KPMG

Italy Country Profile

EU Tax Centre

June 2021

Key tax factors for efficient cross-border business and investment involving Italy

EU Member State

Yes.

Double Tax Treaties

With the following countries, territories and jurisdictions:

Albania	Estonia	Luxembourg	Serbia[(a)]
Algeria	Ethiopia	Malaysia	Singapore
Argentina	Finland	Malta	Slovakia
Armenia	France	Mauritius	Slovenia
Australia	Gabon	Mexico	South Africa
Austria	Georgia	Moldova	Spain
Azerbaijan	Germany	Montenegro[(a)]	Sri Lanka
Bangladesh	Ghana	Morocco	Sweden
Barbados	Greece	Mozambique	Switzerland
Belarus	Hong Kong SAR	Netherlands	Syria
Belgium	Hungary	New Zealand	Tajikistan[(b)]
Bosnia & Herzegovina[(a)]	Iceland	North Macedonia	Tanzania
Brazil	India	Norway	Thailand
Bulgaria	Indonesia	Oman	Trinidad & Tobago
Canada	Ireland	Pakistan	Tunisia
Chile	Israel	Panama	Turkey
China	Ivory Coast	Philippines	UAE
Congo	Japan	Poland	Uganda
Croatia	Jordan	Portugal	UK
Cyprus	Kazakhstan	Qatar	Ukraine
Czech Rep.	Rep. of Korea	Romania	US
Denmark	Kuwait	Russia	Uzbekistan
Ecuador	Kyrgyzstan[(b)]	San Marino	Venezuela
Egypt	Latvia	Saudi Arabia	Vietnam
	Lebanon	Senegal	Zambia
	Lithuania		

Notes: from the Italy Ministry of Finance's website, updated on January 4, 2018, and subsequent updates published in the Official Gazette

(a) Treaty signed with former Yugoslavia applies.

(b) Treaty signed with former USSR applies (in principle, also to Turkmenistan).

Most important forms of doing business

Joint-stock company (S.p.A.) and Limited liability company (S.r.l.).

Legal entity capital requirements

Minimum capital requirement of EUR 50,000 for S.p.A. and EUR 10,000 for S.r.l. (an S.r.l. may have capital of less than EUR 10,000, and more than EUR 1, provided that shareholders are all individuals and that contributions are made only in cash and fully paid up).

Residence and tax system

A company or entity, including a trust, is resident in Italy if, for the greater part of the fiscal year, its registered office, place of management, or main business purpose is in Italy.

Foreign companies owning a controlling interest in Italian companies are deemed to be resident in Italy, unless otherwise proven, if they are controlled by an Italian resident company or individual, or, alternatively, if they are managed by a board of directors the majority of which are Italian resident individuals.

Resident companies are taxed on their worldwide income, while non-residents are only taxed on their Italian source income, as provided in the domestic tax law.

A non-resident company is also deemed to be resident in Italy (unless evidence to the contrary is provided) if its assets are mainly comprised of units of Italian closed-end real estate investment funds and if it is directly or indirectly controlled (subject to relevant influence) by an Italian resident person (company or individual).

Undertakings for collective investment (CIVs) set up in Italy are resident in Italy for tax purposes and are liable to corporate income tax (IRES). Under certain conditions, however, they are exempt.

Compliance requirements for CIT purposes

The fiscal year consists of the year or management period of the company, determined by law or by the articles of association; if there are no specific provisions, then the fiscal year is equal to the calendar year.

A tax return has to be filed within the last day of the eleventh month following the end of the fiscal year. Two advance payments are due by June 30 and November 30 (or within six and eleven months as from the end of the fiscal year, if the fiscal year is not the calendar year); the balance must be paid by June 30 of the following year (or by the end of the sixth month following the end of the fiscal year to which the payment refers for non-calendar year taxpayers). It is not unusual for special laws to extend the payment deadline on a temporary basis.

Corporate income tax rate

The standard IRES rate is 24 percent; banks and financial institutions, except qualifying investment fund management companies and securities investment companies, are subject to a 3.5 percent surtax (leading to a 27.5 IRES rate). A 10.5 percent surtax applies to companies deemed to be 'dormant' (leading to a 34.5 IRES rate). A 3.9 percent Regional Business Tax (IRAP) rate also applies to companies. The standard IRAP rate can be increased for financial/insurance companies (i.e. 4.65 percent for banks and other financial institutions and 5.9 percent for insurance companies). Rates may vary by Region (i.e. each Region can increase or decrease the aforementioned rates by up to 0.92 percent).

Withholding tax rates

On dividends paid to non-resident companies

26 percent (1.2 percent for dividends to EU companies, 0 percent if the EU Parent-Subsidiary Directive applies).

On interest paid to non-resident companies

26 percent (0 percent if the EU Interest and Royalties Directive applies; certain other domestic WHT rate reductions apply - e.g. 12.5 percent WHT rate on interest from Italian Treasury bonds; 5 percent WHT rate on interest on certain intra-group financing aimed at funding listed bonds within the EU; 0 percent WHT rate on interest on qualifying bonds paid to 'white-list' investors, on interest on certain medium/long term cross-border loans and on interest on zero-balance cash pooling arrangements).

On patent royalties and certain copyright royalties paid to non-resident companies

30 percent (generally applied to 75 percent of the gross royalty; if the royalty is for the use of industrial, commercial or scientific equipment, the 30 percent rate applies on 100 percent of the royalty). No WHT if the EU Interest and Royalties Directive applies.

Effect of Brexit on the applicability of EU tax directives

As of 1 January 2021, reliefs under the Parent-Subsidiary Directive, Interest and Royalties Directive etc. are no longer applicable for dividends, interest and royalties paid to companies based in the UK.

On fees for technical services

No.

On other payments

No, in general.

However, payments to foreign enterprises and individuals for artistic or professional services performed in Italy may be subject to a 30 percent WHT.

Branch withholding tax

No.

Holding rules

Dividend received from resident/non-resident subsidiaries

Exemption (95 percent).

The exemption does not apply, i.e. the income is 100 percent taxable, if the dividends are derived from holdings in entities set up in a 'low-tax jurisdiction' (see the CFC section: (i) in case of direct or indirect controlling interests, when the controlled company has an effective tax rate that is lower than 50 percent of the tax rate that would apply if it were resident in Italy; (ii) in case of other equity interests, when the investee company is subject to a nominal tax rate that is lower than 50 percent of the Italian rate, or to a special regime that leads to the same result).

The resident shareholder may avoid full taxation by applying one of the following two safe-harbor rules: (i) the CFC safe-harbor rule (substantive economic activity test - see the CFC section), which leads to a 50 percent dividend exemption (and a foreign tax credit, in the case of controlling interests), (ii) the subject-to-tax rule, which leads to the standard 95 percent exemption.

Anti-hybrid rules apply – see the relevant section below.

Capital gains

Capital gains realized by resident companies from the sale of shares are included in taxable income and subject to standard IRES rate (no IRAP). Exemption (95 percent) is available subject to participation exemption conditions. If the entity participated in is resident in a low-tax jurisdiction (see the CFC section), capital gains are subject to tax on 100 percent of their amount.
Capital gains from the transfer of shares in Italian companies by a non-resident company (with no permanent establishment (PE) in Italy) are taxable in Italy as follows:

- If a resident company whose shares are sold is not listed and the shares sold during a 12-month period represent more than 20 percent of the voting rights or 25 percent of the stated capital (*a qualifying share*), the capital gains realized by non-residents are subject to a 26 percent final WHT.

- If a resident company whose shares are sold is not listed and the shares sold during a 12-month period do not represent more than 20 percent of the voting rights or 25 percent of the stated capital (*a non-qualifying share*), the capital gains are subject to a 26 percent final WHT. However, residents of cooperative jurisdictions are exempt from taxation on these capital gains.

- If a resident company whose shares are sold is listed and the amount of shares sold during a 12-month period do not represent more than 2 percent of the voting rights or 5 percent of the stated capital (a *non-qualifying share*), the capital gain is not regarded as Italian income. By contrast, if the amount of shares sold during a 12-month observation period represents more than 2 percent of the voting rights or 5 percent of the stated capital (a *qualifying share*), the capital gains are subject to a 26 percent final WHT.

- If a double tax treaty applies, capital gains are usually not taxable in Italy (some exceptions apply with the USA and France).

Tax losses

Tax losses can be carried forward and offset up to an amount equal to 80 percent of taxable income of each of the following fiscal years. However, the 80 percent limit does not apply to tax losses incurred in the first 3 years of business, which can be offset against 100 percent of the taxable income.

Carry forward is not allowed when both of the following apply: (i) the majority of the shares carrying voting rights at ordinary shareholders' meetings are, even temporarily, transferred to third parties, and (ii) the company's main activity is no longer the actual business that it pursued in the tax years when it incurred the losses (this change is significant if it occurs in the tax year of the transfer or the two previous or subsequent years). There are, however, certain safe harbor rules (i.e. business vitality tests).

There may also be specific limits on loss carryforwards (i.e. (i) up to the net asset value of the company, and (ii) conditional upon a business vitality test) when a company has been involved in a merger or demerger.

There is no limit on the amount of tax losses that can be transferred to the parent of a tax group and offset against the income of other group entities, if losses originate during the consolidation period (and not before). The parent can carry forward group losses in accordance with the general rules (up to 80 percent of the taxable income of each year, or up to 100 percent if incurred in the first 3 years).

Tax consolidation rules/Group relief rules

Yes.

Registration duties

Usually EUR 200.

Transfer duties

On the transfer of shares

Financial transaction tax (0.2 percent), usually applicable to purchase of shares issued by resident entities; not applicable if the transaction occurs between related entities (parties in a control relationship or under common control) or consists of the purchase of shares of an S.r.l..

On the transfer of land and buildings

Registration tax:

- 12 percent on transfer of land;
- 9 percent on transfer of real estate assets;

- 2 percent on transfer of immovable properties qualifying as the main dwelling of a private individual.

A fixed amount of EUR 200 on transfer of business real estate whether subject to VAT or not.

Mortgage and cadastral taxes (*imposte ipotecarie e catastali* respectively) apply at the fixed amount of EUR 200 on transfers of residential real estate (the fixed amount is EUR 100 for certain residential real estate transfers, which are exempt from VAT). Mortgage and cadastral taxes are payable on transfers of business real estate, whether subject to VAT or not, at a total rate of 4 percent (3 percent and 1 percent, respectively) reduced to 2 percent (1.5 percent and 0.5 percent respectively) if either the purchaser or the seller or both are Italian closed-end real estate investment funds.

Stamp duties

Stamp duties (*imposta di bollo*) are levied on certain documents, contracts and registers (e.g. bank checks, statements of accounts, bills, written contracts, judicial acts, accountancy books). No stamp duty is payable on the transfer of shares.

Real estate taxes

Resident and non-resident companies are subject to an ownership tax referred to as IMU (*Imposta municipale unica*) in respect of their immovable property (buildings, developable land, rural land) located in Italy. IMU is based on the cadastral value of the immovable property, which is confirmed by the tax authority. The standard IMU rate is 0.86 percent, however the Municipality in which the real estate asset is located may increase it up to 1.14 percent or decrease it to as low as 0 percent.

Sixty percent of IMU on business assets (e.g. warehouse) is deductible for IRES purposes in fiscal year 2021 (deductibility will rise to 100 percent as of fiscal year 2022). IMU is not deductible for IRAP purposes.

Controlled Foreign Company rules

A controlled foreign company (CFC) is a foreign company in which (i) an Italian resident directly or indirectly, also through a trust company or other third party, holds the majority of votes or exercises a dominant influence or (ii) an Italian resident directly or indirectly has more than a 50 percent share in its profits, also through a trust company or other third party companies.

Further to statutory amendments, a company qualifies as a CFC if:

- it is subject to an effective tax rate that is lower than 50 percent of the effective tax that it would have incurred had it been an Italian resident, and
- more than one-third of its income is passive income (i.e. interest, dividends, royalties, capital gains on shares and revenues from financial leasing; revenues from insurance, banking and other financial activities; revenues from trading goods that are purchased from or sold to associated enterprises, with the addition of no or little economic value; and revenues from supplying services that are purchased from or provided to associated enterprises, with the addition of no or little economic value - whether the CFC is deemed to sell goods or supply services with little or no added value is determined on the basis of transfer pricing regulations).

Under the CFC rule, the CFC's income is taxed upon the shareholder resident in Italy. The income subject to tax in Italy is computed in accordance with the Italian rules and taxation is separate (e.g. tax loss carryforwards cannot be used to shelter the CFC income).

An exemption from the CFC rules is available to companies that can prove that an actual business is carried on in the foreign jurisdiction through local personnel, equipment, other assets and premises (so-called substantive economic test). The taxpayer can prove that it qualifies for the exemption by providing evidence in an application for a tax ruling or during a tax assessment.

Transfer pricing rules

General transfer pricing rules

Cross-border related-party transactions must be at arm's length as per the Italian transfer pricing rule, which was amended by replacing reference to the fair value (*valore normale*) with a direct reference to the arm's length principle used in the OECD guidelines.

Under certain circumstances, Italian tax authorities seek to apply the transfer pricing rule to domestic inter-company transactions as well.

A unilateral Advance Pricing Agreement (APA) procedure is provided for by Italian law and bilateral APAs are also possible.

Post-audit double taxation can be eliminated under mutual agreement procedures (MAPs). Moreover, corresponding downward adjustments resulting in lower taxable income will no longer be conditional on a MAP but would also be available: (i) after international audits whose results are shared by the cooperating countries; (ii) upon receipt of an application from the taxpayer (in accordance with rules defined by the Italian tax authorities) following a final transfer pricing adjustment by a country with which Italy has a tax treaty allowing an adequate exchange of information.

Documentation requirement

Transfer pricing documentation is not mandatory; in case of a tax audit, penalties can be avoided if the taxpayer has prepared transfer pricing documentation in accordance with the required standards, has communicated this to the tax authority with the tax return of the year and makes such documentation available to the tax auditors within 20 days of the request. Ministerial Guidelines issued in 2010 were replaced by new instructions effective starting from fiscal year 2020. The newly enacted regulations on transfer pricing documentation brought significant changes in terms of additional requirements that would need to be met by Italian entities, members of multinational groups, in order to meet the minimum standards to obtain the penalty protection benefit in case of assessment. Among others, it is noted that the Master File is now required also for Italian subsidiaries/PEs and that the entire documentation set (both the Master File and the Local File) must be digitally signed by the taxpayer's legal representative, by the filing date for the relevant tax return.

Italy introduced the Country-by-Country Reporting (CbCR) obligation in compliance with the OECD BEPS Action 13 recommendations. A Ministerial Decree and a Regulation contain the CbCR implementing measures.

Limitation to interest deduction

Net interest expense (i.e. interest expense net of interest income) is deductible only up to an amount equal to 30 percent of earnings before interest, tax, depreciation and amortization (EBITDA). EBITDA must be quantified on the basis of the relevant values from a corporate income tax perspective i.e. reflecting the corporate income tax adjustments applied to the EBITDA computed from an accounting perspective (the former rules were based on accounting EBITDA).

Any excess of interest income not utilized in a year (where interest expense is lower than interest income) can be carried forward indefinitely.

Any excess of 30 percent EBITDA not utilized in a year (where net interest expense is lower than 30 percent of EBITDA) can be carried forward for five years (whereas the former rule provided for a carry-forward without a time limit).

The offset of net interest expense against 30 percent EBITDA follows the first in, first out (FIFO) rule: interest expense must first be offset against 30 percent of the current EBITDA, and any excess interest expense may be offset against any excess of 30 percent EBITDA from previous fiscal years (starting from 'the oldest' excess EBITDA).

Any excess of 30 percent EBITDA existing as at December 31, 2018 (computed under the former rule) can be offset only against interest expense related to financial arrangements concluded before June 17, 2016 (and not subsequently extended or renegotiated).

Within a tax group, unused excess interest expenses of a member may be used under certain circumstances to offset the taxable income of another member.

General Anti-Avoidance rules (GAAR)

The definition of 'abuse of law' is provided in the Taxpayers' Charter (i.e. Law no. 212/2000). It applies to all income taxes and indirect taxes, except customs duties. Abuse of law arises when all the following elements are met:

(i) The transaction (or series of interconnected transactions) has no economic substance (i.e. though valid on paper, it is an inappropriate way of achieving the stated business goal).

(ii) An undue tax advantage is obtained, even without breaking any tax rule.

(iii) The tax advantage is the essential effect of the transaction.

The concept of abuse of law is 'residual', i.e. applies only when a transaction cannot be assessed under a specific anti-avoidance measure. If an abusive transaction is discovered by the Italian tax authorities, it will be disallowed for tax purposes and the tax benefits will be denied. Transactions cannot be defined as abusive if they are justified by 'non-marginal' sound business reasons; these reasons include reorganizations or management decisions to improve the structure or operations of a business or professional activity. The taxpayer is nevertheless able to choose from available tax regimes offered by the tax legislation even if these imply a different tax burden. It is up to the Italian tax authorities to prove that a transaction is abusive, while the taxpayer has to demonstrate that there is a sound business purpose. If a transaction is found abusive, no criminal penalties can be applied – just administrative sanctions.

Specific Anti-Avoidance rules/Anti Treaty Shopping Provisions/Anti-Hybrid rules

There are anti-avoidance rules specifically applicable to cross-border transactions (i.e. full taxation of dividends arising in a 'low-tax jurisdiction'; CFC rules; TP rules; beneficial ownership clause; deemed residency rule, etc.).

Anti-hybrid rules

Anti-hybrid rules essentially deal with mismatches arising within the same group of companies (and related PEs) and caused not just by payments related to financial instruments but also by other types of payments (e.g. those related to intangible assets) or by hybrid entities. In brief, the rules address the following situations:

(i) hybrid mismatches leading to a double deduction (DD) or to a deduction without inclusion (DNI);

(ii) reverse-hybrid mismatches;

(iii) dual-resident entities.

In the case of DD hybrid mismatches, the investor's country may deny deduction first (and the payer's country can only deny deduction when it does not). In the case of DNI hybrids, the payer's country may deny deduction first (and the beneficiary's country can only tax income when it does not). The legal provisions exclude collective investment vehicles set up in Italy from the scope of the rules preventing reverse hybrids mismatches caused by a special tax regime that a jurisdiction grants to an entity or income. Before issuing a formal notice of assessment in connection with any one of the above situations, the tax authorities must ask the taxpayer for clarification and explain why they are doing so.

Advance Ruling system

Ordinary ruling and specific advance rulings (e.g. APAs). Since 2016, amendments have been introduced to the legal provisions regarding 'ordinary' rulings and international rulings. Moreover, a new form of ruling on substantial investments has been introduced.

IP / R&D incentives

R&D tax credit

The 2021 Budget Law extended until December 31, 2022 and enhanced the tax credit introduced by the 2020 Budget Law for investments in R&D, technological innovation and other innovation. Taxpayers incur eligible expenses by:

A. engaging in fundamental research, industrial research, or experimental development in the areas of science or technology;

B. investing in technological innovation in areas – other than science and technology – that could contribute to the development of new or substantially enhanced products or production processes;

C. creating aesthetic and other designs, with a view to planning and producing new products and samples in various product sectors – textiles, fashion, footwear, eyewear, gold, furniture and furnishings, and ceramics.

The size of the tax credit varies according to the type of activity, as follows.

- For Category A activities, the tax credit amounts to 20 percent of the cost base, net of any subsidies or contributions received for the same eligible expenses. The maximum tax credit is EUR 4 million.
- For Category B activities, the tax credit amounts to 10 or 15 percent of the cost base, net of any subsidies or contributions received for the same eligible expenses. The maximum tax credit is EUR 2 million.
- For Category C activities, the tax credit amounts to 10 percent of the cost base, net of any subsidies or contributions received for the same eligible expenses. The maximum tax credit is EUR 2 million.

The R&D tax credit can only be used in three equal annual instalments.

Any taxpayer wishing to claim the R&D tax credit must obtain a certificate from an auditor, attesting that it has actually incurred the expenses. The taxpayer must also compile and keep a technical report illustrating the purposes, substance and results of the eligible activities pursued in each financial year in relation to the projects/sub-projects under way.

Patent box

Italian resident taxpayers deriving business income and foreign entities resident in a treaty country that allows an adequate exchange of information with a PE in

Italy may opt for a patent box regime if carrying on R&D activities. Under the regime, 50 percent of eligible income deriving from the exploitation or the direct use of qualifying IPs (software protected by copyrights, patents, designs, models, processes, secret formulas and industrial, commercial or scientific knowledge) is not included in taxable income for IRES and IRAP purposes. Capital gains arising from the sale of IPs are not included in taxable income if at least 90 percent of the proceeds is reinvested within the following two tax years in R&D activities. The election applies, irrevocably, for five years and is renewable. The eligible portion of the tax base, which may benefit from the 50 percent exclusion, is given by the ratio of the R&D costs incurred in maintaining and developing the intangible asset to the total costs of producing that asset (in compliance with the OECD ‘nexus approach’).

Taxpayers can determine the amount of qualifying income in two different ways: (i) by obtaining a tax ruling, (ii) by using a self-assessment mechanism.

If two or more qualifying intangibles belonging to the same taxpayer (even if not in the same IP category, e.g. a patent and software) are complementary, so that the realization of a product or process depends on their joint use, these intangibles represent one individual asset for Patent Box purposes.

Other incentives

Notional interest deduction

The notional interest deduction incentive referred to as ACE (Allowance for Corporate Equity) consists of a deduction from the total IRES base of an amount (1.3 percent for fiscal year 2020) corresponding to the notional interest on the increase in new equity since December 31, 2010. ACE applies after computation of the total net income, already net of any tax losses. If the amount of notional interest exceeds the total net income, the surplus can be carried forward, in full and indefinitely, to subsequent financial years, to be deducted from the first available taxable income.

For the fiscal year following the one in progress on December 31, 2020, the rate (to be applied only to equity increases made in such period) is equal to 15percent, with some peculiarities:

— the increases are relevant for the entire amount, i.e. the amount is not subject to adjustments depending on the point during the year at which the increase in equity occurred;

— the maximum basis for calculating the exceptional ACE is EUR 5 million.

This so-called ‘innovative ACE’ for 2021 may be used:

— as an ordinary deduction from the company’s net income;

— as a tax credit (upon communication to the Italian tax authorities), available from the day following that of the payment of the cash contribution or waiver of the claim, or from the day after the resolution to allocate the profit for the year to equity reserves.

Capex tax incentive

The 2021 Budget Law has renewed the tax credit for investments in new capital goods but has made significant changes on several fronts, compared with the rules introduced in the previous year. Rather than being renewed annually, as was previously the case , the relief is now available for investments in new capital goods made from November 16, 2020 to December 31, 2022 or to June 30, 2023 – if the order is accepted by the seller by December 31, 2022 and a down payment of at least 20 percent is made. In addition, the percentage of the costs that can be taken as a tax credit, the type of capital goods covered by the rule and the amount of eligible expenses change.

This tax relief can be taken by enterprises resident in Italy and by Italian PEs of foreign enterprises, regardless of their legal form, economic sector, size and tax regime, provided they (i) are not involved in insolvency proceedings, (ii) are not subject to specific bans, (iii) comply with industry rules on occupational health and safety, (iv) fulfil their obligations to pay their workers' national insurance contributions.

The tax credit applies to goods that meet three requirements: they must be new, they must qualify as capital goods, and they must be used for facilities located in Italy, even if purchased abroad. The size of the tax credit ranges widely and depends on when the purchase is made[1], the type of asset and the amount of expenditure incurred. However, in general, the following rules apply.

— For ordinary tangible assets and (a new detail compared to last year) ordinary intangible assets :the tax credit amounts to 10 percent (increased to 15 percent for investments in technological tools and devices dedicated to encouraging smart working methods) in the first eligibility period and 6 percent in the second.

— For 4.0 tangible assets indicated in Attachment A to Law no. 232/2016: the tax credit amounts to 50 percent/30 percent/10 percent (depending on the expenditure bracket) in the first period and 40 percent/20 percent/10 percent (depending on the expenditure bracket) in the second.

— For 4.0 intangible assets indicated in Attachment B to Law no. 232/2016: the tax credit amounts to 20 percent of the cost at any time between November 16, 2020 and December 31, 2022.

The tax credit can be used in three equal annual instalments (reduced to one in specific cases), starting from the year in which the asset becomes 'interconnected' or goes into use.

Recaptures apply if the assets are sold or transferred to production facilities located abroad.

The law establishes certain formal requirements.

[1] As explained above, the overall time frame runs from November 16, 2020 to December 31, 2022. The first eligibility period closes in December 2021 (or in June 2022 if the seller has accepted the order and a down payment of at least 20 percent of the acquisition cost has been made) and the second eligibility period closes in December 2022 (or in June 2023 if the seller has accepted the order and a down payment of at least 20 percent of the acquisition cost has been made).

Tax credit on training activities

The tax credit for 'Industry 4.0' employee training costs has been extended to the financial year in progress on December 31, 2022. Meanwhile, the basket of eligible expenses has been widened. This tax credit is available to:

A. small businesses, which can claim a tax credit equal to 50 percent of the eligible expenses and capped at EUR 300,000 per annum;

B. medium-sized businesses, which can claim a tax credit equal to 40 percent of the eligible expenses and capped at EUR 250,000 per annum;

C. large businesses, which can claim a tax credit equal to 30 percent of the eligible expenses and capped at EUR 250,000 per annum.

For all businesses, the tax credit rises to 60 percent if the workers who receive the eligible training are classed as underprivileged or very underprivileged employees (the annual caps remain the same).

The tax credit can be used from the financial year subsequent to that in which the eligible expenses are incurred.

VAT

The standard rate is 22 percent. Reduced rates are 4, 5 and 10 percent.

Other relevant points of attention

Digital service tax (DST)

The Italian DST law came into effect on January 1, 2020.

For the most part, the DST rules follow the previous version of the DST legislative framework, which, however, never came into force.

The stated intent of the Italian legislators is to tax revenues generated over the course of a year from digital services rendered to users located in Italy and identified as such by the IP address of the device they use or by any other available geolocation mechanism, in compliance with data protection rules. The DST rate is 3 percent.

There are three distinct categories of digital services.

A. The placing on a digital interface of advertising targeted at users of that interface.

B. The making available to users of a multi-sided digital interface which allows users to contact other users and interact with each other, and which may also facilitate the provision of underlying supplies of goods or services directly between users.

C. The transmission of data collected from users and generated by their use of digital interfaces.

The following services are specifically excluded from the scope of the DST.

(i) The direct supply of goods or services within a digital intermediation service.

(ii) The supply of goods or services purchased via a supplier’s website, when the supplier does not act as an intermediary.

(iii) The making available of a digital interface whose sole or main purpose, in terms of the revenues generated, is the provision to users, by the person managing that interface, of digital content, communication services or payment services.

(iv) The making available of a digital interface for the supply of regulated financial services by regulated financial entities.

(v) The transmission of data by the regulated financial entities mentioned in point iv).

(vi) The organization and management of digital platforms for the exchange of electricity, gas, carbon credits and fuels, and the transmission of related data.

Also excluded from the tax base are revenues derived from intercompany digital services. The DST is levied on gross revenues, excluding VAT and/or similar taxes.

The DST applies to businesses that, individually or group-wide, in the year before the relevant calendar year, have total revenues of EUR 750 million or more, EUR 5.5 million of which must derive from digital services supplied in Italy, discounting the revenue deriving from excluded transactions.

In order to record, on a monthly basis, the revenues from taxable services and other details needed to calculate the above thresholds, taxable businesses must keep a special ledger. Moreover, the accounting data must be supplemented by an explanatory note, which must be prepared annually by the date of submission of the DST return.

The DST is levied on revenues realized from digital services over the course of a calendar year. The tax must be paid annually (by 16 February of the following calendar year) and an annual return must be filed (by 31 March of the following calendar year). For revenues obtained in 2020 and subject to the DST, the payment deadline was postponed to May 16, 2021 and the deadline for submitting the DST return was postponed to June 30, 2021.

In order to comply with their DST obligations, taxpayers must use the tax code assigned to them by the Italian tax authorities. Non-resident entities without a tax code must request one from the Italian tax authorities, using specific forms.

Taxable persons established in an uncooperative jurisdiction and without a PE in Italy must appoint a fiscal representative to fulfil their payment and reporting obligations.

In the case of groups, one of the taxable companies can be appointed to handle compliance and thus ensure and simplify fulfilment of the DST obligations. A company established in an uncooperative jurisdiction, without a PE in Italy, cannot be appointed as a group representative.

The DST, as designed in Italy, is meant to anticipate new tax rules that both the EU and OECD are discussing. Therefore, once an international framework is implemented, the Italian DST will be automatically repealed, to avoid discrepancies between international and domestic tax treatment of revenues from digital services.

Mandatory Disclosure Rules Updates	For country specific information and updates on the EU Mandatory Disclosure Rules please visit KPMG's EU Tax Centre's MDR Updates page.

Source: Italian tax law and local tax administration guidelines, updated 2021.

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