the taxpayer can benefit from a tax credit equal to:

- 50% of the costs related to specific qualified personnel involved in R&D activities;
- 50% of the costs related to research agreements signed with universities, comparable research bodies or innovative start-up businesses;
- 25% of the depreciation costs relevant for IRES tax purposes related to laboratory instruments or equipment, with certain limits; and
- 25% of the costs related to purchases of know-how, patent rights for industrial or biotechnological invention patents, product topography, semiconductors or new plant varieties.

1.6 Exchange controls

Italy does not have foreign exchange controls or restrictions on repatriating funds. Residents and nonresidents may hold foreign currency within and outside Italy, and direct and indirect investments may be made in any currency.

For tax purposes, all holders of currency are required to declare funds held outside Italy and funds repatriated to Italy without a bank intermediary. Italian anti-money laundering legislation prohibits the transfer of cash, or bank or postal bearer deposit instruments or bearer instruments, in euros or foreign currency between different parties when the value of the transaction is EUR 3,000 or more, unless the transfer is executed through banks, electronic money institutions or the Italian public postal services company. Failure to comply will result in monetary sanctions.

2.0 Setting up a business

2.1 Principal forms of business entity

Various options are available to conduct business in Italy. Medium-sized and large companies usually choose the joint stock company (*società per azioni* – S.p.A.); smaller entities usually adopt the limited liability company (*società a responsabilità limitata* – S.r.L.) form. Both types of entities have legal personality. It is also possible to set up a branch or representative office.

The *Societas Europaea* or SE company form also is available. The SE is designed to enable companies to operate across the EU with a single legal structure, to facilitate mergers and create flexibility for companies wanting to move their head office from one EU state to another. Companies from two or more EU member states are permitted to merge to form an SE or create an SE holding company or branch. A company may convert an existing firm to SE status without liquidating. One advantage of an SE is that it is possible to move headquarters to another EU member state with minimal formalities.

Businesses (and in some cases individuals) can establish a European Economic Interest Grouping (EEIG, known as *Gruppo Europeo di Interesse Economico*). Companies (even non-EU companies if the vehicle is a subsidiary in an EU country) that want to start working with an Italian company but do not want to commit to a formal joint venture may set up an EEIG. The grouping functions much like a partnership in that profits or losses are taxable only in the hands of its members. At least two of the companies involved must be from different EU member states.

Formalities for setting up a company

To set up an S.p.A., the founders sign the company's articles of incorporation and subscribe all or part of the share capital in the presence of a notary public. There is a minimum capital requirement of EUR 50,000, with a higher minimum for banking, insurance and mutual funds (unit trusts). An S.p.A. may be established by a single shareholder, but the capital must be fully paid in. The founders must deposit at least 25% of the initial share cash capital in an interest-bearing account at a credit institution, pending registration of the company.

The articles of incorporation of an S.p.A. may include contributions to the company of credits or goods in kind, as well as movable property or patents. Contributions must be of a type that can be assigned to the company at the outset (e.g. a building lease that is signed over) and cannot take the form of an undertaking to provide regular services.

For contributions in kind, a sworn appraisal by a court-designated expert normally must be attached to the articles of incorporation. The directors of the company must verify the value of the contributed assets within 180 days of the company's establishment. If the assets fall short of the assigned value by more than 20%, a proportionate reduction must be made in the capital stock, unless the balance is paid in cash by the shareholders. Any future contribution in kind must be approved by a general shareholders' meeting.

For both an S.r.L. and an S.p.A., liability rests with the company to the full extent of its assets; shareholders are not liable beyond the amounts subscribed.

Forms of entity

Requirements for an S.p.A.

Capital: The minimum capital is EUR 50,000. Capital is divided into shares. Different classes of shares may be issued, bearing different rights and obligations. For an S.p.A. with a single shareholder, the capital must be fully paid in and specific publicity requirements must be met.

Founders, shareholders: A sole shareholder may incorporate a corporation. There are no limits on the maximum number, nationality or residence of founders/shareholders.

Management: An S.p.A. may choose its own management and control structure from three alternative models of governance:

1) The "ordinary" structure is based on the shareholders' meeting, which appoints the administrative body (board of directors or sole director) and the supervisory body (board of auditors).

2) The “dual” structure has a management board that administers the company, plus a supervisory board appointed by the shareholders’ meeting. The supervisory board may comprise three or more members that may or may not be shareholders; one of the members must be listed on the auditors’ register. The supervisory board is responsible for appointing and removing members of the management board (to be formed by two or more members that may or may not be shareholders), and approving the financial statements.

3) The “monistic” structure involves a board of directors with administrative tasks appointed by the shareholders’ meeting, plus a supervisory management board elected internally within the board of directors.

There are no limitations on the number, nationality or residence of directors, who are appointed for a period not to exceed three years. Board meetings may be held outside Italy if certain conditions are satisfied.

Taxes and fees: A flat fee of EUR 120 (EUR 90 online) applies upon registration of a new stock company; annual fees depend on company turnover and have been reduced by 40% for 2016 and 50% for 2017 and subsequent years. There is an annual charge of EUR 309.87 to endorse company books, or EUR 516.46 if a company’s capital exceeds EUR 516,456.87. A fixed-amount tax of EUR 185 (EUR 155 online) applies to contributions to capital in the form of cash, movable property or shares in companies. A fixed registration tax of EUR 200 is also generally payable. Property transfers required to complete contributions in kind may be subject to mortgage tax and land registry tax.

Types of shares: An S.p.A. can issue both registered and bearer shares with specific conditions applying to share transfers, shares with full voting rights, shares with limited voting rights and shares with no voting rights. An S.p.A. also may issue shares with multiple voting rights. Special categories of shares can be assigned to employees.

Control: Unless the corporate bylaws require higher majorities, a simple majority of those present (representing at least 50% of capital) is sufficient for ordinary business matters. Shareholders representing more than 50% of the capital must approve changes to the bylaws, a change of corporate purpose, the relocation of headquarters abroad and certain other amendments. Shareholder pacts (agreements between shareholders to form a majority within a shareholders’ meeting) can last for a maximum of five years and must be declared at the beginning of each meeting for companies making recourse to risk capital.

Requirements for an S.r.L.

Capital: The minimum capital is EUR 10,000. Under certain conditions, individuals can set up a “simplified” S.r.L. with a minimum capital of EUR 1. For an S.r.L. with a single shareholder, the capital must be fully paid in and specific publicity requirements must be met. In establishing an S.r.L., any assets that can be subject to an economic evaluation may be contributed, including obligations deriving from work or services rendered. Unlike the shares of an S.p.A., the capital interests in an S.r.L. cannot be embodied in negotiable certificates.

Founders, quotaholders: A sole quotaholder may incorporate a corporation. There are no limits on the maximum number, nationality or residence of quotaholders. If a sole quotaholder incorporates an S.r.L., all of the corporate capital must be paid in, and specific publicity requirements must be met.

Management: The model of governance of an S.r.L. is based on the quotaholders’ meeting, which appoints the administrative body (board of directors or sole director).

There are no limitations on the number, nationality or residence of directors.

Taxes and fees: These are the same as for an S.p.A.

Control: Unless the corporate bylaws require a higher majority, an absolute majority of those present (representing at least 50% of the capital) is sufficient for ordinary business matters. Shareholders representing at least 50% of the capital must approve major changes, such as extraordinary business, a change of corporate purpose, the relocation of headquarters abroad and certain other amendments.

Branch of a foreign corporation

A foreign company may set up a branch in Italy. However, since a branch is not considered an entity separate from its head office, the head office is responsible for the obligations of the branch. A branch must be registered in Italy, and a head office wishing to register a branch must supply certified copies of its resolution to establish the branch and the certificate of incorporation and bylaws and have the documents “apostilled.” There is no minimum statutory capital requirement for a branch and procedures on establishment do not vary by type of branch.

A branch is subject to Italian bookkeeping rules in the same way as a limited liability company, i.e. it will need its own accounting books (separate from the books of the foreign head office), it will have to draw up its own annual balance sheet for tax purposes and it must file an income tax return. A branch also must provide a translation of the financial statements of the head office.

Although branches and subsidiaries are taxed at the same rate in Italy, most foreign companies prefer to set up a subsidiary. The branch form may be preferable, however, if losses are expected during the first few years of operations and the foreign head office could use the losses to offset its own profits.

Representative office

A foreign company may set up a representative office in Italy. It is required to submit a request to the local chamber of commerce and to enroll the local office in the economic and administrative register (REA). A representative office that carries out only preparatory or auxiliary activities (e.g. promotional activities, public relations, collection of information, etc.) is not considered a PE of the foreign company for direct tax purposes.

2.2 Regulation of business

Mergers and acquisitions

Italy’s Competition Authority must be notified of any merger in which the domestic turnover of the companies involved in the merger exceeds EUR 495 million and of any takeover in which the turnover of the target company exceeds EUR 50 million (the thresholds are adjusted annually for inflation). This aspect of the law applies to state monopolies, as well as to intercompany restructurings and to mergers between firms at different points in the production or distribution chain. A merger can be prohibited or suspended if the resulting concentration would lead to the establishment or reinforcement of a dominant position in the national market in such a way as to eliminate or reduce competition in a substantial and lasting manner. Penalties apply for failure to notify the Competition Authority.

Special rules apply to mergers between banks, cross-industry mergers and to deals creating concentrations in the media.

Mergers with a European Community dimension fall within the competence of the European Commission and need to be reported under Council Regulation (EC) No. 139/2004. The EU has jurisdiction over mergers in two situations:

1) Where the combined aggregate worldwide turnover of all of the undertakings concerned is more than EUR 5 billion and the aggregate EU-wide turnover of each of at least two of the undertakings is more than EUR 250 million, unless each of the undertakings concerned achieves more than two-thirds of its aggregate EU-wide turnover in a single member state; and

2) Where the aggregate global turnover of the companies concerned exceeds EUR 2.5 billion for all businesses involved, aggregate global turnover in each of at least three member states is more than EUR 100 million, aggregate turnover in each of these three member states of at least two undertakings is more than EUR 25 million and aggregate EU-wide turnover of each of at least two of the undertakings is more than EUR 100 million, unless each achieves more than two-thirds of its aggregate EU-wide turnover within one and the same state.

If a merger normally would not fall under the jurisdiction of the European Commission, the affected companies may ask the Commission to review it if they otherwise would be obliged to notify three or more member states. The Commission proceeds as a "one-stop shop" only if none of the relevant member states objects within 15 days.

Monopolies and restraint of trade

Monopolies are covered by Italy's antitrust law. The concept of abuse of a dominant market position is consistent with that of antitrust law in most OECD countries, and particularly with the EU's competition directives. The EU defines a dominant market position in terms of the relevant product and geographic market, assessing the market share held by the entity and other signs of a superior market position over competitors, including whether the entity is capable of behaving independently of its competitors and customers.

The Competition Authority defines market dominance as instances in which a company accounts for most of the sales in a market, competitors have limited possibilities to react and the dominant company is able to act largely independently of competitors and consumers. The law does not prohibit a market dominating position as such, but it does prohibit the abuse of such a position. Examples of abuse include charging prices or imposing terms and conditions that are unreasonably onerous or acting in a way that hinders market access by other competitors or obliges them to give up their activities.

2.3 Accounting, filing and auditing requirements

Italian companies must prepare annual profit and loss accounts and balance sheets and generally should adopt Italian accepted accounting principles. However, listed companies and banks generally are required to adopt International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS). A simplified form of accounts based on the same principles is available for smaller companies. The directors must prepare an annual report on all aspects of the company's activities. Annual reports are not required for smaller companies, which prepare short-form balance sheets if financial and economic parameters are met for two consecutive financial years. Such companies cannot adopt IAS/IFRS accounting principles.

The notes to the financial statements must include details of controlled and associated companies, defined as a minimum 20.01% capital holding (10.01% if quoted on the stock exchange), with their nominal and book value. The balance sheet must be approved by an ordinary shareholders' meeting called within 120 days (or in special cases, 180 days) of the end of the company's financial year. The balance sheet must be filed with the Chamber of Commerce in the jurisdiction in which the company's registered office has been established (a particular electronic format, "xbrl," must be used).

Statutory auditors

The statutory auditors' activities consist of monitoring and controlling the management of a company to ascertain compliance with the law and company bylaws, proper management and adequacy of the structure adopted in relation to the business of the company.

An S.p.A. must appoint a board of statutory auditors. The board of statutory auditors is formed by three or five "effective" members, plus two alternates. At least one of the effective members and one of the alternates must be an individual enrolled with the register of auditors. Auditors are appointed by the shareholders' meeting for a period of three fiscal years.

An S.r.L. must appoint a board of statutory auditors, a sole statutory auditor (who must be enrolled with the register of auditors) or an external auditor (appointed by the quotaholders' meeting for three fiscal years) where one of the following conditions is satisfied:

- The company is required to draw up a consolidated balance sheet;
- The company controls another company that is required to have its accounts audited; or
- For two consecutive fiscal years, the company has exceeded certain limits in terms of total assets, revenue from the sale of products and services and the average number of employees.

Audit of accounts

An S.p.A. must have its accounts audited. This can be carried out by the board of statutory auditors (if all members are chosen from the register of auditors) if a company has unlisted shares and is not required to draw up a consolidated balance sheet and the bylaws specifically assign the audit of accounts to the board of statutory auditors, or by an external auditor or audit firm.

An audit of the accounts of an S.r.L. is mandatory if the requirement to appoint a board of statutory auditors/sole statutory auditor is triggered. As a general rule, such an audit is carried out by an external auditor/audit firm. The bylaws can assign the audit to the board of statutory auditors/sole statutory auditor.

3.0 Business taxation

3.1 Overview

Tax in Italy is levied at the federal, regional and municipal levels. Companies doing business in Italy are subject to a number of taxes, including the corporate income tax (IRES), the regional tax on productive activities (IRAP), withholding tax, VAT, registration tax, social security taxes, transaction tax and stamp duty. A surcharge on the corporate income tax may be levied on certain companies and "non-operating" companies are subject to a higher corporate tax rate. Italian branches of foreign companies are subject to corporate income tax and IRAP in the same way as a domestic company. There is no branch profit tax.

As explained above in 1.5, Italy grants a number of incentives, including a patent box regime.

Italy has transfer pricing and controlled foreign company (CFC) rules and rules that restrict the deduction of interest expense in certain circumstances. Italy has an extensive network of tax treaties that aim to eliminate double taxation.

Italy has implemented the EU directives, including the parent-subsidiary, interest and royalties and merger directives. Italy also had implemented the savings directive, which required the exchange of information between tax administrations when interest payments were made in one EU member state to an individual resident in another member state. The directive was repealed from 1 January 2016 to coincide with the introduction of the common reporting standard (CRS) within the EU through the implementation of a new directive on the mandatory exchange of information.

Italy Quick Tax Facts for Companies	
Corporate income tax (CIT) rate	27.5%
Branch (CIT) tax rate	27.5%
Regional tax on productive activities (IRAP)	Generally 3.9%
CIT rate for non-operating companies	38%
Capital gains tax rate	27.5%; 95% exempt under certain conditions
Basis	Worldwide
Participation exemption	Yes
Loss relief	
− Carryforward	Indefinite
− Carryback	No
Double taxation relief	Yes
Tax consolidation	Yes
Transfer pricing rules	Yes
Thin capitalization rules	No, but restrictions apply on interest deductibility
Controlled foreign company rules	Yes
Tax year	Calendar year or financial year
Advance payment of tax	Yes
Return due date	Within nine months following the end of the financial year
Withholding tax	
− Dividends	0%/1.375%/26%

− Interest − Royalties − Branch remittance tax	0%/12.5%/26% 0%/30% (on 75% of the gross royalty) 0%
Capital tax	No, but a registration duty applies
Stamp duty	Rate varies
Social security contributions	Rate varies
Property tax	Levied by the municipalities
Transfer tax	Rate varies
Payroll tax	No
VAT	22% (standard rate)/4%, 5%, 10% (reduced rates)

3.2 Residence

A company is resident for tax purposes if its legal seat, place of effective management or main business activity is in Italy for the greater part of the fiscal period (at least 183 days). A foreign company that holds a controlling participation in an Italian company is deemed to have its place of effective management in Italy and, therefore, to be resident in Italy for corporate tax purposes if the foreign company is controlled by an Italian resident or managed by Italian residents representing the majority of its board of directors.

3.3 Taxable income and rates

Corporate income tax is levied on the worldwide income of resident companies, except for income derived from foreign branches, which is not taxed in Italy where the company opts for the branch exemption regime (see under "Taxable income defined," below).

Nonresident companies are taxed only on Italian-source income; hence, foreign entities are taxed on profits generated by their Italian PEs.

Companies that adopt IAS/IFRS accounting principles for the preparation of the statutory balance sheet (broadly, companies whose shares are traded on the stock market, banks and financial intermediaries) are subject to special rules for determining taxable income.

The corporate income tax (IRES) rate is 27.5% and is applied to the statutory income statement result, as adjusted according to the tax law.

Under Italy's stability law for 2016, the corporate income tax rate will be reduced to 24% as from 1 January 2017 (however, for banks and other financial institutions, a 3.5% rate surcharge will lead to a 27.5% rate).

Taxable income defined

The taxable income of a resident company (or an Italian branch of a foreign company) for corporate income tax purposes is its business income, which consists of net income earned during a financial period. All income derived by an Italian company (or by an Italian branch of a foreign company) subject to corporate income tax is deemed to be business income, e.g. income from a trade, dividends, interest, royalties and capital gains. Taxable income is based on the results shown in the statutory profit and loss account, with certain adjustments.

Under Italy's participation exemption, domestic and foreign-source dividends received by an Italian resident corporate taxpayer are 95% excluded from the corporate income tax base. The exemption is not available, however, if the subsidiary is resident in a listed tax haven country (i.e. a country on Italy's "black list") or, under certain conditions, if the dividends are distributed by an entity resident in a black-list country through an interposed nonblack-list country. As explained in 3.4 below, qualifying capital gains also may be eligible for a 95% exemption.

Starting from 2016, Italian companies may opt for a branch exemption regime, which provides for the taxation of a branch's income in only the foreign country where the PE is established. The option, which allows an exemption for the income deriving from foreign PEs, is irrevocable and must be applied to all PEs of the Italian company ("all in-all out").

Deductions

Business expenses generally may be deducted in calculating taxable income provided they relate to activities necessary for the production of income. In general, all expenses related to the carrying on of a business are deductible, including:

- Costs incurred in setting up a business;
- Interest (subject to certain restrictions);
- Royalties paid for intellectual property, such as patents and trademarks;
- Remuneration paid to members of the managing and supervisory boards;
- Bad debts and funds put aside as provisions for doubtful debts (subject to certain limitations);
- Capital losses incurred on the sale of participations that could not benefit from the participation exemption regime (subject to restrictions);
- Advertising and entertainment expenses (subject to certain limitations);
- Pension plan contributions;
- Bonuses paid to employees; and
- Commissions.

Research expenditure may be deducted in full in the year of accrual or in equal installments over a maximum of five years.

ACE (Support for Economic Growth)

Italian companies and Italian branches of nonresident companies are entitled to an income tax deduction computed as a percentage of the annual increase in the company's net equity (i.e. a notional interest deduction).

The deduction allowed for 2016 is equal to 4.75% of the annual increase in net equity. From 2017 onward, the notional deduction will be determined annually by a ministerial decree that will take into account the yields of Italian treasury bonds, and could be increased by an additional 3% to compensate for a higher business risk.

Specific computational rules apply. The amount of the notional yield that exceeds the net taxable income of the relevant year may be carried forward and used to offset the net taxable income of a subsequent tax period or as a tax credit to offset (in five equal annual installments) the IRAP due for each fiscal year. Certain anti-avoidance rules also apply. The rules implementing the deduction are provided by a decree issued by the Ministry of Economy and Finance and include specific anti-avoidance provisions to prevent the inappropriate duplication of the ACE relief.

Interest expense

Interest and similar expenses, including expenses related to financial leasing agreements, that exceed interest income (i.e. net interest expense) may be deducted each year up to 30% of EBITDA (earnings before interest, taxes, depreciation and amortization), plus financial leasing installments and dividends paid by foreign controlled companies. The rule applies to all interest and similar expenses, not just expenses on related-party loans.

Exceptions are provided, *inter alia*, for interest capitalized on tangible and intangible assets according to the relevant law provisions, interest capitalized on inventory of movable goods, interest expense related to loans secured by a mortgage and interest expense related to trade payables.

Certain entities are not subject to the rules; banks, insurance companies and other financial companies are allowed an interest deduction up to 96% of the amount payable.

Interest expense that is not deductible in a particular year may be carried forward indefinitely for offset against available 30% EBITDA in subsequent years. The amount of EBITDA exceeding the net interest expense in a given year may be carried forward to increase 30% of EBITDA of subsequent years.

Special rules apply for tax consolidated groups. Excess net interest expense may be transferred to another group company and the 30% EBITDA of a group company that exceeds that company's net interest expense may be transferred to another group member and used to deduct that member's net payable interest at the level of the tax consolidation.

Restrictions apply to the carryforward of excess net interest expense in the case of mergers.

Depreciation

The straight-line method of depreciation is used, with the basis of valuation the historical cost of the assets. Maximum annual depreciation rates vary by industry and are provided by ministerial decree. The rate used for the ordinary depreciation of assets must be halved when applied to a tangible asset in the first year of use.

Land may not be depreciated. If land and buildings are valued as one item in the statutory balance sheet, there is a presumption that 30% of the total cost is attributable to land in the case of industrial buildings, and 20% in the case of other buildings.

Trademarks and goodwill may be amortized annually at a rate not exceeding 5.55%; for patents and know-how, the rate is 50%.

Companies may value inventory according to the weighted average cost, FIFO (first-in-first-out) or LIFO (last-in-first-out) methods.

Construction companies and other companies making supplies and providing services over a period longer than 12 months must value work-in-progress based on the contract prices. Progress of work usually is determined based on the percentage-of-completion method.

The stability law for 2016 provides that, for certain machinery and equipment purchased (or leased, through a financial lease agreement) between 15 October 2015 and 31 December 2016, the acquisition value (the basis on which tax depreciation is determined) is increased by 40% (i.e. depreciation is allowed up to 140% of the acquisition value). This measure is limited to tangible assets to which an annual tax depreciation rate exceeding 6.5% applies (i.e. real estate assets, pipelines, rolling stock and airplanes are excluded from the measure).

Losses

Losses may be carried forward and offset against corporate taxable income. However, 20% of taxable income in any year cannot be offset by brought-forward tax losses and will be subject to corporate tax (the "minimum tax" rule). Losses incurred by a company during its first three taxable periods may be carried forward and used to fully offset taxable income, but only if they relate to a new business activity; the losses may not have been incurred in the course of a merger or business contribution. The carryback of losses is not permitted.

Restrictions to tax loss carryforwards apply, *inter alia*, to mergers and demergers and when the majority of the shares of a company is transferred and the main activity of the company changes (with some exceptions).

Non-operating company rules

A minimum taxable income for corporate income tax and IRAP purposes must be reported under rules applying to non-operating companies. A company (including a resident company, commercial partnership or PE of a foreign entity) is deemed to be non-operating if its total turnover (excluding extraordinary turnover) and increase in inventory are lower than the aggregate of:

- 2% of the value of participations in resident and nonresident companies;
- 6% of the value of real estate and ships owned or leased by the entity; and
- 15% of the value of other business assets owned or leased by the entity.

The minimum taxable income rules also apply to companies that declare tax losses for five consecutive fiscal years and companies that declare, over a period of five consecutive fiscal years, a tax loss in four years and income lower than the minimum taxable income in the remaining year. The company will be considered a non-operating company as from the sixth fiscal year.

If an entity is deemed to be non-operating, it will be taxed on a deemed minimum income equal to the sum of the following amounts:

- 1.5% of the value of participations in resident and nonresident companies;
- 4.75% of the value of real estate and ships owned or leased by the entity; and
- 12% of the value of other business assets owned or leased by the entity.

The corporate income tax rate for companies that are deemed to be non-operating is 38% (34.5% as from 2017).

If a company does not have sufficient revenue in the profit and loss account or is not as profitable, as determined on the basis of the non-operating company rules, the relevant year's tax losses, if any, will be disallowed. VAT receivables also may be forfeited by a non-operating company.

The following companies are excluded from the application of the minimum taxation regime:

- Companies whose shares or bonds are listed on an Italian or foreign stock market;
- Companies controlled, directly or indirectly, by listed companies; and
- Companies that, in the two preceding years, have employed an average of at least 10 individuals.

Holding companies and certain other companies are allowed to exclude, for the purposes of determining their deemed turnover, participations in companies that cannot be regarded as non-operating companies. Other specific exclusion and nonapplication rules apply.

Application of the non-operating company regime may be avoided by requesting a ruling from the tax authorities.

IRAP

The regional tax on productive activities (IRAP) is a local tax levied on the net added value of production derived in each Italian region by resident companies and by PEs of foreign companies engaged in business activities. The IRAP taxable base of companies is almost exclusively driven by the statutory accounts, for which the law indicates the items comprised in the base. Net added value of production comprises the value of production minus certain costs of production. Banks or other financial institutions/companies (including holding companies) and insurance companies determine net added value by using specific criteria.

The ordinary tax rate is 3.9%, although the competent region may increase or decrease the rate by up to 0.92%. For banks and financial institutions, the ordinary IRAP rate is 4.65%; for insurance companies, the rate is 5.9%.

For manufacturing companies, the taxable base is represented by revenue from sales and services and is reduced by production costs, with certain exceptions (e.g. payroll costs of employees employed for a definite period of time, provisions for risks, write-downs of fixed assets, etc.). Specific rules apply for banks, other financial companies and insurance companies.

If the taxpayer has interest expense, 10% of the annual IRAP liability is deductible from the taxable base for IRES purposes. IRAP paid in connection with nondeductible employment expenses also is deductible.

3.4 Capital gains taxation

Capital gains generally are treated as ordinary income and taxed at the 27.5% (24% from 2017 onward) corporate income tax rate. If the asset has been held for at least three years, the gain may be spread in equal installments over a period of up to five years. Capital gains derived from the sale of participations, however, are 95% exempt from taxation if the following requirements are met:

- The participation has been held continuously for at least 12 months;
- The participation is classified as a financial fixed asset in the first financial statement closed after the participation was acquired;

- The company in which the participation is held is not considered a "black-list" entity for purposes of Italy's CFC regime in the previous three years; and
- The company in which the participation is held has carried on business activities during the last three years (with the exception of listed companies, a company will not meet this requirement if the majority of its assets are represented by real property that is not used in the company's business activities).

Capital losses incurred on the disposal of assets and the disposal of goods and rights other than those that are the object of the company's business are deductible. Capital losses arising on the sale of a shareholding qualifying for the participation exemption, however, are not deductible.

3.5 Double taxation relief

Unilateral relief

Domestic law provides for a foreign tax credit for final income tax paid abroad on foreign- source income. The tax credit cannot exceed the lower of the corporate income tax attributable to the foreign-source income and income taxes paid abroad. Foreign tax paid in a year that exceeds the Italian corporate income tax attributable to the foreign-source income may be carried forward or back for up to eight years.

Tax treaties

Italy has a broad tax treaty network, with most treaties following the OECD model treaty. The treaties generally provide for relief from double taxation, as well as limitations on the power of one contracting state to tax residents in the other state. Italy's treaties generally contain OECD-compliant exchange of information provisions.

To benefit from a reduced rate of withholding tax under a treaty, a nonresident must provide documentation to the Italian payer before the income is paid. Specific forms apply in the case of a number of treaties. If no form is specified, the Italian payer must obtain a certificate issued by the foreign tax administration stating that the foreign beneficiary is fiscally resident in the other contracting state and that it does not have a PE in Italy, as well as a declaration by the legal representative of the recipient verifying that the requirements under the treaty are met.

Italy Tax Treaty Network			
Albania	France	Malta	Singapore
Algeria	Georgia	Mauritius	Slovakia
Argentina	Germany	Mexico	Slovenia
Armenia	Ghana	Moldova	South Africa
Australia	Greece	Montenegro	Spain
Austria	Hong Kong	Morocco	Sri Lanka
Azerbaijan	Hungary	Mozambique	Sweden
Bangladesh	Iceland	Netherlands	Switzerland
Belarus	India	New Zealand	Syria
Belgium	Indonesia	Norway	Tanzania
Bosnia-Herzegovina	Ireland	Oman	Thailand
Brazil	Israel	Pakistan	Trinidad & Tobago
Bulgaria	Ivory Coast	Philippines	Tunisia
Canada	Japan	Poland	Turkey
China	Jordan	Portugal	Uganda
Croatia	Kazakhstan	Qatar	Ukraine

Cyprus	Korea (ROK)	Republic of the Congo	United Arab Emirates
Czech Republic	Kuwait	Romania	United Kingdom
Denmark	Latvia	Russia	United States
Ecuador	Lebanon	San Marino	Uzbekistan
Egypt	Lithuania	Saudi Arabia	Venezuela
Estonia	Luxembourg	Senegal	Vietnam
Ethiopia	Macedonia	Serbia	Zambia
Finland	Malaysia		

3.6 Anti-avoidance rules

Transfer pricing

The business income of a resident enterprise arising from transactions with nonresidents that directly or indirectly control the resident company, are under its control or are controlled by the same entity that controls the resident company, is assessed on the basis of the arm's length value of the goods transferred, services rendered or services received. Companies are deemed to be controlled when there is any form of actual or potential economic influence. A dominant influence is presumed when one party has exclusive sales rights to the other's products; financial or technological dependence exists; there is a family relationship; or business decisions are made or influenced by the other party.

The arm's length value means the average price or consideration paid for goods and services of the same or similar type, in free market conditions and at the same level of commerce, at the time and place the goods were purchased or services performed (or, if there are none, at the nearest time and place).

The methods used to determine the normal value generally follow OECD guidelines. Both the traditional methods (comparable uncontrolled price, cost-plus and resale price) and profit-based methods (transactional net margin and profit split) may be acceptable, depending on the specific circumstances.

Italy does not have a statutory requirement for transfer pricing documentation, but documentation is recommended to avoid having the burden of proof of arm's length prices shift to the taxpayer. Documentation is necessary to obtain protection against penalties. If certain conditions are satisfied, a transfer pricing assessment on transactions between companies belonging to a multinational enterprise will not trigger administrative penalties; for example, such penalties will not be imposed if, during a tax inspection, the company makes available to the tax authorities documents prepared according to their standards demonstrating that the prices applied in the intragroup transactions comply with the arm's length principle. The availability of the documentation must be declared in advance to the tax authorities.

Starting from 2016, a specific country-by-country reporting requirement is imposed upon the Italian parent company of multinational groups whose turnover is at least EUR 750 million. Under certain conditions, the requirement also applies to Italian companies controlled by multinational groups based abroad.

An advance ruling on transfer pricing issues may be obtained from the tax authorities. Such rulings, which also may apply to dividends and royalties, are valid for five years and are binding on the tax authorities, unless there is a change in the conditions on which the ruling is based.

The transfer pricing rules also apply to the IRAP taxable base.

Thin capitalization

See "Interest expense" under 3.3, above.

Controlled foreign companies

Italy's CFC regime attributes the profits of a nonresident entity to an Italian resident where the resident directly or indirectly controls the nonresident entity and the nonresident entity is considered a black-list entity (i.e. an entity resident in a jurisdiction other than an EU or EEA country that has concluded an exchange of information agreement with Italy with a nominal corporate income tax rate lower than 50% of the Italian rate) for purposes of Italy's CFC rules.

The CFC rules apply when an Italian taxpayer holds more than 50% of an entity that is tax resident in a black-list country. The CFC rules also apply when the nonresident entity is resident in a country that is not on the black list, if both of the following conditions are satisfied:

- The nonresident entity is subject to an effective tax rate lower than 50% of the effective rate in Italy; and
- More than 50% of the nonresident entity's income is passive income derived from the management of, holding of or investment in securities, participations, receivables or other financial investments; the disposition or exploitation of intangibles relating to industrial, artistic or literary rights; or the provision of services (including financial services) to entities belonging to the same group.

All of the CFC's income is attributable to the Italian resident in proportion to the Italian resident's participation in the foreign entity. Where an Italian resident directly or indirectly controls a CFC, the income is subject to separate taxation at the Italian resident's average income tax rate (subject to a minimum rate of 27%). The CFC income is determined by applying the Italian tax rules to the statutory result.

IRAP is not levied on foreign income.

The attributed income is included in the taxable income of the Italian taxpayer for the tax year during which the foreign entity's tax year ends.

A foreign tax credit is available for income tax paid by the CFC. The credit is limited to the amount of Italian tax corresponding to the foreign income.

A ruling may be requested from the tax authorities to avoid application of the CFC regime when the resident controlling entity can demonstrate that either:

- The CFC effectively carries on actual industrial or commercial activities as its main business activities in the market of the jurisdiction in which it is established. This condition is satisfied for banks and other financial and insurance institutions if the majority of the financial sources, use of funds or income originates in the local market. The "business test" is not applicable if more than 50% of the CFC's income is passive income derived from the management of, holding of or investment in securities, participations, receivables or other financial investments; the disposition or exploitation of intangibles relating to industrial, artistic or literary rights; or the provision of services (including financial services) to entities belonging to the same group; or
- Its participation in the CFC is not designed for the purpose of allocating income to the entity in the black-list jurisdiction ("effective tax test"). The controlling entity must demonstrate that the CFC's income does not benefit from a privileged tax regime and it must meet certain other requirements.

In cases where a participation to which the CFC regime does not apply is held, the taxpayer must report the participation in an annual declaration.

From 7 October 2015, the CFC rules no longer apply to Italian residents owning a noncontrolling participation of 20% (10% for companies listed on the stock market) or more (but not meeting the control requirements—see above) in an entity located in a tax haven.

General anti-avoidance rule

A general anti-abuse clause was introduced in 2015, under which the tax authorities can challenge "one or more transactions without economic substance which, despite formal observance of the laws, essentially realize unfair tax benefits" that constitute abuse of the law.

Acts and operations can be challenged by the tax authorities to the extent that they are in a position to prove the existence of the following circumstances:

- A lack of economic reasons for the acts/operations, other than the tax benefits (acts and operations that can be justified by a need to improve the organizational structure or increase the efficiency of a business cannot be regarded as lacking economic substance); and

- The tax savings lead to an undue benefit contrary to the purposes of the infringed law.

This anti-abuse provision applies to all kinds of transactions and all kinds of taxes (some differences in the application of the provision apply for customs duties only).

In cases where an operation is challenged on the basis of the anti-abuse clause, only administrative penalties can be applied; no infringement of the criminal tax law can arise.

Taxpayers may request an advance ruling to obtain the official opinion of the tax authorities on the lawfulness of the relevant operations.

3.7 Administration

Tax year

A company may elect to use the calendar year or its financial year as its tax year.

Filing and payment

A company must file annual corporate income tax returns electronically within nine months following the end of the financial year for both IRES and IRAP purposes. Two advance payments of corporate income tax also are required. For 2016, the two advance payments are due by 16 June and 30 November during the tax year, calculated based on the amount of corporate income tax paid in the previous year. The first installment is 40% of that amount; the second 60%. The balance of the taxes due must be paid by 16 June of the following year. A company whose financial year does not correspond to the calendar year must make advance payments by the 16th day of the sixth month and by the end of the 11th month after the end of the financial year, while the balance is due by the 16th day of the sixth month of the following financial year.

An annual withholding agent return must be submitted by the end of July of the year after the payments subject to withholding tax are made.

Withholding tax, social security payments and substitute taxes generally must be paid by the 16th day of the following month.

Penalties and interest can be imposed for tax evasion. Evasion can be considered a criminal offense.

Consolidated returns

Domestic consolidation is available to a parent company and its resident subsidiaries that are under its direct or indirect control. A subsidiary is free to choose whether or not to join the group. The control requirement is met when the participating company holds more than 50% of the share capital of another company and is entitled to more than 50% of the profits of that company.

Domestic consolidation also may be adopted if the controlling entity or a subsidiary (with an Italian branch) is a nonresident company, provided certain conditions are satisfied. The nonresident parent company may opt for the tax consolidation regime even if it does not have a PE in Italy, provided it designates a resident subject of the group (a company or branch meeting specific requirements) to assume the role of a controlling entity. The nonresident company must be resident in a country belonging to the EU or an EEA country with which Italy has signed an agreement ensuring an effective exchange of information, and must have a juridical form similar to that which would permit consolidation for an Italian company.

Under domestic consolidation, a single taxable income figure is calculated for all companies included in the tax consolidation.

Once an election for consolidation is made, it may not be revoked for three years unless the subsidiary ceases to be controlled by the parent company. Domestic tax consolidation is not available to companies benefiting from a reduction in the corporate tax rate.

If certain requirements are met, a worldwide tax consolidation regime is available, under which all foreign controlled companies must be included in the tax group (i.e. the “all in-all out” principle).

Statute of limitations

Under the 2016 stability law, a tax assessment for income tax and VAT purposes can be issued up to 31 December of the fifth year following the year when the relevant tax return was submitted to the tax authorities.

In the case of a failure to file the relevant tax return, the statute of limitations is extended to 31 December of the seventh year following the year in which the tax return should have been filed.

Tax assessments related to fiscal years prior to 2016 (i.e. 2015 and prior) still are subject to the previous rules: the ordinary statute of limitations was 31 December of the fourth year following the year when the relevant tax return was filed, or 31 December of the fifth year following the year in which the relevant tax return should have been filed. Those periods were doubled in the case of infringements relevant for criminal tax purposes, under certain conditions.

Tax authorities

The Ministry of Finance is the country's highest financial authority.

The Italian tax authorities (the Tax Income Agency or *Agenzia delle Entrate*) are responsible for ensuring compliance with the tax law. The agency is supervised by the Ministry of Finance.

Rulings

As from 2015, four main types of rulings can be requested by a taxpayer, in a timely manner, regarding different scenarios: (1) an “ordinary” ruling (in a case where there is objective uncertainty as to the correct interpretation of a provision or the correct classification of specific cases); (2) a “based on evidence” ruling (to obtain an opinion on the fulfillment of the conditions for the application of a particular tax regime); (3) an "anti-abuse" ruling (to clarify whether a transaction may be considered as abusive); and (4) a "non-application" ruling (to obtain an opinion on the fulfillment of the conditions necessary to avoid application of the anti-avoidance rules limiting deductions, allowances, tax credits, etc.).

The tax authorities are required to respond to a ruling request within 90 days in the case of an ordinary ruling, and 120 days in other cases.

Tax authorities can agree with or reject a taxpayer’s interpretation; if the tax authorities do not respond within the required time, taxpayers may consider that the tax authorities agree with their interpretation.

In addition to the four types of rulings mentioned above, taxpayers can apply for different types of “international” rulings from the tax authorities:

- A ruling aimed at obtaining a binding opinion from the tax authorities concerning cross-border issues, such as transfer pricing, attribution of profits to PEs, the existence of a PE or the application of tax treaty rules concerning dividends, interest or royalties;
- A new type of ruling to allow taxpayers that are willing to make an investment in Italy of over EUR 30 million that will have a substantial effect on employment to obtain an opinion concerning the various fiscal implications of the investment in Italy; and
- A ruling aimed at obtaining the opinion of the tax authorities on a cross-border transaction for VAT purposes.

3.8 Other taxes on business

Fiscally transparent company regime

Italian companies may opt to be taxed under the fiscally transparent regime. Under this regime, the Italian company is not taxed on its own income; instead, the income (loss) is attributed to its corporate shareholders in proportion to their participation percentage, regardless of whether the profits of the company have been distributed. This income (loss) is included in the shareholders’ total income and taxed accordingly.

To qualify for fiscally transparent treatment, the company must hold between 10% and 50% of the voting rights in another Italian company for a continuous 12-month period and between 10% and 50% of the rights to the company’s profits. A nonresident company can opt for the regime provided no dividend withholding tax is applicable on distributed profits; this would apply to EU companies that qualify for application of the EU parent-subsidiary directive. The income attributed to the nonresident shareholders must be declared and taxed in Italy at the ordinary corporate income tax rate. No tax treaty protection is available.

If the transparent company incurs a tax loss, the loss is assigned to the shareholders in an amount not exceeding the portion of the shareholder's net equity. The excess loss may be used by the transparent company only to offset future income.

The election for the transparency regime must be made by both the participating corporate shareholders and the entity in which the participation is held and is effective for three years, unless the requirements cease to be met.

4.0 Withholding taxes

4.1 Dividends

Dividends paid to a nonresident corporation generally are subject to a 26% withholding tax (with a potential refund to the foreign taxpayer of up to 11/26ths of the Italian withholding tax), unless the rate is reduced under a tax treaty or the dividends qualify for an exemption under the EU parent-subsidiary directive. Under the directive, the domestic withholding tax is reduced to zero if dividends are distributed to a qualifying EU corporate shareholder that has held directly at least 10% of the subsidiary for at least 12 months.

A domestic final withholding tax of 1.375% (1.2% as from 2017) applies to dividends paid from profits generated since 2008 that are distributed to shareholders resident in the EU and to qualified shareholders resident in EEA countries that allow an adequate exchange of information. This regime applies (in an EU/EEA context) to corporate shareholders that do not meet the minimum participation requirement or holding period for the parent-subsidiary directive to apply.

4.2 Interest

Italian-source interest paid to a nonresident generally is subject to a 26% final withholding tax, unless the rate is reduced under a tax treaty. Under Italy's implementation of the EU interest and royalties directive, qualifying interest payments to an associated entity resident in another EU member state are exempt from withholding tax.

Interest derived from a direct/indirect investment in government bonds and similar securities is subject to a 12.5% substitute tax (domestic exemptions apply).

4.3 Royalties

Royalties paid to a nonresident company are subject to a 30% withholding tax, which generally is applied to 75% of the gross amount of the payment, resulting in an effective tax rate of 22.5%. The withholding tax rate may be reduced under a tax treaty or the payment may qualify for exemption under the EU interest and royalties directive.

Licensing fees and some service fees are taxed as royalties, but management fees are exempt from withholding tax.

4.4 Branch remittance tax

None

4.5 Wage tax/social security contributions

Unless excluded under a tax treaty provision, employment income paid by an Italian company, including Italian-source employment income, is subject to withholding tax; the amount is determined in accordance with the Italian progressive tax rates on personal income (see under 6.2, below).

The Italian withholding agent must provide the employee with an annual salary statement by 28 February following the year to which the income relates, which certifies the amount of income tax withheld during the relevant fiscal year. The information included in the statement also must be submitted to the Italian tax authorities. The withholding agent also is required to submit an annual withholding agent tax return reporting the total amount of tax withheld in respect of all employees, as well as the income certified in the annual salary statement.

Unless a social security agreement applies, Italian-source employment income is subject to social security contributions. Social security must be paid by both the employer and the employee (28% to 30% for the employer, and about 9% for the employee). The amount due by the employee is withheld by the employer and paid on his/her behalf. The social security payment must be made by the 16th day of the following month. A social security representative must be appointed if the employer is not an Italian company.

4.6 Other taxes

Unless reduced under a tax treaty, a 30% withholding tax applies to compensation paid to a nonresident for the use of industrial, commercial or scientific equipment located in Italy.

A portion (49.72%) of capital gains realized on the sale of qualified participations (i.e. a shareholding representing more than 2% of the voting rights or 5% of the equity of a company listed on a stock exchange, or more than 20% of the voting rights or 25% of the equity of an unlisted company) is taxed at progressive income tax rates for a nonresident individual shareholder, and at 27.5% for a nonresident entity.

Capital gains realized on the sale of nonqualified participations are taxed at a flat rate of 26%. Under Italy's domestic tax law, capital gains realized on the following transactions are not taxable:

- The sale of a nonqualified participation by a foreign shareholder resident in a country listed in a specific ministerial decree ("white list"); and
- The sale by a foreign shareholder of a nonqualified participation held in a company listed on a stock exchange.

Capital gains tax may be reduced or eliminated under the terms of a relevant tax treaty.

5.0 Indirect taxes

5.1 Value added tax

VAT is levied at each stage of the production and distribution chain. In general, taxable supplies of goods or services within Italy that are carried out by a VAT entrepreneur, as well as intra-community acquisitions and imports of goods, fall within the scope of Italian VAT. The assessment basis is the price of the goods or services (or the cost attributable to their consumption) or the value declared as the customs value of the goods, increased by custom duties.

VAT is chargeable at the standard rate unless goods and services are zero rated, subject to a reduced rate, exempt or outside the scope of Italian VAT. The standard VAT rate is 22%, with reduced rates of 4%, 5% and 10%. Some services are exempt from VAT (e.g. banking and financial and insurance services, gaming and gambling, the sale and lease of real estate, with some exceptions). Other items benefit from zero-rated treatment (e.g. exports, intra-community supplies, sales of vessels and services relating to vessels if they are destined to be used on the high seas, etc.). The distinction between goods and services that are exempt from VAT and those that are subject to 0% VAT is that a seller of exempt goods is not entitled to reclaim VAT on business purchases, whereas a seller of goods and services rated at 0% is entitled to do so.

Certain transactions are specifically excluded from the scope of VAT (e.g. the sale and the contribution in kind of a going concern, the sale of land that cannot be developed, certain sales of samples, the transfer of goods as a consequence of a merger/demerger and similar transactions, etc.).

A taxpayer carrying out taxable supplies in Italy is required to register for VAT purposes.

An annual VAT return must be submitted electronically to the Italian tax authorities by the end of February, summarizing the transactions carried out during the previous year. Annual reporting obligations apply where an Italian taxpayer engages in transactions with an entity in a 'black list' country. Monthly or quarterly intra-EU listings are required in respect of transactions undertaken with EU counterparts.

VAT grouping for consolidated payments is permitted in Italy.

E-invoicing for B2G transactions

Italian VAT-registered taxpayers must issue electronic invoices in respect of supplies made to public bodies (B2G transactions). If the VAT-registered taxpayer does not electronically invoice, the public body cannot proceed with the payment.

B2C electronically supplied services

Electronically supplied services, radio and television broadcasting services and telecommunication services provided by suppliers established in the EU or in a third country to individuals (B2C) established in the EU must be taxed at the place where the customer resides or has a permanent address.

To pay the local VAT, the taxable persons can use the MOSS (mini one-stop shop). The MOSS is a web portal that allows taxable persons supplying B2C services to nontaxable persons in member states in which they do not have an establishment to account for the VAT due on those supplies in the member state in which they are identified.

The scheme is a simplification measure, since, without the MOSS, the supplier would be required to register in each member state in which it supplies services to customers.

In practice, under the scheme, a taxable person registered for the MOSS in a member state submits quarterly electronic MOSS VAT returns providing details of the supplies of services made to individuals in other member states, together with the VAT due. These returns, along with the VAT paid, are then transmitted by the member state of identification to the corresponding member states of consumption via a secure communications network.

The MOSS is available both to taxable persons established in the EU (Union scheme) and those not established within the EU (non-Union scheme).

A taxable person who opts to use the MOSS is required to register in the member state of identification: for the Union scheme, this is the member state in which the taxable person has established its business or has a fixed establishment; for the non-Union scheme, the taxable person (who has neither a business establishment nor a fixed establishment and is not registered or obliged to register in the EU) can choose any member state to be the member state of identification.

5.2 Capital tax

None

5.3 Real estate tax

The municipalities levy a tax on immovable property owned by a company (IMU), generally at a rate of 0.76%. The taxable base is determined by multiplying the value of the land as recorded in the immovable property registry by certain coefficients. The IMU generally is nondeductible for corporate income tax purposes; however, corporate taxpayers are able to deduct 20% of the IMU paid on immovable property used exclusively for business activities from the taxable base for IRES purposes. The IMU is the primary element of the *imposta unica comunale* (IUC), which also includes two other municipal service taxes known as TASI (tax for services) and TARI (tax on refuse).

5.4 Transfer tax

Certain transactions in Italy, including all transactions involving real property, must be registered with the public register. Other transactions can be registered voluntarily.

All transactions that are voluntarily registered are subject to a lump-sum register tax of EUR 200. Where registration is mandatory, the registration tax generally is a percentage of the value of the transaction. For example, transactions involving the purchase of the taxpayer’s principal home generally are subject to a 2% register tax, while transactions involving other real property are subject to register tax at 9% or 15% (in the case of land).

Mortgage and cadastral taxes of EUR 50 are imposed where the 2%, 9% or 15% register tax rates apply. In other cases, proportional mortgage and cadastral taxes could apply.

Certain corporate acts are subject to the register tax, e.g. the transfer of a going concern.

5.5 Stamp duty

Stamp duty is imposed on specific acts listed in the legislation. The most common case is that of invoices and receipts issued for transactions that are zero-rated for VAT purposes (other than intra-EU supplies or exports) and that exceed EUR 77.47 per transaction. In such cases, stamp duty of EUR 2 is applied on the invoice.

Account reports issued by banks to their clients are subject to stamp duty ranging from EUR 34.20 to EUR 100 per year.

Stamp duty may be paid by the attachment of a stamp purchased from the state on the relevant document, but it also can be paid based on annual filings with the tax authorities.

A “Tobin tax” applies in the form of a stamp duty on transfers of shares and other financial instruments issued by Italian companies (including derivative instruments, if one of the parties to the transaction is an Italian tax resident). The tax rate for 2016 is 0.2% of the transaction value, reduced to 0.1% where the sale takes place on a listed market (a flat tax is applied on the value of derivative instruments).

5.6 Customs and excise duties

Customs duties are levied on goods imported from outside the EU, with the duties collected by the customs authorities at the time of importation, unless the goods are subject to one of the suspension regimes. The determination of the appropriate rate depends on the classification of the imported goods, their origin and their value.

Excise duties are levied for supplies of specific goods, such as gasoline and other fuels, tobacco, alcohol, gas and electricity.

5.7 Environmental taxes

None

5.8 Other taxes

Registration tax

Changes to company statutes that require registration cost EUR 120. Annual fees are based on the turnover of the company and have been reduced by 40% for 2016 and 50% for 2017 and subsequent years. Local chambers of commerce oversee registration and fees.

License fees

License fees are levied on industrial and intellectual property, books and accounts, firearms and gambling.

6.0 Taxes on individuals

Individuals are subject to personal income tax, withholding tax, inheritance tax, property tax and social security contributions. A 3% temporary solidarity surcharge also applies to high income earners, and an additional 10% tax is levied on the value of bonuses and stock options exceeding the base salary received by executive employees in the financial sector.

Italy Quick Tax Facts for Individuals	
Individual income tax	Progressive to 43%
Dividends (received by resident individuals from qualified participations)	Progressive to 43% (generally on 49.72% of the net dividends)
Capital gains from qualified participations	Progressive to 43% (generally on 49.72% of the capital gains realized)
Capital gains from nonqualified participations	0%/26%
Solidarity surcharge	3%
Additional tax on bonuses and stock options	10%
Basis	Worldwide income
Double taxation relief	Yes
Tax year	Calendar year
Return due date	Between 7 July and 30 September
Withholding tax	
− Dividends	26%
− Interest	12.5%/26%
− Royalties	30% (generally on 75% of the gross royalty received by a nonresident)
Net wealth tax	0.2%
Social security	Varies
Inheritance/gift tax	4%/6%/8%
Stamp tax	EUR 34.20/0.2%
Property tax	0.76%
VAT	22% (standard rate)/4%, 5%, 10% (reduced rates)

6.1 Residence

For income tax purposes, an individual is deemed to be a resident if he/she is registered at the Italian Civil Registry or is resident or domiciled in Italy under the Italian Civil Code for more than 183 days in a year (184 days in a leap year).

In 2015, a new category of nonresident was introduced in Italian tax law for "nonresident-*Schumacker* individuals." To qualify, a taxpayer must earn at least 75% of his/her annual income in Italy and must be a resident of a state that provides for an adequate exchange of information (although the Ministerial Decree enacting the rule refers specifically to EU/EEA member states, more recent guidance indicates that this may be extended to any "cooperative" country that provides for an adequate exchange of information). This category of nonresident individuals is eligible for the same kind of tax deductions available to Italian resident individuals, including some tax deductions (e.g. the deduction for certain social security contributions and the deduction for family circumstances) that usually are available only to Italian tax resident individuals, provided the taxpayer does not benefit from similar deductions in his/her state of residence.

6.2 Taxable income and rates

Taxable income

Resident individuals are taxed on their worldwide income; nonresidents are taxed only on Italian-source income.

Individuals in Italy are subject to taxation on income from employment, business income, income from capital and land and other income.

Wages and salaries paid by an employer, including occasional remuneration paid by any person, are subject to a withholding tax that represents an advance payment of income tax and that is withheld at the ordinary progressive rates corresponding to the relevant tax bracket of the individual. The settlement of such tax liability (if any) is made by the individual in the annual tax return.

Capital gains derived by an individual on the disposal of Italian immovable property generally are taxed as miscellaneous income, but are exempt from tax if the individual held the property for more than five years or if the property sold was the principal abode of the individual.

Deductions and reliefs

Deductions for family circumstances are available in calculating taxable income. Provided certain requirements are met, Italian tax residents and nonresident-*Schumacker* individuals are entitled to deductions for related dependents, the primary residence, medical expenses, certain social security contributions, etc. Other nonresident individuals also may be entitled to deductions in certain cases.

Rates

The personal income tax is progressive, rising to a top rate of 43%. The rates are as follows: the lowest rate of 23% applies to income up to EUR 15,000; a 27% rate applies to income from EUR 15,001 to EUR 28,000; a 38% rate applies on income from EUR 28,001 to EUR 55,000; a 41% rate applies on income from EUR 55,001 to EUR 75,000; and the 43% rate applies on income exceeding EUR 75,000. Depending on the municipality in which the individual is resident, additional regional and municipal taxes may apply, ranging from 1.23% to 3.33% (regional tax rates are progressive in some regions) and 0% to 0.9%, respectively, unless reductions are specifically provided by the region or municipality. Generally, an advance withholding tax of 20% is applicable on income from self-employment derived by resident individuals. Income from self-employment derived by nonresident individuals for services performed in Italy is subject to a final withholding tax of 30%.

Commissions paid to agents and business representatives generally are subject to an advance tax withholding of 23% on a reduced base of 50% of the income paid (the taxable base is further reduced to 20% of the income in certain cases).

As from fiscal year 2016, a special taxation regime applies to variable remuneration paid to private sector employees as a bonus earned in connection with an increase in productivity. This regime is applicable under the following conditions:

- Employees (of the private sector) must be employed under a fixed-term contract, an unlimited employment contract and/or through a temporary employment agency; and
- The amount received as employment income in the previous fiscal year (according to the relevant provision of the income tax code) must not exceed EUR 50,000 per year.

If the above conditions are fulfilled, an amount up to EUR 2,000 gross (per year) of variable remuneration granted for achieving an increase in terms of productivity, profitability, quality, efficiency and innovation that is actually “measurable and verifiable” may be taxed at a flat rate of 10%.

Specific rules for resident individuals

Resident individuals are taxed at a flat rate of 26% on interest (12.5% for interest on Italian treasury bonds or similar bonds). The 26% flat rate also applies to dividends and capital gains related to nonqualified participations.

Resident individuals generally are taxed at the ordinary income tax rate on 49.72% of dividends and on 49.72% of capital gains related to qualified participations.

Dividends and capital gains related to participations held in companies located in a black-list jurisdiction generally are taxable in full at the progressive income tax rates, unless a favorable ruling provides otherwise.

For listed companies, a participation representing more than 2% of the voting rights or more than 5% of the share capital is treated as a qualifying participation; for other companies, a qualified participation is one representing more than 20% of the voting rights or more than 25% of the share capital.

Specific rules for nonresident individuals (including nonresident-*Schumacker* individuals)

Nonresident individuals generally are taxed at the 26% flat rate on capital gains related to nonqualified participations and on dividends, as well as on other income from capital (e.g. interest) paid from an Italian resident company (except for interest and other income from capital derived from bank or postal accounts and from saving accounts).

Individuals resident in a white-list country (as identified by a specific decree), however, are not taxed on capital gains related to nonqualified participations; capital gains related to nonqualified participations held in an Italian listed company are exempt.

Nonresident individuals are taxed at the ordinary income tax rate on 49.72% of capital gains related to qualified participations.

Capital gains related to participations held in companies located in a black-list jurisdiction are taxable in full at the progressive income tax rates, unless a favorable ruling provides otherwise.

The tax applicable to a nonresident may be reduced or eliminated under the terms of a relevant tax treaty.

6.3 Inheritance and gift tax

The rates of inheritance tax are 4%, 6% or 8%, depending on the relationship between the deceased and the beneficiaries, with exemptions up to EUR 1 million applying to bequests to close relatives.

6.4 Net wealth tax

Italian residents are subject to a wealth tax on financial assets located abroad at a rate of 0.2% of the assets' market value as at the end of the year.

6.5 Real property tax

Property owners, whether or not resident in Italy, are liable for property tax (IMU) on buildings and land owned in Italy as investments. This tax is not applied if the real estate is used as a primary abode by the owner (in such a case, the owner must have a civilian residence at the real estate).The basic tax rate is 0.76% of the taxable value of the property, but the competent municipality can provide for an increase or reduction of up to 0.3% on the basic rate. The property tax on buildings and land also applies to buildings and land located abroad, if owned by an Italian tax resident.

The IMU is the primary element of the IUC, which also includes two other municipal service taxes. The first is known as TASI (tax for services) applied, in principle, on real estate used as a primary abode by the owners (it also may be applied to other real estate if a specific decision by the municipality is issued in this regard). The second is TARI (tax on refuse).

6.6 Social security contributions

Unless otherwise provided under a relevant social security agreement or in EU Regulation No. 883/2004, individuals working in Italy generally are subject to social security contributions, at a rate depending on the sector and on the job title of the employee. The employee portion of social security for the state pension fund generally is equal to 9.19% of earnings, capped at EUR 100,324 (for the 2016 fiscal year) for employees who started to contribute to the mandatory state pension fund on or after 1 January 1996. For employees who commenced their contributions before 1 January 1996, the income is not capped and the contributions are calculated on total income. In both cases, an additional 1% contribution is payable on earnings exceeding EUR 46,123 (for the 2016 fiscal year). The employer social security rate is around 28%-30% on earnings, capped at EUR 100,324 for the 2016 fiscal year for employees who started to contribute to the mandatory state pension fund on or after 1 January 1996.

Additional employer contributions at rates of up to 6% are payable (uncapped) for other social charges.

6.7 Other taxes

Solidarity surcharge

A 3% solidarity surcharge applies to taxpayers, including expatriates on secondment in Italy, whose annual gross income exceeds EUR 300,000. The surcharge initially was intended to apply from 1 January 2011 to 31 December 2013, but has been extended until the 2016 fiscal year. The surcharge is equal to 3% of income exceeding the EUR 300,000 threshold. The tax is withheld by the employer and reported in the annual withholding agent statement. It also is deductible by the individual in computing taxable income for the tax year in which the income is paid. The effect of the solidarity surcharge is to increase the maximum withholding tax rate to 46%.

Additional tax on bonuses and stock options

An additional 10% tax is levied on bonuses, stock options and variable payments paid to executive employees and members of the board of directors of companies operating in the financial sector. The additional 10% tax applies only on the portion of variable payments exceeding the fixed remuneration paid to the individual.

Stamp tax

The final annual bank statement related to a bank account located in Italy is subject to a lump-sum tax of EUR 34.20. An exemption applies where the annual average balance is lower than EUR 5,000. The final annual bank statements related to savings accounts and other financial instruments are subject to stamp tax at 0.2% on the market value at the end of the relevant period. The “Tobin tax” (see 5.5 above) also applies.

6.8 Compliance

The tax year is the calendar year.

Spouses are taxed separately on their earned income. A joint tax return may be filed under certain conditions.

As a general rule, an individual who receives Italian-source income is required to file an annual tax return, unless he/she is expressly exempted (e.g. if the individual has only employment income and owns a house qualified as a “principal residence”). The tax return must be filed between 7 July and 30 September of the year following the tax year. Penalties and interest apply for failure to file and late filing.

Two advance payments of income tax must be made during the tax year, by 16 June and 30 November. The balance of the tax owed, based on the final liability resulting from the annual tax return for the year concerned, must be paid by 16 June of the following year. Excess tax is refundable, although the taxpayer may instead opt for a tax credit that may be carried forward to offset future taxes.

7.0 Labor environment

7.1 Employee rights and remuneration

Basic employee rights fall into three principal categories:

- **Economic rights:** These concern remuneration and severance pay. An employee is entitled to receive compensation proportional to the quantity and the quality of the work performed and, in any case, sufficient to guarantee subsistence for the employee and his/her family.
- **Personal rights:** The employer must ensure workplace safety and make regular inspections to guarantee safety. An employee is entitled: (i) to rest periods; (ii) to be employed for duties for which he/she has the appropriate skills; (iii) not to be dismissed for illness, injury, pregnancy, etc.; and (iv) to freedom to express his/her opinions.
- **Trade union rights:** An employee may participate in activities and strikes.

Individual employment contracts or a letter of employment contain provisions concerning the employment relationship, such as the identity of the parties, workplace and hours, duration, qualification and level of classification, tasks, probation period, remuneration, dismissal, etc. The contracts cannot deviate from the provisions in a collective bargaining agreement and generally may include only conditions more favorable to the employee.

The employer is required to advise the competent provincial office of the hiring of an employee by the day before the employment relationship begins, and to report any change in the relationship e.g. from part-time to full-time work and vice versa. Failure to comply will give rise to penalties.

Working hours

The standard work week is 40 hours, but this may be reduced under an individual employment contract or letter of employment. The maximum average work week is 48 hours, including overtime; however, this limitation may not apply to executives or management personnel. Details relating to overtime pay generally are set under a collective bargaining agreement or an individual employment contract or letter of employment.

7.2 Wages and benefits

Remuneration comprises several elements that are defined by collective bargaining agreements for each production sector and set by law. Italy has no national minimum wage, although a minimum wage has been proposed. A minimum wage is provided by national collective bargaining for specific sectors. Salary typically comprises the following:

- **Direct pay:** Base salary, cost-of living allowances, seniority increments, productivity bonuses, extra allowances over the minimum pay, holiday entitlements and various indemnities that may be provided by collective or individual agreements (e.g. overtime, shift or risk allowances, travel allowances, etc.);
- **Indirect pay:** Remuneration for annual holidays not taken, remuneration for public holidays and paid leave; performance premiums and extra monthly salary (i.e. "month 13 and 14" installments); and
- **Deferred pay:** Severance pay.

Employees are entitled to annual paid holiday of at least four weeks and to paid leave that generally is associated with the occurrence of an event.

Fringe benefits constitute an additional element of remuneration paid to supplement the standard remuneration or to incentivize the employee to greater productivity. Voluntary fringe benefits are common and typically include company-subsidized canteens, company cars, loans on favorable terms, housing at subsidized rents and fees for clubs and sports facilities.

Pensions and social insurance

The pension insurance system is based on obligatory and supplementary pensions (complementary and private).

The National Social Security Institute is responsible for the management of compulsory pension insurance, which provides the following coverage: old age pension, retirement pension, disability pension, invalidity pension and survivors' pension.

Social security contributions are made by both the employee and the employer. The contribution is withheld from the employee's salary and is paid by the employer, along with its own contribution. The amount of the contribution is calculated as a percentage of taxable wages, which includes all sums and payments received for any reason during the relevant period. The percentage varies depending on the category of work.

The supplementary pension, which is designed to allow an employee to obtain an additional pension, is managed by specific pension funds. The supplementary pension is supported by contributions made by the employer and the employee, together with portions of severance pay that have been withheld.

7.3 Termination of employment

Termination of an employment relationship may be by resignation or dismissal. In both cases, the employee is entitled to severance pay and pro rata 13th and 14th month installments (if provided by a national collective agreement), calculated at the date of termination of the employment, and indemnity for accrued and unused holidays and paid leaves of absence.

The employee is entitled to a notice period (or an indemnity), the length of which is provided by the national collective agreement applied to the employment. If the indemnity is paid, this is subject to social security as if the employee had discharged his/her duties during the notice period.

In cases of collective redundancies, specific rules must be followed. These rules generally require the employer to notify the trade union about the technical, organizational and productive factors that have prevented alternatives to the redundancy, and the planned measures to reduce the social impact arising from the reduction in staff. The union can require the employer to hold a meeting to discuss the reasons for the dismissals. If no agreement is reached within the period set by law, mediation may be used. Employees that are made redundant are entitled to an indemnity.

7.4 Labor-management relations

National Collective Agreements are concluded between trade unions and employer associations. These agreements establish the economic and regulatory conditions of employment (e.g. minimum wage, seniority privileges, probation periods, overtime, etc.) for each sector (e.g. commerce, industry).

7.5 Employment of foreigners

Different rules apply to EU and non-EU foreign nationals. EU nationals may work in Italy without obtaining a work permit or residence permit.

Employers wishing to employ non-EU foreign nationals must submit an application and supporting documents to the immigration desk for their province to obtain a work permit. Certain annual work permit quotas apply for non-EU nationals. The foreign worker must obtain a visa from the Italian consulate in his/her country of residence. Non-EU nationals that plan to reside in Italy for a period exceeding three months also must apply for a residence permit.

8.0 Deloitte International Tax Source

The Deloitte International Tax Source (DITS) is a free online database that places up-to-date worldwide tax rates and other crucial tax information within easy reach. DITS is accessible through mobile devices (phones and tablets), as well as through a computer.

Connect to the source and discover:

A database that allows users to view and compare tax information for 65 jurisdictions that includes –

- Corporate income tax rates;
- Historical corporate rates;
- Domestic withholding tax rates;
- In-force and pending tax treaty withholding rates on dividends, interest and royalties;
- Indirect tax rates (VAT/GST/sales tax); and
- Information on holding company and transfer pricing regimes.

Guides and Highlights – Deloitte's Taxation and Investment Guides analyze the investment climate, operating conditions and tax systems of most major trading jurisdictions, while the companion Highlights series concisely summarizes the tax regimes of over 130 jurisdictions.

Jurisdiction-specific pages – These pages link to relevant DITS content for a particular jurisdiction (including domestic rates, tax treaty rates, holding company and transfer pricing information, Taxation and Investment Guides and Highlights).

Tax publications – Global tax alerts and newsletters provide regular and timely updates and analysis on significant cross-border tax legislative, regulatory and judicial issues.

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