

# Italy



## Background

The Italian budget law 2015, introduced broad and deep changes to the tax laws that impact R&D tax incentives from 1 January 2015. Italy's corporate tax rate (IRES) is 27.5% and the regional tax on productive activities (IRAP) standard rate is 3.9% (rate depends upon the region and the industry).

## Nature of incentives

**Incremental R&D tax credit:** A new incremental R&D tax credit scheme is available for FYs 2015 through 2019 equal to either 25% or 50% (depending on the nature of the expenses incurred) of the annual R&D incremental expenditure exceeding the average R&D expenditure incurred during FYs 2012, 2013 and 2014. Qualifying R&D expenditure for these purposes includes: (i) costs for highly qualified personnel; (ii) depreciation of laboratory equipment; (iii) costs for R&D activities outsourced to universities and research centers or to other companies; and (iv) costs incurred for technical expertise related to industrial or biotech IP. The benefit is increased from 25% to 50% in connection with expenditure incurred under (i) and (iii).

All persons carrying on an entrepreneurial activity are eligible to claim in each FY up to EUR 5M tax credit; provided an annual minimum investment equal to EUR 30K.

Companies not subject to legal auditing must obtain a report by a registered auditor. The audit costs are eligible costs in the calculation of the tax credit (with a cap of EUR 5K).

The R&D tax credit is a cash grant equivalent since it can be used to offset IRES, IRAP, VAT and withholding tax liabilities without any limitation.

**35% tax credit for hiring researchers:** A 35% tax credit is available for amounts paid to qualified researchers hired in FY 2013 and 2014. Eligible employees are those with a university degree or a Ph.D. (researchers without a Ph.D. are eligible, but must be employed only in R&D activities). The company must employ researchers: (i) for at least three years if the company is a large company; or (ii) two years if the company is a SME. The credit is subject to a cap of EUR 200K per company annually. There are filing requirements that must be met to claim the tax credit, which can be used to offset IRES, IRAP, VAT and withholding tax liabilities. The deadline to claim the tax credit is 31 December 2015, for

## The Italian R&D tax incentives were significantly enhanced in 2015.

researchers hired during FY 2013, and 31 December 2016, for researchers hired during FY 2014.

**Patent box:** This tax incentive aims to encourage R&D and innovation by providing an incentive for retaining high-value jobs associated with the development, manufacture and exploitation of patents in Italy. All persons carrying on an entrepreneurial activity in Italy, including permanent establishments (PEs) of foreign entities, will be granted a 50% tax exemption that will be phased-in over a three-year period: (i) a 30% exemption for FY2015, (ii) a 40% exemption for FY2016, and (iii) a 50% exemption for FY2017. The patent box will apply to the IRES and IRAP tax base. The patent box applies to income earned from the direct and/or indirect exploitation of IP, patents, trademarks, including commercial IP, industrial designs and models, procedures, formulas and information concerning industrial, business or scientific know-how that will be legally registered and protected, as well as capital gains derived from the intangibles (under certain conditions). The income exemption is intended to comply with the principles set forth in Action 5 of the OECD's base erosion and profit shifting (BEPS) draft on IP regimes, in which the OECD advocates a "modified nexus approach." This means that the exemption is limited to income attributable to R&D activities undertaken in Italy by an eligible person in order to develop income-producing intangibles (even if contracted to research entities or to other companies). The incentive is available, starting from FY2015, at the taxpayer's option and is binding for five years. In the case of "direct" exploitation, a tax ruling (advanced pricing agreement or "APA") must be submitted to the tax authorities.

Grants are also available from the New Fund for Sustainable Growth. This Fund was established by the Italian Ministry of Economic Development to promote industrial innovation. This Fund can be applied to the implementation of R&D projects within the technological areas defined by the EU program "Horizon 2020." Projects can be carried on by companies of any size either on their own or by joining with other research organizations. The available budget is EUR 400M, and the incentive is offered both in the form of subsidized loans and non-repayable grants.

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# Italy (cont.)



## Tax relief for investments in “R&D intensive start-up companies” (IST) and research-intensive SMEs:

ISTs are companies whose main goals include developing and producing innovative and technologically advanced products or services. Research-intensive SMEs are similar and generally are small or mid-size companies with a research-intensive operation. To obtain “IST” or the “R&D-intensive” SME status, a company must meet several requirements concerning the amount of R&D expenditure incurred, the number of highly qualified employees employed and the company’s interest in the IP such as a license, patent, or registered software.

For FYs 2014 through 2016, corporations investing in an IST may be entitled to an immediate deduction equal to 20% of the invested amount (the maximum eligible investment is equal to EUR 1.8M per year). Individuals investing in an IST are eligible for a 19% tax credit for 2014, 2015 and 2016 (up to an annual maximum investments of EUR 500K per year). The total amount of combined investments received by an IST from external investors (whether they be corporations or individuals) for each fiscal period may not exceed EUR 2.5M. Such investments are eligible for tax deduction only when made in the form of a cash contribution. Moreover, most of the incentives granted to ISTs have been extended to the “R&D-intensive SME”. To qualify as an “R&D-intensive SME”, the annual employee turnover is limited to EUR 50M, while the employee turnover limit for an IST is EUR 5M.

Wages of employees involved in R&D activities are fully deductible for IRAP purposes.

Legislation has been introduced to encourage EU citizens who went abroad to engage in a trade or profession or to obtain a decree to relocate to Italy. This incentive, applicable until 31 December 2017, reduces the tax base up to 10%–20% (if certain conditions are fulfilled) for eligible EU citizens who relocate to Italy.

A wide range of regional cash grants is available for R&D-intensive entities, but the nature of the grants and their availability depends upon the region and the size of the company.

## Eligible industries and qualifying costs

Eligibility is broad and is not limited to particular industries. Qualified activities include basic research and applied R&D activities. Eligible expenses include:

- The labor costs of employees performing R&D activities (only highly-qualified employees are eligible for the R&D tax credit purposes);

- The depreciation expenses and leasing costs for machinery and instruments used in qualified research are also eligible expenses (if the per unit cost is at least EUR 2K);
- Fees paid for performing research on the taxpayer’s behalf by universities, research institutions and other companies;
- The cost of purchased technical knowledge and patents.

Activities and expenses related to ordinary or periodic modifications to existing production lines, manufacturing processes, existing services, and other existing operations are not eligible for the tax credit.

## IP and jurisdictional restrictions

There are no specific jurisdictional restrictions on IP.

There are some limited situations in which research can be performed outside the country.

## Other concerns

The Ministry of Economic Development and the Italian Revenue Agency are responsible for reviewing a company’s claim for the tax credit. As noted above, reported tax benefits must be supported by documentation that has been reviewed and certified by corporate auditors, an independent auditor, or an audit firm. Moreover, this certification must be attached to the annual financial statement. Tax audits evaluate the certified documentation to confirm that reported tax benefits are adequately substantiated.

To deduct wages of employees involved in R&D activities for IRAP purposes, the Italian tax authorities requires an audit report to certify the expenses.

The application for the 35% tax credit for hiring researchers is electronically filed and processed in chronological order. The application for a tax credit for hiring researchers during FY 2013 can be filed on or after 12 January 2015. The application for a hiring credit for FY 2014 can be filed on or after 11 January 2016.

# Italy

Nature of benefit available	Income tax benefit generally available	Specific pre-approval required from government	Refundable/ Carryforward
Tax credits, patent box, investment incentives, and grants	<ol style="list-style-type: none"> <li>1. A new incremental R&amp;D tax credit scheme is available for FYs 2015 through 2019 equal to either 25% or 50% (depending on the nature of the expenses incurred) of the annual R&amp;D incremental expenditure exceeding the average R&amp;D expenditure incurred during FYs 2012, 2013 and 2014.</li> <li>2. A 35% tax credit is available for amounts paid to qualified researchers hired in FY 2013 and 2014.</li> <li>3. Salaries of employee-related involved in research activities are deductible for IRAP.</li> <li>4. 25% credit for digital economy.</li> <li>5. 20% of the amount invested by corporations in "R&amp;D Intensive Start-up companies" (IST) qualifies for an immediate deduction. Individuals investing in an IST are eligible for a 19% tax credit for 2014, 2015 and 2016.</li> <li>6. A patent box is available for 2015 providing a 50% tax exemption that will be phased-in over a 3-year period: (i) 30% exemption for FY2015, (ii) 40% exemption for FY2016, and (iii) 50% for FY2017. The patent box applies to income and capital gains (under certain conditions) earned from the direct and/or indirect exploitation of intellectual properties that are legally registered and protected.</li> <li>7. Regional cash grants.</li> </ol>	Taxpayers must apply for the 35% credit for hiring and retaining researchers.	No

R&D activities must occur in country	Cap/Limitations on benefits	IP must be retained in country	Industry eligibility restriction
Yes	<p>35% tax credit for hiring researchers is subject to a cap of EUR 200K per company annually.</p> <p>There are several limitations on the tax benefits for individuals and corporations investing in ISTs. Also, ISTs are limited in the amount of investment by corporations and individuals.</p>	No	No