

Última fecha de revisión del archivo: 1 septiembre 2003

Italy

List of Major Taxes

- Personal income tax (IRPEF)
- Corporate tax – Tax on incomes of legal persons (IRPEG)
- Regional tax on productive activities (IRAP)
- Communal tax on appreciation of immovable property (ICI)
- Additional regional and additional municipal

Income Tax. Who Is Liable

Residents are subject to tax on worldwide income. Non residents are taxable on Italian - source income or on income earned in connection with activities performed in Italy only.

Individuals are considered resident for income tax purposes if their habitual abode is in Italy, if the center of their vital interests is in Italy or if they are registered for the greater part of the tax period at the Office of Records of the Resident Population in Italy.

- Value added tax (IVA)
- Tax on motor vehicles
- Regional motor-vehicle taxes
- Duty on mineral oil
- Duty on liquefied petroleum gases
- Duty on methane when used as fuel for non-industrial purposes
- Duty on electricity
- Duty on spirits
- Duty on beer
- Duty on State-controlled betting
- Entertainments tax
- Duty on official concessions
- Insurance tax
- Stock exchange turnover tax
- Registration tax
- Mortgage tax and cadastral duty

Personal income tax (IRPEF)

The taxable income for Irpef purposes is constituted of the following categories of income:

Income from employment

Employment income is income derived from work performed for an employer. It includes any compensation, either in cash or in kind, received during a tax period in connection with employment, including any payments received as shares of profits, from acts of generosity or as reimbursement for expenses incurred in the production of the income. Benefits in kind are valued

for tax purposes at the arm's-length value, calculated in accordance with specific regulations. Any compensation received in connection with employment is considered employment income, even if the compensation is paid by a third party (for example, the legal employer's parent company).

Income from self-employment

Self-employment income consists of income from a profession, including accounting, law and medicine, and income from a collaboration, which includes consulting and directors' services

Residents are subject to tax on worldwide self-employment income at the rates described in *Rates*; a 20% withholding tax applies to income derived from Italian sources. Nonresidents are subject to tax on income from self-employment derived from series performed in Italy. Nonresidents are subject to a final withholding tax of 30% on self-employment income and need not file a tax return.

Income from real estate

Business income

Business income consists of income derived from the commercial or industrial activities (entrepreneurial activities) described in the Civil Code.

Taxable business income consists of profits disclosed in the financial statements, adjusted for exemptions, disallowed expenses, special deductions and losses carried forward.

Income from capital

Miscellaneous income (including capital gains)

Each category, including miscellaneous income, is defined by law. If income falls under a category not specifically mentioned in the law, further verification is needed to determine the tax treatment. The noncategorized income may not be aggregated with miscellaneous income.

Tax Rates (amounts in Euros)

<i>Income bracket</i>	<i>Tax rate for income racket 2001-2002</i>	<i>Tax on bracket maximum</i>
up to 10,329.14	18%	1,859.25
over 10,329.14 up to 15,493.71	24%	3,098.75
over 15,493.71 up to 30,987.41	32%	8,056.73
over 30,987.41 up to 69,721.68	39%	23,163.73
over 69,721.68	45%	23.163,10 + 45% on the amount exceeding 69,721.68

Tax rates for years 2001-2002-2003 were set by the 2001 Finance Act (Law no. 388 of 23.12.2000).

The 2002 Finance Act (Law no. 448 of 28.12.2001) has discontinued the one point reduction of the 24% tax rate and the half-point reduction of the 39% and 45% tax rates which had been envisaged for 2002. The 2003 Finance Act (under discussion) will modify the tax rates for each bracket.

Corporate tax – Tax on incomes of legal persons (IRPEG)

Companies residing in Italy are subject to the Corporate tax – Tax on incomes of legal persons (IRPEG). The taxable base of the tax is constituted of the company's total receipts.

A company is a resident of Italy whenever it has its legal office, administrative office and main activity on the Italian territory. Non-resident companies are subject to IRPEG only as far as the income yielded in Italy is concerned.

The (proportional) tax rate is 36%.

The tax reform bill of law (already approved by the Chambers of Deputies and on approval at the Senate) will probably introduce a single 33% tax rate already as from the 2003.

The so-called *Dual Income Tax (DIT)* regime provides for a reduction of the IRPEG tax rate to 19% for the company's profits corresponding to the ordinary return on the invested capital. This return is determined according to a fixed coefficient – *i.e.* 7% - set by decree of the Ministry of Economy and Finance, which is to be multiplied by the capital improvement.

The fiscal benefit of the DIT cannot result in an average tax rate lower than 27%. *The above-mentioned tax reform bill of law provides for the abolition of Dual Income Tax (DIT).*

Regional tax on productive activities (IRAP)

Resident and non-resident companies are subject to the Regional tax on productive activities (IRAP). The taxable base of the tax consists of the difference (if positive) between profits from the entrepreneurial activity and costs for the purchase of raw material, capital goods and professional and business services. Therefore, besides the business incomes, employees' wages and interest payable form part of the IRAP's taxable base.

The (proportional) tax rate for companies other than credit, financial and insurance institutions is 4.25%. Different tax rates are provided for banks, insurance companies, public bodies and non-commercial entities. IRAP is a regional tax.

As from the year 2000, each Italian Region may increase or decrease the IRAP tax rate by 1%. Companies with incomes deriving from more than one Region must subdivide their IRAP taxable base amongst the various regions and make payments to the competent local tax authorities.

The tax reform bill of law provides for the phasing out of IRAP.

Additional regional and additional municipal

Effective from tax year 2000, additional regional IRPEF applies at rates ranging from 0.9% to 1.4% on taxable income as calculated for IRPEF purposes. Effective from tax year 2000, additional municipal IRPEF applies at rates ranging up to 0.4% on taxable income as calculated for IRPEF purposes.

Capital Gains

Capital gains, whose realization is connected with the occurrence of uncertain or chance events, have been classified by Legislative Decree no. 461 of 1997 as miscellaneous income, and not as income from capital.

Capital gains attained by resident and non-resident companies with a permanent establishment in Italy are subject to the Corporate tax (IRPEG).

Extraordinary capital gains are excluded from the taxable base of IRAP. Extraordinary capital gains are those that do not derive from the company's main activity (such as, for instance, those resulting from sales or contributions of going concerns).

Companies may choose to pay a 19% substitute tax on extraordinary capital gains when one of the following conditions is present:

- a) in the case of a company that has been started at least three years before;
- b) in the case of substantial participations entered in the last three financial returns as fixed assets.

Capital gains of non-resident companies without a permanent establishment in Italy are subject to a substitute tax. When such capital gains derive from shares classified as substantial participations, the tax rate applied is 27%. When the same capital gains result from non-substantial participations, a 12.5% tax rate is applied.

Dividends

Dividends received by a resident company and distributed by another resident company generally form part of the income subject to IRPEG.

The tax credit mechanism is envisaged to avoid the double taxation on shareholders receiving the dividends. This enables shareholders to recover the IRPEG paid by the company. In 2002 and 2003, the tax credit is 56.25% of dividends. As from January 2003, the tax credit will be 53.85%.

The tax credit cannot exceed the taxes paid by the company. To avoid cases in which shareholders may benefit from a tax credit which is higher than the tax paid by the company, when filing the tax return the company must determine, in two different "tax baskets":

- 1) the amount of taxes actually paid;
- 2) the amount of taxes for which there is no payment corresponding to an existing tax relief, but such payment must be taken into account to grant the tax credit to shareholders.

Only the presence of the first basket grants a full tax credit to the shareholder. The second, in fact, entitles the shareholder to a limited tax credit, *i.e.* that can be used only as a tax abatement and therefore not connected with an effective tax imposition.

As for the dividends distributed by companies not residing in Italy, they contribute to the income subject to IRPEG only on a 40% basis if the shareholders exercise control of at least the 20% of ordinary shares (with voting rights).

Capital losses and other negative items of income deriving from participations to the above-mentioned companies are deductible as for the amount exceeding that of the corresponding profits. These provisions do not apply to the profits distributed by associated companies residing in non-EU countries with a preferential tax regime. In these cases, the distributed profits do not form part of the income as for the amount corresponding to expenses and other negative items of income which are not deductible.

Profits distributed by non-resident companies meeting particular requirements, if the participation to their corporate capital is equal or higher than 25%, form part of the income only on a 5% basis of their amount.

Groups of Companies

In general, the Italian legislation does not envisage special measures for groups of companies. Transfers of losses between companies of the same group are not allowed. Moreover, the Italian legislation does not provide for consolidated profits, but nevertheless an exchange of tax credits producing the same effects is envisaged. However, the above-mentioned tax reform bill of law provides for the possibility for company groups to opt for a regime of national and international fiscal consolidation.