AN ESSENTIAL APPROACH TO THE STUDY OF THE ITALIAN TAX LAW

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CHAPTER I

TAX LAW AND ITS SOURCES

1. INTRODUCTORY CONCEPTS

Tax law is understood as 'that branch of our legal system aimed at considering and studying the rules governing the activities of the State and public bodies directed at acquiring, by virtue of the power of supremacy attributed to them by law, the financial resources necessary to achieve public purposes'. It constitutes a part of financial law.

It consists of substantive rules governing the conditions, exemptions, taxpayers and the amount of tax, and formal rules which, in turn, establish the obligations and requirements imposed on taxpayers, the activities and acts (administrative measures) of the tax authorities, and judicial protection (known as tax litigation).

In the liberal state, which emerged between the end of the 17th century and the mid-19th century, taxation was considered as the consideration (price) paid for the activities carried out by the public administration. Subsequently, with the rise of the welfare state in the second half of the 20th century, without abandoning the theory of exchange (payment of a fee for the service received), the principles of solidarity and distributive justice spread, which provide for the removal of part of the wealth from the private sector to satisfy solidarity obligations in favour of the whole community, through the exercise of supreme power by the state.

Therefore, public financial activity refers to the acquisition, management and expenditure of the financial resources necessary for the State and other public bodies to meet "public needs" and to perform the functions assigned to them by law. These needs may be general (if provided for the entire community and enjoyed by citizens as members of that community), special (if provided for individuals) or mixed (in that they are intended to meet specific needs, the effects of which, however, are reflected in the entire community (e.g. public education).

The political bodies representing the will of the people define the objectives of public finance. The economic resources that the State and smaller public bodies need to meet public needs and perform their functions may derive from:

- the management of assets, property and/or services;
- the management of public enterprises or participation in the share capital of private companies;
- other acts and/or events of private law significance (issuance of public debt securities, etc.);
- from services "imposed" coercively on taxpayers by virtue of the exercise of the power of taxation, governed by law and, therefore, by the exercise of "sovereignty": the so-called *iure imperii*. In this regard, it is possible to define taxation as that "financial contribution imposed for the purpose of contributing to public expenditure".

2. SOURCES

The sources of law are 'any technical instrument established or recognised by the legal system capable of innovating the legal system and producing objective law'.
Sources have the dual task of constituting the regulatory system that governs the life of the community and ensuring that the rules themselves are known to everyone. In fact, they are mainly divided into sources of production (which create the law) and sources of knowledge (which make the law known).

They are also divided into:

- act sources: these represent expressions of will in written form and issued by bodies specifically appointed for this purpose by virtue of precise provisions;
- fact sources: these are customs or acts of legal production outside our legal system, which, however, considers them objectively suitable for producing rules;
- direct sources: provided for and regulated within the national legal system itself;
- indirect sources: governed by other legal systems and which, therefore, must be transposed in order to be operational in our legal system;
- formal sources: issued by the "legislative power";
- substantial sources: these do not originate from official legislative power, but from bodies that nevertheless have specific regulatory powers (e.g. legislative decrees).
- primary sources: regulate matters not yet governed;
- secondary sources: introduce new rules on matters already regulated;
- national sources: issued by the various branches of the Italian legal system;
- supranational sources: issued by external bodies, to which the State has nevertheless conformed or adhered pursuant to Articles 10[1] and 11[2] of the Constitution.

A concise system of sources of Italian law is outlined in Article 1 of the "provisions on the law in general" that precede the Civil Code.

The system of sources of our legal system is structured according to the so-called "hierarchical principle", which establishes the prevalence of the higher-ranking source over the lower-ranking one. Therefore, we find:

- at the 1st level, the Constitution and financial regulations provided for by the Treaty on the Functioning of the EU (TFEU);
- at the 2nd level, the law (both national and regional), acts having the force of law and all European regulations (regulations, directives, self-executing directives, decisions, etc.);
- at the third level:
  - relating to the state, government regulations and ministerial regulations;
  - relating to local authorities, statutes and regulations;
- At the fourth level are internal regulations issued by the Tax Administration (circulars, notes, resolutions) and the EU Commission (recommendations and opinions), which are not legally binding.

[1] Article 10, paragraph 1, of the Constitution states that '*The Italian legal system conforms to the generally recognised rules of international law.*'
[2] Article 11 of the Constitution states: *'... allows, on equal terms with other States, the limitations of sovereignty necessary for an order that ensures peace and justice among Nations...'.*

3. THE CONSTITUTION

The Constitution is undoubtedly at the top of the hierarchy of sources of domestic law, as its provisions contain several fundamental principles of tax law:

- the principle of (relative) legal reserve in tax matters, pursuant to Article 23: "*No financial or personal service may be imposed except on the basis of the law*". Legal reserve:
  - by virtue of Articles 10, 11 and 117 of the Constitution, making European Union sources compatible, including in tax matters;
  - concerns substantive tax rules, i.e. rules defining taxpayers and a taxable person, the prerequisite, the tax base and the tax rate, but also rules granting relief, as they provide for exceptions and derogations from regulatory sources covered by legal reserve;
  - represents a limit for the legislator;
  - represents a guarantee for taxpayers;
  - it is relative, in the sense that it does not require the imposed service to be entirely regulated by law (it may be limited to establishing the prerequisite, the taxable person, the tax base and the rules for calculating tax).
  - it must always be coordinated with Article 3 of the Constitution (principle of equality), Article 3 of Law 212/2000 (prohibition of retroactivity of tax law) and Article 11 of the Preliminary Provisions, which establishes that the law only applies to the future.
- the principles of contributory capacity, universality, equality and progressivity contained in Article 53: "Everyone is required to contribute to public expenditure in proportion to their contributory capacity. The system is based on criteria of progressivity".

  A person's ability to pay depends on their economic capacity, i.e. a fact that expresses economic strength, which, in any case, must be:
  - effective: it must clearly express the ability to contribute to public expenditure. This characteristic contrasts with certain institutions of our legal system, in particular absolute legal presumptions[3];
  - current: it must exist at the time the tax is applied. The legislator may enact retroactive laws, subject, however, to the criteria of reasonableness of the time elapsed and predictability on the part of the taxpayer.

  Article 53 establishes the principle of universal taxation, in that everyone must contribute to public expenditure in proportion to their ability to pay, whether they are Italian citizens, foreigners or stateless persons, just as Article 2 of the Constitution refers to the principles of political, economic and social solidarity to which everyone is bound.

  The combined provisions of Article 53 and Article 3 of the Constitution give rise to the principle of tax equality, according to which "*equal situations must be subject to equal tax regimes and, conversely, different situations must be subject to unequal tax treatment*".

[3] These are established by the legislator to prove an unknown fact starting from a known one, and do not allow for counterevidence from the taxpayer.

Paragraph 2 of Article 53 of the Constitution establishes the principle of progressivity[4] of the tax system, according to which a tax is defined as "*progressive*" when the tax rate increases more than proportionally to the amount of the contributory capacity considered.

The Constitutional Court, in its ruling no. 128 of 29 December 1966, clarified that "*the constitutional provision does not prohibit individual taxes from being based on criteria other than progressivity, but merely states that the tax system as a whole must be progressive in nature*".

In the current Italian tax system, the principle of progressivity has only been implemented regarding personal income tax (IRPEF).

Progressivity can be:

- continuous: the tax rate is a continuous function of taxable income and increases uniformly with each increase in taxable income.
- by class: income is divided according to its amount. The lowest tax rate is applied to the first class, and then higher tax rates are applied to each subsequent class.
- by bracket: this is the most used method and is the one adopted by the Italian legislature. The taxable base is divided into brackets, each of which corresponds to a different tax rate that varies from one bracket to another but remains constant for the portion of taxable income included in the same bracket; the higher tax rate does not apply to the entire taxable base, but only to the portion that exceeds the lower bracket.
- by deduction: the rate is constant as if it were proportional, but the tax base is calculated on the net amount of a pre-established sum, which the law exempts from taxation.

- the prohibition on repealing tax laws by referendum under Article 75 of the Constitution: "... *Referendums are not permitted for tax and budget laws, amnesties and pardons, authorisation to ratify international treaties*...'.
  The rationale behind this is to prevent any abuse of the instrument of direct democracy that would harm the interests of public bodies in the certain and prompt collection of taxes.
- the principle of a balanced budget referred to in Article 81 of the Constitution, as amended by Constitutional Law No. 1 of 20 April 2012: '*The State shall ensure a balance between revenue and expenditure in its budget, taking into account the adverse and favourable phases of the economic cycle*'.
  The budget is an accounting document that contains an indication of the State's revenue and expenditure for a specific period, known as the financial year, in which a complete financial management cycle, the financial year, is determined.
  The State has an obligation to achieve a result, i.e. to balance its budget revenues and expenditures, but, pursuant to the second paragraph of Article 81, it is permitted to resort to borrowing.
  The latter, subject to authorisation by the Chambers adopted by an absolute majority of their respective members, is permitted in the event of exceptional circumstances and only for the purpose of considering the effects of the economic cycle.

[4] Progressivity occurs when the average tax rate increases as the tax base increases, i.e. when the marginal tax rate is higher than the average tax rate.

Finally, the current third paragraph states that "Any law that imposes new or increased burdens shall provide for the means to meet them", thus confirming the obligation of financial coverage both for laws that impose new and increased expenditure and for those that result in lower revenue.

- the division of legislative power between the State and the Regions referred to in Article 117 of the Constitution: Legislative power is exercised by the State and the Regions in compliance with the Constitution, as well as with the constraints deriving from Community law and international obligations'.

  It is possible to distinguish between:
  - the exclusive powers of the State
  - concurrent legislative powers between the State and the Regions
  - the full or residual legislative powers of the Regions;
- the financial autonomy of local authorities, pursuant to Article 119 of the Constitution, as amended by Article 5 of Constitutional Law No. 3 of 18 October 2001, Article 4(1)(a) of Constitutional Law No. 20 of 20 April 2012, No. 1, Article 1, paragraph 1, of Constitutional Law No. 2 of 7 November 2022.
  The financial autonomy of local authorities (municipalities, provinces, metropolitan cities and regions) is thus recognised, providing that they have:
  - financial autonomy in terms of revenue and expenditure;
  - the power to establish and apply their own taxes, in accordance with the Constitution and the principles of coordination of public finance and the tax system;

  the availability of a share in the revenue from taxes relating to their territory.

4. LAWS

A law is a normative act approved by Parliament and promulgated by the President of the Republic, in accordance with the procedure laid down in Article 72 of the Constitution. Laws are characterised by their generality and abstract nature: they apply to all citizens and are enforced whenever the situation covered by the law arises in practice.

It is a so-called primary source, i.e. subject only to the Constitution and sources of Community origin but prevailing over so-called secondary sources and representing the absolute predominant source of tax law.

In fact, Article 23 of the Constitution stipulates that any compulsory payment to a public body can only be established on the basis of a law, thus establishing an express legal reserve about compulsory payments, which also applies to compulsory payments of a tax nature.

5. DECREE-LAWS AND LEGISLATIVE DECREES

Regarding acts having the force of law, decree-laws and legislative decrees are regulatory instruments used by the Government to regulate particularly technical aspects of taxation.
In fact, pursuant to Article 70 of the Constitution, legislative power rests exclusively with Parliament but, based on the combined provisions of Articles 76 and 77 of the Constitution,

the Government may, under certain conditions, issue acts with the force of law: legislative decrees and decree-laws.

Decree-laws are provisional measures with the force of law, which the Government may resort to, under its own responsibility, in "extraordinary cases of necessity and urgency" (Article 77, second paragraph of the Constitution). They must be submitted to Parliament on the same day they are issued and lose their effect ex tunc if Parliament does not convert them into law within sixty days of their publication.

Law No. 212 of 2000, the Statute of Taxpayers' Rights, reserved a series of general provisions for decree-laws aimed at regulating their use. Specifically, Article 4 provides that "*Decree-laws may not establish new taxes or provide for the application of existing taxes to other categories of persons*".

The Government may adopt delegated decrees in accordance with the provisions of the enabling act passed by Parliament, which must specify the terms and establish the subject matter and guiding criteria to be followed in exercising legislative power. Any violation or failure to comply with the limits set out in the enabling act will render the legislative decree itself unconstitutional (Article 134 of the Constitution).
Legislative decrees are widely used in the tax sector.

6. CONSOLIDATED TEXTS

The consolidated text has the function of bringing together in a single body of text all the regulations on a subject, whose force of law derives from the regulatory support contained therein. It is the Government that can take the initiative and bring together several legislative acts, coordinating them to make them easier to understand: in this case, we refer to "compilative" consolidated texts.

It is also envisaged that the Government may proceed with the drafting of a text, on the delegation of Parliament, introducing legislative innovations, in which case the rules no longer reproduced therein shall be considered repealed; "**innovative**" consolidated texts contain provisions supplementing, amending and repealing existing rules on certain matters and, therefore, innovate the legal system.

In this regard, the Constitutional Court, in its ruling no. 54 of 10 April 1957, stated that the consolidated text prepared on the basis of legislative delegation is a genuine legislative decree, which therefore has the force of law.

7. REGULATIONS

Among the acts that do not have the force of law and are immediately below ordinary law, regional law and acts having the force of law, state regulations are particularly relevant in tax matters.

Regulatory acts respond to the need to supplement and/or implement legislative provisions at a technical level and, precisely because they emanate from the executive power, in view of

their capacity to produce legal rules of a general and abstract nature and, therefore, their suitability to innovate or modify the legal system, they are in reality considered as actual legislative acts, as such prevailing over simple individual or general administrative acts.

Regulations are divided into governmental regulations, which are based on Article 87 of the Constitution, and ministerial regulations, which are based on Law No. 408/1998, Article 17.

In tax matters, there is always a legislative provision of regulatory power that determines the methods of execution and, by virtue of the reserve of law, executive and delegated regulations are admissible, while implementing and supplementary regulations are admissible only for the part of the tax regulation not reserved to the law.

8. REGIONAL LAWS

In our legal system, the Regions and the Autonomous Provinces of Trento and Bolzano have legislative powers that give them the authority to enact laws on matters and within the limits provided for by the Constitution.

The effectiveness of regional laws is limited to the territory of the Region that enacts them. They are deliberated by the Regional Council, promulgated by the President of the Region and published in the Official Bulletin of each Region (BUR).

Pursuant to Article 117 of the Constitution, '*Legislative power is exercised by the State and the regions in accordance with the Constitution, as well as the constraints deriving from Community law and international obligations.*'

Therefore, the region is authorised to exercise legislative power by the Constitution, which confers two types of legislative powers upon it:

- concurrently, when exercised jointly by the State and the Region: the State lays down the fundamental principles for the enactment of regional laws on a specific matter in a framework law, while the Region approves and enacts regional laws within the limits of the State law;
- exclusive, in matters where there is no exclusive or concurrent competence of the State, therefore legislative competence lies with the Region.

The Regions may legislate regional and local taxes, in compliance with the fundamental principles (Article 117, paragraph 3 of the Constitution) and coordination of public finance and the tax system (Article 119 of the Constitution).

9. GENERAL PRINCIPLES OF ORDINARY LEGISLATION

About the general principles of the tax system, we must mention:

- the Taxpayers' Charter (Law No. 212 of 27 July 2000) implements the principles of democracy and transparency in the tax system, helping to improve the relationship between the tax authorities and citizens; it contains general provisions implementing constitutional principles, such as equality, legal reserve and contributory capacity,

implementing guiding interpretation criteria in various sectors. It does not have a higher rank than ordinary law, so it cannot serve as a benchmark for constitutionality, nor can it allow for the non-application of any tax rules that conflict with the Charter.

Legislative Decree No. 219 of 30 December 2023 was published in the Official Gazette No. 2 of 3 January 2024, containing amendments to the Taxpayers' Charter which implements, among other things, Article 4 of Law No. 111 of 2023, which concerned the reform of the taxpayer's charter.

- The enabling law for tax reform (Law No. 825 of 9 October 1971) is one of the very few laws of general application, but only with reference to certain areas of taxation. In fact, there is no comprehensive law establishing general criteria for all taxes. If anything, there may be a process of abstraction, the validity of which is debatable.

With specific reference to punitive (sanctioning) tax law, we find the general rules for the assessment of financial violations in Law No. 4 of 7 January 1929.

10. EUROPEAN UNION LAW AND SOURCES OF INTERNATIONAL LAW

The function of taxation and the related regulatory power to levy taxes has always been considered the prerogative of each State. However, Italy, like other States, with its entry into the European Union, has allowed the inclusion in its legal system of tax rules emanating from supranational institutions, such as the introduction of Community levies as own resources to meet the expenses of the European Community.

EU sources are divided into “primary sources” and “secondary sources”.

- Primary or original sources. Treaties establishing the European Community and amending measures that take on the status of “paraconstitutional sources” as provided for in Article 11 of the Constitution and Article 117(1).

  The European Union's action is subject to the principle of “confereed powers”, which stipulates that the Union shall act only within the limits of the powers conferred upon it by the Member States in the Treaties to achieve the objectives set out therein. The EU's action in the field of taxation is permitted in accordance with the principles of subsidiarity and proportionality only if it is instrumental to achieving the objective of the single market.

- Sources of “secondary legislation”. These are Regulations, Directives and Decisions.

  About Regulations, provided for in Article 288(2) of the TFEU, it should be noted that, according to a now established approach, including in our constitutional case law, they contain general rules whose immediate application in individual Member States is mandatory, without the need for intervention by means of primary state legislation.

As regards the so-called Directives, also covered by Article 288(3) TFEU, it should be noted that their normal function, as can be inferred from their name, is to impose an obligation on Member States in terms of results and not means: they consist of providing guidance to national legislators on issues to be regulated by domestic law; they are also characterised by the fact that they require regulatory adjustments to be made within usually peremptory deadlines. Self-executing directives may be directly applicable and binding in Member States, provided that certain substantive conditions are met:

- they must be "unconditional", i.e. they must not leave any margin of discretion to Member States as regards their implementation;
- they must be "sufficiently precise", in the sense that they do not require "any further clarification of detail" (Constitutional Court No. 168/1991);
- the State must be in breach for failing to implement the directive.

Directives are frequently used in tax matters, and their main purpose is to harmonise national legislation.

Decisions, also provided for in Article 288 TFEU, paragraph 4, are Community acts, similar to Regulations in terms of their legal effects: they are binding in their entirety on the addressees specified therein.

In this sense, they are binding, but only in relation to the Member State or individual citizen to whom they are addressed.

Article 288 TFEU also provides for non-binding acts:

- recommendations addressed to Member States, which are an exhortation to comply with a given behaviour;
- opinions, which normally act through which the European institutions express their opinion on a given matter.

Finally, the interpretative judgments of the European Court of Justice are fundamental instruments for ensuring the uniform and accurate interpretation of Community law within the legal area of the Union. The case law of the Constitutional Court and the Court of Cassation recognises their direct applicability within the territorial scope of our legal system and their prevalence over conflicting national law.

Furthermore, the case law of the Court of Justice has also dealt with regulating the relationship between European law and international law, emphasising the interpretation of the provisions contained in double taxation conventions.

International sources, on the other hand, pursuant to Article 38 of the Statute of the International Court of Justice, are international customs, general principles of law and international conventions.

International conventions (treaties) are concluded with various countries, to regulate cases of double taxation (on income or inheritance) or customs matters. They are subject to ratification by Parliament and have the status of ordinary ratification law (Article 80 of the Constitution).

The ordinary legislator (state or regional) must comply with international obligations (Art. 117 of the Constitution).

General principles of law originate and are applied in the internal legal systems of different states (for example, one principle is the criterion of taxation of residents on income wherever it is produced, based on personal connection).

Custom consists of consistent and uniform behaviour maintained by States, accompanied by the conviction that such behaviour is mandatory. It cannot create new tax cases (which can only be established by law), nor can it introduce limits on taxing powers or favour the extension of tax rules.

TAX LAW AND ITS SOURCES

Public Financial Activity

acquisition, management and expenditure of the financial resources necessary for the State and other public bodies to meet 'public needs' and to perform the functions assigned to them by law.

Constitutional principles in tax matters
Primary sources, both national and regional, which regulate a matter not yet governed by law or which establish the precept.
Secondary sources, both national and regional, which establish new rules on matters already regulated or which establish penalties for violations of the rules that have been established.
Sources properly speaking of Community law and international sources.

Tax Law

'that branch of our legal system aimed at considering and studying the rules governing the activities of the State and public bodies, designed to acquire, by virtue of the power of supremacy attributed to them by law, the financial resources necessary to achieve public purposes.'

Taxation

'a financial contribution imposed to contribute to public expenditure' which, broadly speaking, includes taxation in the technical sense, levies, contributions and fiscal monopolies.

Sources of law

acts and facts that create or modify legal rules, or rather
"any technical instrument prepared or recognised by the legal system capable of innovating the legal system and producing objective law".

Sources of tax law

The Law	It's the main source of tax laws.
Legislative decrees	Delegated decrees (i.e. legislative decrees or delegated laws) are regulatory measures falling within the legislative competence of the Government under the terms and within the limits of a formal delegation law issued by Parliament.
The decree laws	These consist of provisional measures, having the force of law, which the Government may resort to in 'extraordinary cases of necessity and urgency' (Article 77, paragraph 2 of the Constitution).
Consolidated Laws	The combination of several laws on the same subject into a single text.
Regulations	These should be considered as actual legislative acts and, as such, take precedence over simple individual or general administrative acts.
Regional Laws	Art. 117 Constitution: '*Legislative power is exercised by the State and the Regions in compliance with the Constitution, as well as with the constraints deriving from Community law and international obligations*.'
The Taxpayer's Charter (Law No. 212 of 27 July 2000)	The Taxpayer's Charter, approved by Law No. 212 of 27 July 2000, implements the principles of democracy and transparency in the tax system, helping to improve relations between the tax authorities and citizens.
Enabling law for tax reform (Law No. 825 of 9 October 1971)	Law of general scope but only with reference to certain tax sectors.
Law No. 4 of 7 January 1929.	Punitive tax law (penalties) - general rules for the investigation of financial violations.

EU SOURCES	**INTERNATIONAL SOURCES**
▪ Primary sources of law: Treaties establishing the European Community and amending measures ▪ Sources of "secondary law": Regulations, Directives and Decisions.	▪ International conventions ▪ General principles of law ▪ Customary law

RELEVANT PROVISIONS RELATING TO ARTICLES 23, 53, 75, 81, 117 AND 119 OF THE CONSTITUTION	
Article 23: '*No financial or personal service may be imposed except on the basis of the law*.'	rule governing the enactment of tax laws
Article 53: *'Everyone shall contribute to public expenditure in accordance with their means. The system shall be based on criteria of progressivity.'*	rule governing contributions to public expenditure and defining the substantive basis of taxation
Article 75, paragraph 3: '*Tax laws, budget laws, amnesty and pardon laws, and laws authorising the ratification of international treaties are excluded from repeal referendums.'*	prohibition of repeal referendums
Article 81, paragraph 3: *'The State shall ensure a balance between revenue and expenditure in its budget, taking into account adverse and favourable phases of the economic cycle.'*	prohibition on introducing new taxes in the budget law
Title V – Art. 117: '*Legislative power is exercised by the State and the Regions in compliance with the Constitution, as well as with the constraints deriving from Community law and international obligations.'* Article 119: '*Municipalities, provinces, metropolitan cities and regions have financial autonomy in terms of revenue and expenditure, in compliance with the balance of their respective budgets, and contribute to ensuring compliance with the economic and financial constraints deriving from European Union law'.*	fiscal federalism

CHAPTER II.

TAXES

1. DEFINITION AND CHARACTERISTICS OF TAXES

There is no definitive definition of tax, but it can be defined as a financial contribution, consisting of a payment of money, due to the State or other taxing authority, by virtue of an obligation that the law links to the existence, occurrence or cessation of certain facts or situations that are, in any case, indicative of the taxpayer's ability to pay.

Taxes are characterised by their fiscal function; in fact, their revenue is allocated to public bodies and serves to promote collective goals based on solidarity.

The tax is characterised by certain qualifying elements, first and foremost of which is the depletion of assets, i.e. the economic sacrifice that the person suffers as a result of the financial contribution made, which is not optional but compulsory, as it is the expression of an authoritative act that finds its legitimacy in a legislative provision or equivalent acts, without any negotiating participation on the part of the person liable. Another defining element is the allocation of the revenue to public finances, typically to local public bodies, as well as the public function of the financial contribution, which is necessary to provide the means to cover the financial needs of the State, contributing to public expenditure.

Taxes include duties, fees, contributions, fiscal monopolies, surcharges and additional taxes, and constitute the most important financing tool adopted to acquire the means necessary to pursue the general public interest.

2. TAX

Taxes embody the essential characteristics of all levies, but their distinctive feature is that they are payable simply because the taxpayer has a certain ability to pay, regardless of any correlation with the services provided by the public authority.

Tax is therefore a financial contribution that, by virtue of the authority of a public body, is payable by the taxpayer, to the extent and in the manner established by law and in consideration of their ability to pay.

Compared to other taxes, the prerequisite to which the law links the obligation to pay tax belongs to the legal sphere of the taxpayer and does not depend on the public body (e.g. the attainment of income, possession of property, etc.). Conversely, in other taxes, the prerequisite is linked to the financing of a specific activity or public service that concerns a specific taxpayer.

The main distinction we need to make when it comes to taxes is between:

- DIRECT TAXES, which directly affect existing wealth, such as assets, as well as wealth at the moment it is produced, such as income, understood as an indicator of the tax-paying capacity of an individual or a company. Income tax concerns the flow of the

taxpayer's annual wealth production and is paid by paying a portion of the income produced, while wealth taxes affect the taxpayer's total assets and are justified by the fact that such ownership confers an advantage on the owner.

They affect the distribution of income and ensure continuity of revenue. This category includes IRPEF (personal income tax), IRES (corporate income tax) and IRAP (regional tax on productive activities).

- INDIRECT TAXES are those that indirectly affect wealth when it is spent (e.g. VAT on consumption) or transferred (e.g. registration tax on transfers of ownership). They are less noticeable to taxpayers but do not ensure continuity of tax revenue and include:
  - divisible, as their payment is sporadic, occurring only when consumption, exchange or transfer takes place;
  - flexible, because their revenue can be easily adapted to contingent economic and financial needs;
  - elastic, because they increase during periods of economic expansion when consumption, trade and transfers grow, while they should decrease during periods of depression.

  The most important indirect tax in the Italian tax system is VAT, but this category also includes taxes on transfers free of charge (inheritance and gifts), taxes on transfers for consideration or on business transactions, i.e. on legal acts and documents (registration, stamp duty, mortgage, etc.) and taxes on consumption or manufacturing (excise duties).

- PROPORTIONAL TAXES: the tax that the taxpayer must pay is proportional to the value of the asset or income, since the tax rate is constant and the amount of tax increases as the taxable amount increases (IRES, registration tax).

- PROGRESSIVE TAXES: the average tax rate increases more than proportionally as the taxable amount increases (IRPEF). Progressivity can be:
  - continuous: the tax rate increases steadily as the taxable amount increases;
  - by class: the tax rate increases according to the income classes to which it is applied;
  - by brackets: for each class, the taxable amount is divided into brackets and each bracket is assigned a rate that increases as the brackets increase;
  - by deduction: the taxable amount is subject to a fixed rate, but after a certain amount has been deducted.

- REGRESSIVE TAXES: when the average rate decreases as the tax base increases.

Further classifications distinguish taxes as:

- GENERAL, which apply to all income and all assets, and SPECIAL, which refer to only one type of income or asset or to only one sector of the economy;
- REAL, whose fundamental element is the *res*, i.e., the asset or specific manifestation of wealth, and PERSONAL, whose fundamental element is the person to whom it refers.

The principle of equality and social solidarity guaranteed by the State, from a tax point of view, translates into certain fundamentals concerning taxes:

- THE UNIVERSALITY OF TAXATION, according to which everyone has equal social dignity and is equal before the law, and therefore the tax relationship must also apply to everyone (including foreigners if they reside or carry out economic activities in the territory of the State). However, this principle allows for exceptions, such as tax exemptions for minimum incomes, for reasons of social justice, and exemptions for individual incomes, for reasons of general economic interest.
- TAX EQUITY, according to which the overall tax burden should be distributed fairly among taxpayers. According to the theory of contributive capacity, the distribution of the tax burden among citizens must be based not on the subjective element of sacrifice, but on the objective element of contributive capacity, inferred from objective elements (such as income, wealth, consumption, etc.) that can be measured. Tax capacity, in fact, can manifest itself directly or indirectly through acts, facts or situations that are taken as the basis for the various taxes.

The application of taxes has numerous effects on the economy, affecting production, prices, consumption and income distribution, since, for example, an excessive tax burden can have various negative effects, such as a decrease in the incentive to work and produce.

Taxpayers, who are subject to taxation, may react in different ways: they may fulfil their tax obligations, but they may also try to evade them through legitimate or illegitimate means. From this, we can conclude that the effects of taxation include:

- TAX EVASION consists of violating tax obligations by concealing all or part of the taxable amount: the taxpayer illegally evades payment of all or part of the tax. A direct consequence of evasion is a reduction in revenue, and to find the necessary resources, the tax burden is increased, meaning that “non-evaders” will be subject to a higher tax burden, which in turn encourages a new and greater risk of evasion.
- TAX AVOIDANCE is the behaviour of those who, by circumventing (avoiding) the tax law without violating it, evade the obligation to pay tax; the taxpayer, by carrying out transactions or acts which, although not illegal in themselves, have no valid economic justification as they are aimed exclusively at circumventing the obligations or prohibitions laid down by tax laws, obtains an undue reduction in their tax burden. The negative effects are like those of evasion in that the treasury receives less tax revenue, and the market sees a contraction in production or consumption.
- REMOVAL, which can be NEGATIVE OR POSITIVE.
    - NEGATIVE, when the taxpayer changes his choices by giving up the economic activity that could give rise to the applicability of the tax or avoid organisational forms that entail a heavier tax burden.
    - POSITIVE, when the taxpayer affected increases their productive efforts to obtain a higher income and neutralise the reduction in purchasing power.
- TRANSFER, shifting the tax liability and therefore part or all of the tax due to another taxpayer, who in turn may attempt to transfer the burden to another person, until it reaches a person who is unable to transfer the tax burden to others and therefore actually bears it; the transfer can be forward, backward or lateral, and even if it does not harm the treasury because the tax ends up affecting different individuals and is actually collected, it can create distortions in terms of tax fairness.

- AMORTISATION concerns taxes on the income from assets and consists of reducing the price of the asset when it is sold.
- DIFFUSION occurs when the relative tax burden ends up being distributed among taxpayers in a manner different from that intended by the legislator due to a series of economic disturbances. For example, if a tax affects only certain individuals, these individuals react in certain ways that influence other individuals, who in turn react as well.

3. THE MAIN DIRECT AND INDIRECT TAXES CURRENTLY IN FORCE IN THE ITALIAN TAX SYSTEM

The main direct taxes:

- IRPEF (Personal Income Tax).

It is a direct personal tax that applies to the total income earned by individuals resident in Italy, regardless of where in the world it is produced, as well as to the income earned in Italy by non-residents. It is progressive, meaning that as taxable income increases, the tax rates applied to the additional portions of income also increase.

IRPEF, regulated at the legislative level by Article 11 of the Consolidated Income Tax Act (TUIR), is calculated on total income after deducting all allowable deductions, taking into account the so-called bracketed tax rates.

In the current year 2024, following the changes introduced by the latest tax reform contained in Legislative Decree no. 216 of 30 December 2023, the IRPEF tax brackets have been reduced from four to three, with the following rates:

- 23% for income up to €28,000,
- 35% for income between €28,000 and €50,000, and
- 43% for income exceeding €50,000.

However, this is only one of the several innovations introduced by the latest IRPEF reform, which will be examined in greater detail in the special section.

- IRES (Corporate Income Tax).

It is a proportional tax and applies only to entities with legal personality, such as joint-stock companies (S.p.A.), limited liability companies (S.r.l.), cooperative societies, mutual insurance companies, and other entities. It is mainly regulated by Articles 83, paragraph 1, and 81 of the Consolidated Income Tax Act (TUIR).

It is a non-progressive tax on corporate income, since all taxable entities pay the same IRES rate regardless of the income earned, with the rate applied to the taxable base.
With the “2024 tax reform” and the implementing decrees of the enabling law approved in 2023, IRES has undergone several changes, such as those concerning the

tax residence of legal entities for the purposes of this tax, the enhanced tax deduction of 120% and even 130% for the hiring of disadvantaged categories. The IRES rate has remained at 24% of taxable income, although the tax reform framework law aims to gradually reduce this rate from 24% to 15%.

- IRAP (Regional Tax on Productive Activities).

  It is a regional tax on added value of a proportional and real nature, as it taxes wealth at the time it is produced, and is regulated by Legislative Decree no. 446/1997. The taxable event of the tax, whose tax period coincides with that applicable for income taxes, is the habitual exercise, within regional territories, of autonomously organized activities aimed at the production or exchange of goods or the provision of services.

  The IRAP tax return is used to declare this regional tax on productive activities. Starting from 1 January 2022, the 2022 Budget Law provided that individuals carrying out business activities, arts, and professions are excluded from the payment of IRAP.

The main indirect taxes:

- VAT (Value Added Tax).

  This tax has been adopted since 1968 by numerous countries around the world and introduced in Italy on January 1, 1973 with Presidential Decree 633/1972. The tax is applied to the sale of goods and services and affects only the value added at each stage of the production and distribution process. There are currently three rates in Italy: the standard rate of 22%, and the reduced rates of 4% and 10%.

  Among its main characteristics:
  - it is a general tax on consumption;
  - it is proportional, meaning a rate is set for each type of good to be taxed, and for that good the rate remains fixed and single;
  - it is neutral, meaning it affects the final price, regardless of the number of steps involved in production;
  - affects the sale of goods carried out in the course of a business and the provision of services, imports and exports as well as the exercise of arts and professions

- Registration tax.

  This tax is applied to the transfer of movable and immovable property, when the transfer is subject to mandatory registration or when registration is requested by the taxpayer.

  It is a tax linked to a legal act or transaction and its subsequent expression in a document. Indeed, the presence of such document and its form determine whether or not a person is subject to the tax, which applies at the rate indicated in the Schedule attached to Presidential Decree no. 131/1986.

- Stamp duty

  This tax is applied when a document is requested, produced, or presented. Regulated by Presidential Decree no. 642 of October 26, 1972, it therefore applies to the deeds, documents, and registers indicated in the Schedule attached to Presidential Decree no. 642/1972.

- Inheritance and gift tax

  This is a tax due on the transfer of property or other rights in circumstances where a person benefits from a financial enrichment through death or through a gift. People who inherit real estate and real estate rights are required to file an inheritance tax return and pay, if applicable, the inheritance tax according to the rates and exemptions established in Article 2, paragraph 48, of Legislative Decree no. 262 of 2006.

  The inheritance tax return must be filed within 12 months of the date of opening of the inheritance by one of the obligated parties.

- Land registry and mortgage tax.

  This is the tax relating to land registry transfers and formal deeds concerning the transfer of real estate. Therefore, any deed that stipulates the sale, donation, transfer by inheritance of a property, the creation of rights, or the registration of mortgages on it is subject to this tax. Those requiring registration or other formalities are required to pay.

  Let's briefly digress on registration taxes and inheritance and gift taxes, to highlight how the recent reform of tax penalties (Legislative Decree 87/2024) has introduced changes to the penalty regime for various offenses, such as those set forth in Article 69 of Presidential Decree 131/86 (failure to request registration and submit a tax return); Article 71 (insufficient declaration of value); Article 72 (concealment of consideration); and other offenses, most of which have resulted in reduced minimum and maximum penalties.

4. THE TAX

The tax is a "*para-commutative*" levy in the sense that, although it is, like a tax, a patrimonial benefit provided by law, intended to finance public expenditure, it is characterized by the fact that it is owed by the individual who, in order to benefit from certain services or obtain a specific measure, submits a request to the tax authority that provides that public service (divisible) or that can adopt the measure. Therefore, the basis for the tax is a public act or activity consisting in the issuance of a measure or the provision of a service that concerns a specific individual.

Taxes cover the cost of so-called divisible expenses, that is, those types of expenses for which it is clearly defined which service is provided to the citizen. However, it is important to note that a tax does not necessarily have a reciprocal relationship between the monetary benefit and the public activity. Taxes may be due even when the service is not actually used, and for this reason, they cannot be defined in terms of consideration.
The main taxes in our legal system are taxes on government concessions, vehicle taxes, the tax on the occupation of public spaces, and the waste tax.

5. CONTRIBUTIONS

A contribution is "a compulsory levy on wealth falling within the scope of imposed patrimonial services" and falls somewhere between taxes and duties: it is a compulsory levy like a tax but is levied to finance a specific public work or service, as is the case with taxes.

Specifically, it is a service due in relation to an activity performed by a public entity for the community, but from which the obligor derives a specific benefit. Indeed, the basis for the contribution is precisely the economic benefit obtained by the taxpayer.

The rationale for the contribution is participation in the state's expenditure for a specific administrative activity for the benefit of identified individuals, who will benefit from the provision of certain public services. The element of an undifferentiated duty to participate in public expenditure based on the indivisible benefit derived from the public entity's activity is missing. Among the main contributions are, for example, the improvement contribution, the land reclamation contribution, and sewerage contributions, which are classified as tax contributions.

As for non-tax contributions, these are classified as parafiscal.

6. TAX MONOPOLIES

The performance of an economic activity may be reserved exclusively to the State or another public entity, in which case the term monopoly is used. Monopoly refers to a situation in which the production of a specific good or service is concentrated in a single entity, serving a specific market. When a legal provision attributes the exercise of a specific economic activity to a single entity, it is called a de jure monopoly, which is distinct from a tax monopoly.

A *de jure* monopoly is justified by general utility purposes in relation to goods and services of particular public interest (e.g., highways managed by ANAS), in order to allow the maximum possible use of a specific service by the community, through price containment or the need to regulate the operation and management of a specific service according to specific methods and precautions to avoid serious negative consequences.

A fiscal monopoly is a legal institution through which the State reserves the right to produce or sell certain goods or services, prohibiting third parties from carrying out such activities. This is justified by the need to generate tax revenue (e.g., tobacco) for the State.

Currently, the only legal basis for the concept of fiscal monopoly is found in the TFEU, Article 37 of which requires Member States to drastically reduce national monopolies of a commercial character, to avoid discrimination between nationals of Member States regarding supply and marketing conditions. Therefore, fiscal monopolies are considered not to be contrary to Community law provided that:

- they do not discriminate between nationals of Member States (see Court of Justice of 7 June 1983);
- exceptions to the competition rules are limited to those essential to raising tax revenue.

7. SURPLUSES AND ADDITIONAL TAXES

A surtax is a tax imposed by local authorities (municipalities, provinces, and regions), dependent on a national tax levied by the state. It represents an atypical form of tax through which the taxing power of local authorities is expressed: this taxing power complements or overlaps with the national tax levy.

A surtax occurs when the taxable base of one tax is also used as the taxable base for another tax.
A surtax occurs when the payment of a "quantum" is imposed, based on a fraction or multiple of the amount due to another tax. Therefore, the surtax on a tax is a temporary increase in the tax itself and retains the characteristics of the tax to which it refers. For example, municipal, provincial, and regional surtaxes on personal income tax (IRPEF) are determined by applying the rate to the same taxable base as personal income tax (IRPEF).

8. PARAFISCALITY

Parafiscality is the imposition and collection of taxes carried out by non-territorial public entities, alongside the tax collection performed by the State and territorial entities.

Through the mandatory tax levy to which certain taxpayers are subject, public bodies and some private entities with social security responsibilities finance their activities, thereby achieving their institutional goals.

This system is characterized by several principles:

- the principle of benefit, according to which taxpayers belonging to the same category that will then benefit from individual social security and welfare benefits are obligated to pay mandatory contributions.
- The principle of internal solidarity within the category: the welfare benefits due to those entitled to them are proportional to the specific needs of everyone, while the contributions paid are proportional to the salaries of those involved.

This system of parafiscality includes mandatory social insurance, social security contributions, and those due to chambers of commerce, professional associations, etc.

Social security and welfare contributions crystallize into monetary obligations towards social security and welfare institutions and serve not only to enable the payment of pension benefits at the end of the contributor's working life, but also, in situations of need, such as accidents at work, maternity, unemployment, or redundancy payments, to provide the relevant benefits and allowances to be paid to the entitled individual.

In Italy, social security and welfare institutions, such as INPS, INAIL, the former INPDAP, and chambers of commerce and professional associations, carry out parafiscal activities.

L'IMPOSTA

Tax par excellence - a monetary payment that a public body has the right to demand by virtue of its original or derivative power of government, in the cases, amounts and ways established by law for the purpose of obtaining revenue.

LA TASSA

It is characterised by the fact that its basis is a public act or activity, that is, the issuing of a provision or the provision of a service specifically concerning a given subject.

CONTRIBUTION

is the third genus between tax and fee and is defined as "a specific type of tax whose premise is the economic benefit obtained by the taxpayer (or by certain categories of individuals) as a result of public activity intended for the entire community indiscriminately."

TAX MONOPOLIES

respond to the need to generate revenue for the State, which is used to cover public expenditures and, therefore, is tax related. The sole legal basis for the concept of a fiscal monopoly is found in the TFEU.

SURTAX - ADDITIONAL TAX

A surtax occurs when the taxable amount of one tax is also used as the taxable amount of another tax. A surtax occurs when the payment of a "quantum" is imposed, based on a fraction or multiple of the amount due for another tax.

PARAFISCALITY

Taxation and collection activities carried out by non-territorial public entities; this is called parafiscal activity because it complements that carried out by the State and territorial entities (municipalities, provinces, and regions), which is traditionally defined.

CHAPTER III.

TAX LAW

1. TAX LAWS AND THEIR ESSENTIAL ELEMENTS

Tax laws are legislative provisions that create a legitimate public tax obligation between a taxing entity and a party that demonstrates the ability to pay. These laws also establish methods of assessing or collecting taxes and any penalties to be applied in the event of non-compliance by the obligated parties, thus contributing to providing the State with the resources necessary for its functioning.

A first classification distinguishes tax laws into:

- substantive or tax laws that serve to determine the tax treatment applicable to a given act/fact and determine the taxable event and the legal consequences;
- formal or procedural rules, which govern multiple instrumental obligations (e.g., accounting requirements, tax return filing requirements) as well as the investigative powers of the Tax Administration to monitor taxpayers' compliance. Formal tax rules include procedural tax rules governing various aspects of tax litigation and specific sanctions that provide deterrent and punitive measures against those who refuse to comply with tax obligations.

Within the scope of substantive rules, which establish the conditions for a tax liability, it is important to understand the distinction between the objective and subjective basis of the tax, as well as the scope of certain essential elements such as the taxable base and the tax rate.

The objective prerequisite is the economic event or taxable event, the occurrence of which triggers formal and substantive tax obligations. Legislators are free to assume any factual element as the tax-generating event, while respecting the limits set by the principle of taxable capacity. Based on the objective prerequisite, we distinguish between instantaneous taxes, when the taxable event is an event that occurs instantaneously or within a short period of time, and periodic taxes, when the taxable event is not limited to a single temporal event but consists of "long-term events" delimited by a time frame within which the taxable base is determined.

The objective prerequisite also determines the distinction between direct taxes, which affect direct manifestations of taxable capacity (e.g., income, assets, increases in value), and indirect taxes, which affect indirect manifestations of taxable capacity (e.g., consumption, business, transfers of wealth).

The subjective prerequisite must necessarily be identified by the legislator (Article 23 of the Constitution). The general rule is that the center of attribution of subjective passive legal situations must be identified among those subjects to whom the objective prerequisite can be immediately attributed.

The taxable base is the amount on which the tax is calculated based on the applied rate. It represents the value or economic magnitude attributable to the underlying event and is a measure of the taxpayer's ability to pay.

The tax rate consists of a specific coefficient that, when multiplied by the value expressed by the taxable base, quantifies the tax burden to be borne by the taxpayer.

The tax rate can be fixed or variable; its value can be constant if it remains unchanged as the taxable base increases, progressive if it increases as the taxable base increases, or regressive if it decreases as the taxable base increases.

There are also provisions that provide tax breaks or tax incentives, i.e., provisions that, in derogation of the standard provisions, reduce the tax burden and can take various forms.

Typically, these benefits include exemptions, exclusions, and non-taxable provisions (which affect the tax base), but also deductions from the tax base and tax credits (which affect the tax calculation elements).

2. TAX BENEFITS AND VARIOUS TYPES OF TAX LAWS.

Tax exemptions are benefits granted by the legislature that exempt certain individuals from paying the tax to which they refer and operate automatically. With these regulatory provisions, the legislature removes certain facts and situations from the scope of application provided for by the applicable tax law.

Subjective exemptions are when the tax benefit is granted based on conditions and/or status attributable to the taxpayer; objective exemptions are when the benefit is granted due to the occurrence of objective circumstances, such as earthquakes, floods, etc.

They can also be divided into:

- permanent (e.g., the exemption for buildings of the Holy See);
- temporary (e.g., those provided by the legislature following certain natural disasters);
- general when they concern the entire national territory;
- local when they concern territorially limited situations.

Tax deductions are benefits that directly contribute to determining taxable income. The sum resulting from the various deductible expenses will be subtracted directly from the overall income: the result, i.e., the taxable income, will be used as the basis for calculating the amount to be paid to the tax authorities.

Tax deductions are reductions in the tax payable under certain circumstances and, unlike deductions, they only apply in the subsequent phase of the actual tax calculation. Various deduction options are available, such as tax deduction for building renovations or energy efficiency upgrades.

Exclusions differ from exemptions in that, while exemptions constitute a derogation from the general tax rules, exclusions place the condition outside the scope of the tax. Exclusions arise from tax regulations that clarify the limits of applicability of a tax, without derogating from the general provisions.

In addition to the provisions, various types of taxation exist in our system, differing in their underlying assumptions, purposes, or effects. These include, and this is not an exhaustive list, substitutive taxation, where specific assumptions, subject to separate taxation by multiple taxes, are brought under the jurisdiction of a single substitute tax that provides for their imposition; supplementary taxation, i.e., regulatory provisions aimed at extending taxability beyond typical assumptions, encompassing additional factual hypotheses to prevent their abuse; overlapping taxation, which occurs when a single assumption is used as a taxable basis by different taxes; conditional taxation, characterized by the circumstance of making the production of the tax provision's typical effect dependent on the occurrence of a specific event-condition; and deferred taxation, where its operation is suspended and its effects are deferred until the occurrence of a further assumption that combines with the first.

3. TAX OBLIGATION

An obligation is a legal relationship in which one party, called the debtor, is obligated to perform a financial service for the benefit of another party, called the creditor.

It may consist of a giving, a doing, or a refrain from doing.

Obligation is a broader term: it is a legally (or morally) imposed constraint, that is, a subjective legal situation that concerns a specific person who must perform a certain behavior for the benefit of another person who can demand it (only from that person and not from anyone).
The tax obligation is the specific relationship established between the taxing authority, the active party, and the taxable party, when a specific circumstance (the prerequisite) occurs, identified by law as relevant for the purposes of determining the ability to pay and, as such, subject to taxation.

The tax obligation:

- it is not conceptually different from a civil law obligation but is a public law obligation (it has its own rules in Tax Law);
- it is legal (its rules are entirely established by law);
- it may lack cause;
- it is independent of any consideration.

4. TEMPORARY EFFECTIVENESS OF TAX LAWS

In relation to the effects produced by the law in each spatial context or in each temporal context, we speak respectively of the temporal and spatial effectiveness of the law.

Regarding the temporal effectiveness of tax laws:

- Article 73 of the Constitution establishes that "*laws are promulgated by the President of the Republic within one month of their approval, are published immediately after their promulgation, and enter into force 15 days after publication*" unless the law itself

specifies a different term. The *vacatio legis* is the period from publication to the entry into force of the law.

- Article 3, paragraph 1 of the Taxpayer Statute, amended in light of the recent enabling law no. 111/2023 and Legislative Decree no. 219 of December 30, 2023, which entered into force on January 18, 2024, indicates the start of the mandatory nature of the provision, its termination, and the legal relationships to which the provision applies in the periods between the two indicated moments: "*Except as provided in Article 1, paragraph 2, the tax provisions do not have retroactive effect. Legal presumptions do not apply retroactively. With regard to taxes owed, determined, or paid periodically, the introduced amendments apply only starting from the tax period following the one in progress on the date of entry into force of the provisions that provide for them.*"

The principle of non-retroactivity of the tax provision is therefore established, as well as the prohibition on the retroactive application of legal presumptions.

These principles may be derogated only in the cases governed by Article 1 of the Taxpayer Statute, i.e., when an unclear tax provision must be addressed. The adoption of interpretative rules in tax matters may be provided only in exceptional cases and by ordinary law, qualifying authentic interpretation provisions as such.

Tax provisions may cease to be effective in the event of repeal, declaration of unconstitutionality, or expiration of the term for temporary laws.

For the succession of criminal tax laws over time, however, reference is made to the general principle contained in Article 25, paragraph 2, of the Constitution:
"*No one may be punished except by virtue of a law that entered into force before the crime was committed*."

The law cannot introduce sanctions aimed at tax behaviors committed before the approval and entry into force of the punitive law, in accordance with the principle of non-retroactivity, as mentioned above.

Conversely, Article 20 of Law No. 4/1929 expressly provided that the criminal provisions of the Finance Act apply to offenses committed while such provisions were in force, even if they had been repealed or amended at the time of their application. This established the so-called "ultra-activity" principle, based on the *tempus regit actum* principle, whereby the criminal tax provisions continued to apply to offenses committed during their validity period, even if subsequently repealed or amended in *melius*.

Article 20 of Law No. 4/1929 was repealed by Article 24 of Legislative Decree No. 507/99[5], which provided that "the criminal provisions of the Finance Act apply to offenses committed while such provisions were in force, with the general principles of criminal law, in particular Article 2 of the Criminal Code, becoming applicable again in the criminal-tax system."

[5] This article, in accordance with Article 25 of the Constitution, established that no one can be punished for an act that did not constitute a crime at the time of its commission, establishing the fundamental principle of favor rei, according to which, among other things, "no one can be punished for an act that, according to a subsequent law, does not constitute a crime and if there has been a conviction, its execution and penal effects cease".

5. EFFECTIVENESS OF TAX LAWS IN THE AREA

By virtue of the principle of state sovereignty within its own territory, tax laws are effective throughout the country, subject to the possibility of derogations expressly provided for by law. National law is operational and binding within Italy, but its effectiveness is limited by the sovereignty of other countries. Conflicts between Italian and foreign law can often arise.

Such conflicts can only be resolved through international cooperation in tax matters, or better yet, through essential agreements to resolve conflicts between tax claims of various countries if they concern the same person or object.

This question arises, in fact, when there is a reasonable justification link between the subject of the tax law and the territory, given the principle of prohibition on raising to a taxable event any event lacking any objective and/or subjective connection with Italian law.

For example, in its income tax regulations, the Italian legislature has adopted a dual criterion for connecting to the state territory:

- objective (so-called territorial criterion)
- subjective (so-called worldwide profit criterion)

These connecting criteria are found in international legal systems to taxable situations that involve a foreign element:

- the criterion of worldwide taxation of resident income (worldwide taxation), according to which taxation is possible even outside the territory;
- the criterion of the source criterion for non-resident individuals, according to which if the income is generated in a given state, this income will be subject to taxation in that state.

However, it is very common for an economically significant event to result in the same individual incurring two tax obligations, relating to taxes of the same type under the laws of two different countries. This situation is known as double taxation.

Pursuant to Article 165 of the Consolidated Law on Income Tax (TUIR), regarding provisions relating to income earned abroad and international relations, given the lack of international coordination, the best method to avoid double taxation is to enter into agreements between states through bilateral conventions.

Tax laws

are intended to provide the State with the resources necessary for its functioning, through the authoritative enforcement of financial obligations imposed on those categories of individuals who are responsible for certain significant facts or acts of economic potential that justify contributing to public expenditure.

Substantive (or tax) provisions that serve to determine the tax treatment applicable to a specific act/fact and to determine the taxable event as well as the definition of the legal effects.

Formal (or procedural) regulations that regulate multiple instrumental obligations (e.g. obligation to keep accounting records, obligation to file tax returns).

Tax relief or assistance

Any type of regulation that, in derogation of the ordinary regime, reduces the tax burden. Legislators can utilize a variety of tools (exemptions, deductions from the tax base, tax credits, rate reductions, substitute regimes, tax suspensions, tax credits);

Exemptions

consist of regulatory provisions with which the legislator removes certain facts and situations from the scope of application provided by the applicable tax law. They can be divided into objective and subjective exemptions.

The specific types of exclusions

place the condition outside the scope of the tax.

The exclusions arise from provisions with which the legislator clarifies the limits of applicability of the tax, without derogating from the general provisions.

Other types of tax regulations

SUBSTITUTE CASES	EQUIVALENT CASES
ADDITIONAL CASES	OVERLAPPING CASES
ALTERNATIVE CASES	CONDITIONAL CASES
DEFERRED CASES	

CHAPTER IV.

INTERPRETATION OF TAX LAWS

1. INTERPRETATION AND DIFFERENT INTERPRETATIVE CRITERIA

Interpreting tax laws means determining the meaning of the tax provision to apply it to individual situations. The interpretation of tax laws requires particular attention, as tax laws, in addition to often being difficult to understand, are notoriously affected by excessive instability, primarily due to the need to adapt taxable situations to the ever-changing economic and financial reality.

Furthermore, tax matters, often referred to as hyper-legislation, lack a single code that ensures the coordination and systematicity of the legislation, even though the Taxpayer Statute has made a significant contribution in this regard.

However, the interpretative criteria to which reference must always be made are those indicated in Article 12 of the provisions of the law:

a. Literal (or grammatical) interpretation, which consists of attributing the "proper meaning of words according to their syntactic connection" in the place and time in which the law was enacted;
b. Logical-systematic interpretation, which must identify the "legislator's intention," or the rationale behind the provision.
c. Interpretation according to the so-called teleological or finalistic criterion, which presupposes that the exact attribution of meaning to the legislative proposition must also be achieved through the search for the purpose or set of purposes pursued by the individual law or, more broadly, by the plurality of laws that impact a given matter.

Further interpretative criteria, also applied to tax law, are:

- the "historical" criterion, which uses the search for the most appropriate meaning to attribute to the literal text, starting from the analysis of the preparatory work that led to the actual approval of the law text;
- the “evolutionary” criterion (or interpretation), aimed at adapting or renewing, through hermeneutics, the law so that it does not appear unanchored to the context in which it is applied;
- the criterion or principle of "preservation of legal acts," which gives preference to the meaning that ensures the rule's survival and continued effect.

Only in the absence of a provision regulating the specific case, and therefore for the purpose of filling legislative gaps, again in accordance with Article 12 of the preliminary provisions, is it possible to resort to analogical interpretation. This interpretation is differentiated into analogia legis (application of provisions regulating similar cases or analogous matters) and *analogia iuris* (recourse to the general principles of the State's legal system).

The analogical interpretation is used when a specific case is not directly regulated by law, and a legal provision is applied that regulates abstract situations characterized by aspects of similarity with respect to the specific case not expressly regulated.

In tax matters, analogical application is inadmissible for tax provisions, penalty provisions, and favorable provisions.
The tax reform directly addressed the issue of analogical interpretation: Article 1, paragraph 1, letter b) of Legislative Decree No. 219 of December 30, 2023, introduces the prohibition of analogy with a new paragraph, paragraph 4-bis, which is added to Article 2 (clarity and transparency of tax provisions) of the Taxpayer Statute (Law No. 212 of 2000).

A restrictive application principle is introduced, specifying that the tax provisions governing the taxable event and taxable persons apply exclusively to the cases and times covered therein, thus excluding the possibility of analogical interpretation of tax provisions.

2. ADMINISTRATIVE PRACTICE

Article 10-sexies, introduced by Legislative Decree no. 219/2023, entitled "Practical Documents," introduces into our legal system the rules governing the tools with which the Administration carries out an important interpretative role, guiding and assisting the taxpayer in assigning the correct meaning to tax provisions and the tax classification of specific situations, expressing its position regarding a given situation.

The aforementioned article states: "*The tax administration provides support to taxpayers in the interpretation and application of tax provisions through: a) interpretative and applicative circulars; b) legal advice; c) formal requests for information; d) simplified consultations*."

2.1. INTERPRETATIVE AND APPLICATION CIRCULARS

Article 10 septies explicitly refers to the interpretative and application circulars that the Administration issues to meet a wide variety of needs, as summarized below:

- reconstruct the development process of the new tax provisions and provide initial clarifications regarding their content.
- provide in-depth analysis and interpretative updates, including in relation to new legislative and case law guidelines;
- provide a systematic framework for particularly complex issues;
- issue operating instructions to its offices.

The law also provides that, in cases of greatest interest, within the scope of the aforementioned activity, the Administration may engage in preventive discussions with institutional bodies or with professional bodies, trade associations, or other bodies representing collective interests, as well as make them the subject of public consultation before their publication (as already experimented by the Agency, for example, with recent circulars regarding crypto-activities or incremental flat-tax).

2.2 FREE TAX CONSULTANCY

To provide answers to the interpretative or application questions that many smaller taxpayers face regarding the complex tax regulations, the legislator, with Legislative Decree 219/2023, has provided an additional tool: free tax consultancy.

Article 10-nonies of the Taxpayer Statute, introduced by the aforementioned decree, stipulates that this service, known as simplified consultation, is available only to natural persons, including non-residents, and to smaller taxpayers (simple partnerships, general partnerships, limited partnerships, and similar companies, pursuant to Article 5 of Presidential Decree No. 917 of December 22, 1986) that apply the simplified accounting regime, and is provided by the Revenue Agency free of charge.

Beneficiaries of this service, including through specifically delegated intermediaries, will be able to avail themselves of the tax authorities' online services, accessing a dedicated database free of charge and upon request for specific cases. This database, in compliance with personal data protection regulations, contains responses to requests for legal advice and rulings, resolutions, and any other interpretative documents.

Taxpayers' use of this service is also very useful because, pursuant to Article 10, paragraph 2 of the Taxpayer Statute, which protects trust and good faith, penalties and late payment interest cannot be imposed if the applicant complies with the instructions received.

A taxpayer who has doubts regarding a tax provision must proceed with the simplified consultation and only if they have not received a clear response may they submit a ruling. Simplified consultation thus serves as a prerequisite for admissibility of the ruling.

2.3. INTERPELLO

The term "*interpello*" refers to the procedure by which the taxpayer obtains a preliminary opinion from the Administration on a specific case.

The rules governing the *interpello*, based primarily on Article 11 of the Taxpayer Statute, have undergone significant innovations, first with Legislative Decree 156/2015 and more recently with Legislative Decree 219/2023.

Depending on the questions raised by the taxpayer to the Revenue Agency, a distinction can be made between:

a) the so-called interpretative *ruling*, when the question concerns the application of tax provisions due to objective uncertainty regarding their correct interpretation;
b) the so-called qualifying *ruling*, if it concerns the correct classification of a case considering the applicable tax provisions;
c) the so-called anti-abuse inquiry, regarding the application of the abuse of rights legislation in relation to a specific case;
d) the so-called "disapplication ruling," which concerns the disapplication of tax provisions aimed at combating tax evasion, limiting deductions, tax credits, and providing evidence that such evasive effects cannot occur in the specific case;

e) the "probative ruling," which is reserved only for entities participating in the collaborative compliance regime pursuant to Legislative Decree 128/2015, as well as those submitting rulings on new investments pursuant to Article 2 of Legislative Decree 147/2015, and concerns questions relating to the existence of the conditions and assessment of the suitability of the evidence required by law, pursuant to and for the purposes of Article 24-bis of the Consolidated Income Tax Code.

The first step for the taxpayer is to apply, subject to the payment of a contribution intended to finance initiatives to implement training for tax agency staff (a new provision introduced by Legislative Decree 219/2023). The application must contain a series of specific requirements pursuant to Article 3 of Legislative Decree 156/2015, as well as the proposed solution, under penalty of inadmissibility. Applying does not imply suspension of the limitation periods, interruption, or statute of limitations.

The Administration must respond in writing, stating the reasons, within 90 days (a deadline subject to suspension during summer holidays). Any silence is to be understood as acceptance of the solution proposed by the taxpayer.

The administration's response is binding on all administrative bodies but is not an appealable decision.

2.4. COLLABORATIVE COMPLIANCE

The collaborative compliance regime allows for preventive dialogue with the tax authority regarding uncertain and controversial tax positions, to reach a shared assessment of the facts that give rise to the undisputed tax uncertainty.

The rationale behind collaborative compliance lies in the aim of establishing a relationship of trust between the administration and the taxpayer, through constant and preventive dialogue with the taxpayer regarding situations that could generate tax risks.

Collaborative compliance was established by Legislative Decree No. 128 of August 5, 2015, entitled "Provisions on legal certainty in relations between the tax authorities and the taxpayer, implementing Articles 5, 6, and 8, paragraph 2, of Law No. 23 of March 11, 2014," but Law No. 23 of August 9, 2023, has extended its scope. 111, Article 17 introduced some significant changes to the scheme.

The regime is reserved for entities that meet certain requirements, and the recent reform lowered the annual turnover threshold for entry, from the required billion in 2023 to 750 million from 2024, 500 million from 2026, and 100 million from 2028.

2.5. TAX RULINGS AND AUTOMATIC EXCHANGE OF INFORMATION

A tax ruling is a binding guide on a tax matter that a company can obtain in advance from the competent authorities. It is an institution designed to create legal certainty. For example, if a company is unsure whether to pay certain taxes on a particular asset, it can request an assessment from the tax authorities before filing its tax return. The authority's response is

binding, and therefore, if it denies the tax obligation, even if it later turns out the information was incorrect, there will be no consequences for the company. However, a tax ruling does not offer any protection in the event of changes in the applicable legal provisions after the preliminary ruling.

In implementing the Base Erosion and Profit Shifting (BEPS) Action Plan, member countries of the Organization for Economic Co-operation and Development (OECD) are committed to combating tax base erosion and corporate profit shifting by strengthening the exchange of information. To this end, the OECD has identified six types of rulings between tax authorities and taxpayers for which mandatory spontaneous exchange of information is required. The objective of the mandatory spontaneous exchange of information on rulings is to avoid cases of tax distortion or international double non-taxation, since the countries receiving the spontaneous information will be able to verify whether a ruling is related to the tax treatment to be applied to their taxpayers.

The rules governing advanced rulings have undergone profound innovation following the repeal of Article 8 of Legislative Decree no. 269/2003 by Legislative Decree no. 147/2015, which introduced the new provisions (art. 31-ter of Presidential Decree no. 600/1973) that regulate the institution, the purposes of which remain similar to those of the past.

Certain types of companies are eligible for the advance agreement procedure:

- Resident companies with international operations;
- Non-resident companies operating in Italy through a permanent establishment.

The advance agreements procedure (Article 31-ter, paragraph 1, Presidential Decree No. 600/73) can be activated primarily in certain areas, such as the prior cross-examination of exit or entry values in the event of a transfer of residence (Articles 166 and 166-bis of Presidential Decree No. 917/86) or the prior assessment of the requirements for a permanent establishment located in Italy.

Interpretation of Tax Laws
The interpretative criteria to which reference must be made are primarily those indicated in Article 12 of the provisions on the law in general, paragraph 1 of which provides for an interpretative procedure divided into two phases: literal interpretation and l'interpretazione logico-sistematica.

Analogy
In our legal system, the possibility of resorting to analogous procedures is established by the second paragraph of Article 12 of the provisions on the law in general.
The recent tax reform, specifically Article 1, paragraph 1, letter b) of Legislative Decree no. 219 of 30 December 2023, with a new paragraph, paragraph 4-bis, added to Article 2 (clarity and transparency of tax provisions) of the Taxpayer's Statute (Law no. 212 of 2000), introduces into the Taxpayer's Statute a clear codification of the **prohibition of analogy of tax rules** which, according to the legislator's intentions, should strengthen legal certainty.

Tax consultancy	Legislative Decree 219/2023 requires the Revenue Agency to provide free **tax consultancy** services to individuals and small taxpayers, addressing any interpretative or application questions they may have.
	The **formal request for information**, previously regulated by Article 11 of Law 212/2000, has been entirely replaced by Legislative Decree 219/2023, which introduced significant changes. Taxpayers are now able to contact the tax authorities to obtain a response regarding a specific, personal matter.
Collaboration	The **collaborative compliance initiative** aims to establish a relationship of trust between the administration and the taxpayer through ongoing and preventive dialogue with the taxpayer regarding factual elements, including the anticipation of audits, aimed at a joint assessment of situations likely to generate tax risks.
	A **ruling** is "any advice, information or promise given by the tax authority to a specific taxpayer or group of taxpayers (businesses meeting certain requirements), concerning their tax situation and on which they can rely"

CHAPTER V.

ACTIVE AND PASSIVE PARTIES

1. ACTIVE PARTIES

Tax liability is the legal capacity to hold tax rights and obligations. The parties involved in tax matters are divided into active and passive parties.

The active party holds the right to tax liability, which can also be enforced against those required to comply; therefore, it is the party with the capacity to impose taxes.

Active parties include all taxing bodies: the State, Regions, Provinces, Municipalities, etc., which impose taxes by virtue of their power of enforcement, which translates into assessment, control, and the issuance of authoritative documents.

It is the Financial Administration that exercises the powers of assessment, collection, and control in the interest of the State.

The Ministry of Economy and Finance (MEF) is the central level of the Ministry of Economy and Finance, whose responsibilities include determining fiscal policies and the tax system.
The Tax Agencies are public economic bodies established following the 1999 reform of Financial Administration. Their task is to support the activities of the Ministry of Public Law. Each agency has regulatory, administrative, patrimonial, organizational, accounting, and financial autonomy. They are subject to the MEF's power of direction and supervision.
The Tax Agencies are: the Revenue Agency, the State Property Agency, the Customs and Monopolies Agency, and the Revenue Collection Agency.

2. THE TAX AGENCIES

2.1 THE REVENUE AGENCY

It has jurisdiction over tax revenues and duties, and performs functions related to management, assessment, and litigation. It aids taxpayers and coordinates checks on the implementation of the taxes entrusted to it, on non-compliance and tax evasion.

The Revenue Agency incorporated the Land Registry Agency (Article 23-quater of Legislative Decree 95/2012) and, since December 2012, has assumed its responsibilities, primarily those relating to the real estate registry, managing all tax revenues not assigned to other agencies, bodies, and entities.

The Revenue Agency has a central structure and various territorial units, specifically: six central directorates, 19 regional directorates (two for the Provinces of Trento and Bolzano), and local offices with strictly operational tasks. The governance structure is characterized by the presence of a Director, a Management Committee, and a Board of Auditors.

2.2 THE CUSTOMS AND MONOPOLIES AGENCY.

The Agency is a public body whose primary function is to monitor, assess, and verify the movement of goods. It is responsible for collecting VAT, duties arising from international trade, customs duties, and excise duties, as well as managing disputes relating to customs duties.

As the Monopolies Administration, it guarantees legality and safety in gaming and supervises the production and sale of tobacco products to ensure the regular collection of taxes. On December 1, 2012, it incorporated the Autonomous Administration of State Monopolies, and the new organization became operational in 2018.

It is organized into Customs and Monopolies. The governance structure is characterized by the presence of a Director, a Management Committee, and a Board of Auditors.

2.3 THE STATE PROPERTY AGENCY

This body's primary task is to manage the state's assets. Indeed, it manages, rationalizes, and enhances the state's real estate assets, collaborating with institutions and local authorities to ensure their proper and effective use. Its role is to enhance the economic value of the assets, carry out maintenance and redevelopment works, and protect and pay particular attention to properties of significant historical and artistic value.

The State Property Agency is structured around a central directorate, divided into six central directorates, and then at the territorial level there are seventeen regional directorates with some independent offices.

2.4 THE REVENUE COLLECTION AGENCY

It is an Italian public economic entity that acts as a collection agent throughout the country, collecting payment of tax debts, such as enforcement notices, tax bills, etc. It was established on July 1, 2017, pursuant to Article 1, paragraph 1, of Legislative Decree No. 193 of October 22, 2016, converted, with amendments, by Law No. 225 of December 1, 2016, as a functional body of the Revenue Agency, subject to the guidance and supervision of the Minister of Economy and Finance but with organizational, financial, accounting, and management autonomy.

The Revenue Agency - Collection is chaired by the Director, who coincides with the Director of the Revenue Agency, the Management Committee, and the Board of Auditors. This body has taken over, on a universal basis, the active and passive legal relationships, including procedural ones, of the dissolved Equitalia Group companies, effective July 1, 2017 (with the exception of *Equitalia Giustizia*) and of Riscossione Sicilia SpA, effective October 1, 2021, pursuant to Article 76 of Legislative Decree No. 73 of May 25, 2021, converted with amendments by Law No. 106 of July 23, 2021.

The Revenue Collection Agency allows taxpayers direct access to the website and a range of services to verify and manage their debt situation.

3. THE NATIONAL TAXPAYER'S GUARANTEE

The Taxpayer's Guarantor is an independent, impartial body introduced by the Taxpayers' Rights Statute (Law No. 212 of July 27, 2000) present in every region with the task of protecting taxpayers' rights and ensuring a relationship of trust between citizens and the tax authorities.

It performs the fundamental function of providing citizens with an authoritative and impartial point of contact, independent of the tax authorities, to whom they can turn in cases of administrative mismanagement of the tax relationship by tax offices.

Legislative Decree No. 219/2023 amended the Taxpayer Statute, permanently replacing Article 13, which governs the powers of the National Taxpayer Ombudsman and establishes that:

- it is a single-member body based in Rome, with full autonomy;
- it is chosen and appointed by the Minister of Economy and Finance;
- the term of office is four years, renewable once, considering professionalism, productivity, and work performed.

The National Taxpayer Ombudsman may be chosen from among:

a) magistrates, university professors of law and economics, and notaries, both active and retired;
b) lawyers, chartered accountants, and retired accountants, designated from a shortlist of three by their respective national professional associations.

The National Taxpayer Ombudsman carries out a series of activities, primarily following written reports from taxpayers or any other individual alleging malfunctions, irregularities, unfairness, anomalous or unreasonable administrative practices, or any other behavior likely to damage the relationship of trust between citizens and the tax authorities. The Ombudsman may issue recommendations to the directors of the tax agencies for the purposes of taxpayer protection and improved service organization; it may access tax offices to verify the functionality of taxpayer assistance and information services, as well as the usability of spaces open to the public; and it may remind tax offices to comply with the provisions of Articles 5 and 12, as well as with the deadlines for tax refunds.

Furthermore, it must prepare:

- every six months, a report on its activities to the Minister of Economy and Finance, the directors of the tax agencies, and the General Commander of the Guardia di Finanza, identifying the most significant critical issues and proposing solutions;
- every year, a report to the Government and Parliament, containing data and information on the state of relations between the tax authorities and taxpayers in the field of tax policy.

4. THE FINANCIAL POLICE (*LA GUARDIA DI FINANZA*)

The Guardia di Finanza is a military police force that reports directly to the Minister of Economy and Finance. It has general jurisdiction over economic and financial matters and is employed to combat tax evasion and economic and financial crimes.

"*The Guardia di Finanza performs economic and financial police functions to protect the public budget, the regions, local authorities, and the European Union*" (Legislative Decree No. 68 of 2001).

The internal structure is headed by the General Commander, the Deputy Commander, and the Superior Council of the Guardia di Finanza, which is a consultative body that provides opinions and guidance on organizational, personnel, and services.

Legislative Decree No. 68 of March 19, 2001, reorganized the Corps' responsibilities, assigning it primarily economic and financial police and judicial police functions aimed at suppressing smuggling, combating tax evasion, drug trafficking, suppressing and combating organized crime, money laundering, combating the financing of terrorism, and maintaining public order.

In exercising its powers of tax control and audit, the Guardia di Finanza reports directly to the Ministry of Economy and Finance; however, for its activities related to maintaining public order and security, it reports functionally to the Minister of the Interior.

Legislative Decree No. 177 of August 19, 2016, expanded the Corps' operations at sea, eliminating the State Police's nautical teams and the Carabinieri naval bases, and transferring their assets to the Guardia di Finanza Naval Service. This established the Corps' exclusive responsibility for maintaining public safety at sea.

Furthermore, Article 103, paragraph 1 of Presidential Decree 309/90 grants the Guardia di Finanza exclusive jurisdiction over customs-related drug controls.

As of January 1, 2017, customs controls regarding the illegal trade in endangered flora and fauna have also been delegated, pursuant to applicable international conventions (CITES) and related national and EU legislation.

5. AUXILIARY ENTITIES OF THE TAX ADMINISTRATION

Located somewhere between the active and passive taxpayers are categories of public or private entities that perform tax-generating and/or merely instrumental functions: these are the so-called "auxiliary entities." These are active entities to which the tax authorities entrust certain limited public functions for the management and collection of taxes, within the terms and methods established by law.

We can distinguish various types of auxiliary entities:

- those entities that intervene between the tax authority and the taxpayer during the tax collection phase (formerly tax collectors or collection agents), such as credit institutions or post offices, where it is possible to make, through irrevocable

delegation, the payment of various types of taxes to the provincial Treasury branches of the State.

- The Italian Society of Authors and Publishers (SIAE), which is the main body responsible for the protection, intermediation, and management of copyright, also collects, on behalf of the State, tax revenue from the affixing of the "stamp" to multimedia media and fair compensation for the private reproduction of phonograms and videograms.
- intermediaries authorized to transmit tax returns electronically, who play an instrumental role in tax collection by tax authorities, accompanying and assisting taxpayers with formal and substantive requirements (professionals authorized to transmit tax returns electronically, such as accountants, labor consultants, and tax advisors), and the CAF (Tax Assistance Centres), as well as, in the area of IRPEF assessment, the Municipalities, which can provide supplementary information to the tax returns and propose increases in taxable income.
- CAF (Authorized Tax Assistance Centers) provide tax assistance to employees, retirees, sole proprietorships, family businesses, partnerships and corporations, cooperatives, and consortia, while also facilitating tax authorities' audits
- CAF employee offices provide their services to employees, employers, and retirees who fulfill their annual tax return obligations by submitting Form 730 to the CAF; CAF business offices provide tax assistance to all VAT payers, self-employed workers, and businesses.
- CAM (Multichannel Assistance Centers) provides taxpayers with information on personal tax positions or the status of pending tax returns. In the event of complaints of irregularities raised by citizens, these centers have the power to cancel unlawful or erroneous tax returns.

6. TAXABLE PERSONS

People required to pay taxes are called taxable persons, or taxpayers: holders of the subjective legal status of being liable for the tax obligation. Ownership of this position is based on the taxpaying capacity assumed by the legislator as the basis for the tax, a capacity that legitimises the reduction in assets resulting from the payment of the tax obligation.

Therefore, the taxpayer, whether a natural person, legal entity, or other entity, is the taxable person in tax relationships, the person who fulfils the tax obligation and who, through payment, extinguishes the tax obligation.

The tax code allows the taxpayer to be identified, thus being registered in the tax registry and requiring a tax domicile.

We can distinguish between

- "legal taxpayer," which coincides with the taxable person; and
- "*de facto* taxpayer," which is the person who is not directly liable to the State but bears the tax burden.

Indeed, the tax can be transferred or "offloaded," in whole or in part, by the holder of the taxable legal status to another person who will ultimately bear the financial burden of the tax.

This process is called "transfer" or "tax transfer," since the tax burden falls not on the legal taxpayer but on the "de facto taxpayer" (tax incidence).

Another tool that allows for the transfer of a tax is recoupment, i.e., the shifting of the tax burden from one person to another; in this case, the law imposes a tax obligation on one person, granting them the power/duty to recoup it from another.

When the interest in shifting depends on the taxpayer (e.g., a hotelier is responsible for paying the tourist tax with the right to recover it from his guests), it is optional. Conversely, when there is a public interest in the tax being levied on a party other than the taxpayer, it is mandatory (in the direct tax system).

In tax law, the general rule is that "the fact assumed by the legislator as a sign of taxpayer capacity must be directly attributable to the taxpayer subject to the tax." However, to meet specific needs related to the tax mechanism, such as reliable tax collection and a reduction in tax evasion, as well as an extension of the tax authorities' financial liability, the legislator has provided for exceptions and, therefore, has identified additional taxpayers: the withholding agent and the person liable for the tax.

7. THE TAX WITHDRAWAL

A tax withdrawal agent is a person who, pursuant to legal provisions, is obligated to pay taxes on behalf of others for facts or situations attributable to them, including as an advance payment, exercising the right of recourse unless expressly established otherwise.

With the substitution mechanism, the tax payment is made by a person other than the one who fulfilled the tax obligation, with obvious advantages for the Treasury:

- the withdrawal agent pays the tax and has no interest in violating the tax obligation, thus guaranteeing its collection;
- the tax is paid on a regular basis.

With this mechanism, there is no bilateral relationship between the taxpayer and the tax authority; rather, to ensure collection, an additional person is appointed—the withdrawal agent—who did not fulfill the tax obligation but is required to pay the tax, in whole or in part.

The law uses the legal mechanism of recourse, which allows the third party involved, the substitute, to reinstate the deduction suffered and definitively places the economic burden of the tax levy on the replaced taxable person.

Reimbursement can be exercised through:

- debiting with the participation of the subject receiving it, as with VAT;
- withholding, as in the case of tax substitution;
- independent payment request.

The typical instrument for implementing substitution systems is the application of withholding tax, either as a down payment or definitively. We can distinguish two forms of substitution:

- proper substitution (as a tax), which occurs when the payment of the tax, made by the withholding taxpayer, exhausts the tax relationship, that is, definitively satisfies the tax claim by the State.

In this case, the withholding taxpayer does not have to declare anything because that income has already been taxed;

- improper substitution (as a down payment), where the income earned must be reported during the tax return phase with the application of the relevant tax rate, without prejudice to the possibility of deducting the amount of withholding taxes incurred from the tax (due).

The withholding agent is required to fulfill numerous obligations and fulfillments. He or she must:

- determine and settle the amount of withholding tax to be applied to the compensation due to the withholding agent;
- withhold the compensation due to the withholding agent;
- pay the withholdings to the Treasury by the established deadline;
- periodically certify the withholdings applied, certifying on an annual basis, on a specific form, the total withholdings applied to the withholding agent, and submitting a specific declaration summarizing the withholdings applied and to be paid in the given tax period;
- maintain the withholding agent's accounting records.

In the case of a replacement for tax or advance payment:

- If the substitute taxpayer fails to pay the correctly applied withholding tax to the replaced taxpayer, the tax authority may only act against the substitute taxpayer. The replaced taxpayer must merely certify or otherwise prove that he or she has incurred the withholding tax and, if necessary, pay any additional withholding tax;
- If the substitute taxpayer fails to withhold the tax, due to a form of joint liability between the replaced taxpayer and the substitute taxpayer (Article 35, Presidential Decree No. 602/1973), the tax authority may take action against both taxpayers, without prejudice to the fact that the substitute taxpayer will always have the right to exercise a right of recourse to recover the amount owed on behalf of the replaced taxpayer.

8. THE PERSON RESPONSIBLE FOR THE TAX

The person responsible for the tax, whose role, like the substitute, is governed by Article 64 of Presidential Decree 600/1973, is the person legally required to pay a tax jointly with others, for facts and situations exclusively attributable to the latter. Unlike the substitute, however, he or she has the right, but not the obligation, to recover the tax.

The person responsible for the tax is not directly responsible for the tax debt, which remains with the principal debtor, but is placed on the same level as the debtor, thus allowing the tax authorities to act freely against both parties: debtor and responsible, unless the law provides for prior enforcement of the principal debtor.

The person making the payment will have the right to recover the tax from the others.
Among the main hypotheses of liability, for example, we have that dependent on function, as in the case of notaries, judicial officers, secretaries and delegates of public administrations for the documents they draft, authenticate or receive.

9. REPRESENTATION

Legal representation is applicable to both natural people lacking legal capacity and legal entities or non-incorporated entities. Persons appointed to this role are responsible for fulfilling the formal and substantive obligations of the entities they represent.

Voluntary representation is permitted by tax laws, both for fulfilling tax return obligations and for providing technical assistance to the taxpayer before tax authorities. However, in this case, a written power of attorney, with a notarized signature, is required.

Article 2, paragraph 2, of Legislative Decree no. 472/1997, replaced by Article 1, paragraph 2, of Legislative Decree no. 173/2024, provides that "the sanction is attributable to the natural person who committed or contributed to the violation." However, those "relating to the tax relationship of companies or entities with legal personality" are exclusively borne by the legal person, pursuant to Article 7 of Legislative Decree no. 269 of 30 September 2003, converted by Law no. 326 of 24 November 2003, unless it is proven that the representative or director of the company with legal personality acted in his or her own exclusive interest, using the entity as a legal shield to avoid the consequences of tax offenses committed for his or her personal benefit.

10. SOLIDARITY

In tax law, the institution of joint and several liability refers to the situation in which multiple parties are obligated to perform the same monetary obligation towards a single creditor entity. From a civil law perspective, pursuant to Article 1292 of the Italian Civil Code, with joint and several liability, "several debtors are all obligated for the same obligation, so that each can be forced to perform in full, and the performance of one releases the others." While in civil law, joint and several liability is governed by both the active and passive sides, in tax law, joint and several liability applies only to the passive side, as the possibility of multiple creditors must be excluded a priori, given that the sole holder of the right to the credit is the taxing authority, the State, or another territorial entity.

If one of the debtors pays the entire monetary obligation, pursuant to Article 1299 of the Italian Civil Code, they have the right to pursue a pro rata right of recourse against the other debtors.

Two types of joint and several liability can be distinguished:

- joint: in which the tax liability for the single tax obligation is met by multiple parties, all of whom assume the role of principal debtors;

- dependent: the tax liability is attributable to the principal debtor, but the tax liability extends to another party, the dependent debtor, who is jointly and severally liable for the payment of the tax. For example, a notary public is jointly and severally liable for the payment of the registration tax along with the contracting parties.

11. SUCCESSION OF TAX LIABILITY

From a civil law perspective, the death of a natural person opens succession pursuant to Article 456 of the Civil Code in favor of those entitled to the inheritance, who, in the event of acceptance, take over all relationships, both active and passive, that survive the deceased.

The heirs, who have therefore accepted the inheritance, are required to pay the inherited debts and encumbrance in proportion to their inheritance shares, unless otherwise provided in the will, pursuant to Articles 752 et seq. of the Civil Code.

Contrary to the provisions of civil law, pursuant to Article 65 of Presidential Decree no. 29 September 1973, 600, for tax obligations, the heirs are jointly and severally liable and not by inheritance share, essentially granting the Treasury the power to require each of them to honour the entire debt of the deceased upon acceptance of the inheritance.

Furthermore, in the event of the taxpayer's death, the provisions of Legislative Decree 173/2024, Article 8 (formerly Legislative Decree No. 472 of 1997, Article 8) apply. This provision provides that the obligation to pay the penalty is non-transferable to heirs and establishes a general principle—a corollary to the principle of personal liability—that the tax credit arising from a violation of tax laws attributable to a natural person is extinguished upon the death of the perpetrator of the violation.

12. RESIDENCE AND DOMICILE

Tax residence is the status that, if recognized by applicable law, entails the fulfillment of the related tax obligations for the individual. In this sense, pursuant to Article 3 of the Consolidated Law of December 22, 1986, No. 917, the tax is applied to the total income of the individual, which for residents consists of all income owned and for non-residents only of that produced within the territory of the State.

According to the principle expressed in the Article 3, tax residents are required to declare all income in Italy, wherever it was earned, regardless of the country in which it was generated.
Conversely, a non-Italian tax resident must declare in Italy only income earned there, according to the principle of taxation of income in the "source country."

Article 1 of Legislative Decree No. 209 of December 27, 2023, known as the "International Tax Decree," redefined the criteria for establishing tax residence in Italy pursuant to Article 2, paragraph 2, of the TUIR, implementing Delegated Law No. 111 of 2023.
Regarding the residence of a natural person, the Legislative Decree No. 209 of December 27, 2023, replaced paragraph 2 of Article 111 of the TUIR. 2 of the TUIR and it has been established

that for income tax purposes, a person who for most of the tax period, including fractions of a day, has their residence pursuant to the civil code or domicile in the State, or are present there, are considered residents.

Domicile refers to the place where a person's personal and family relationships primarily develop. Unless proven otherwise, residents are also presumed to be those registered in the resident population registers for most of the tax period.

The main changes include:

- the express provision that, in assessing whether a person is resident in Italy for most of the tax period, the fractions of a day during which they are resident in Italy are also considered. Therefore, for the purposes of calculating the 183 days of residence (which determine the existence of the "longest tax period"), fractions of a day will be considered; thus, for example, a 3-hour stay in Italy would be counted as a full day for exceeding the aforementioned threshold;
- the provision, in addition to residence and domicile, as a criterion for establishing tax residence in Italy, in addition to mere presence in the territory ("or, they are present there");
- the new definition of domicile is completely disconnected from that contained in Article 43 of the Civil Code;
- registration in the population registry is sufficient, regardless of other criteria, to establish tax residency in Italy, thus attracting taxation on income wherever it is generated, unless the taxpayer demonstrates actual residence in another country.

Article 2 of Legislative Decree No. 209 of December 27, 2023, reformulating paragraph 3 of Article 73 of the TUIR, established that "*for income tax purposes, companies and entities are considered resident if they have their registered office, place of effective management, or principal ordinary management in Italy for the majority of the tax period*," effectively repealing the previous connecting criteria of "administrative seat" and "principal purpose."

In fact, according to the previous wording, companies and entities were considered resident in Italy if they had their registered office, place of management, or principal purpose of their business in Italy for most of the tax period. The above also applied to partnerships and associations, pursuant to Article 5, paragraph 3, letter d), of the TUIR.

The new Article 73, paragraph 3, provides a definition of:

- "place of effective management," meaning the continuous and coordinated adoption of strategic decisions regarding the company or entity as a whole;
- "ordinary management," meaning the continuous and coordinated performance of day-to-day management activities regarding the company or entity as a whole. No changes are introduced compared to the current alternative criterion of "registered office," which remains unchanged.

Similarly, Article 2 of Legislative Decree No. 209 of December 27, 2023, also introduced amendments to Article 5, paragraph 3 of the TUIR, replacing letter d) with the new text: "*Companies and associations that have their registered office, place of effective management,*

or principal ordinary management in Italy for the majority of the tax period are considered resident."

Finally, the "International Tax Decree" introduced a new tax relief regime for repatriated workers. Taxpayers who transfer their residence to Italy pursuant to Article 2 of the TUIR and who earn income from employment, income assimilated to employment, and self-employment will be eligible for a 50% tax reduction on income not exceeding €600,000, provided that certain conditions are met:

- the workers undertake to reside in Italy for tax purposes for at least four years;
- the workers have not been tax residents in Italy for tax purposes in the three tax periods preceding their transfer (there are, however, special cases where six and seven tax periods are required);
- the work is performed for most of the tax period in Italy;
- the workers meet the highly qualified or specialized requirements as defined in Legislative Decree No. 28 of June 28, 2012. 108 and by Legislative Decree 9 November 2007, n. 206.

TAX SUBJECTIVITY

Active entity

The entity with the power to levy taxes, including **public administration bodies (State, Regions, Local Authorities)**, which hold tax-imposing powers that involve assessment, control, and issuing authoritative documents. The **Ministry of Economy and Finance** is responsible for ensuring the public interest in the correct collection of taxes.

The Tax Agencies, established following the 1999 reform of the Financial Administration, are responsible for supporting the Ministry's activities.
Revenue Agency
State Property Agency
Customs and Monopolies Agency
Revenue Agency - Collection

The National Taxpayer Ombudsman	Independent and impartial body introduced by the Taxpayers' Rights Statute (Law 27 July 2000, n. 212).
La Guardia di Finanza/ The Financial Police	Police force, with military structure, which reports directly to the Minister of Economy and Finance, employed in the fight against tax evasion and the contrast of crimes that have as their object the economic and financial interests of the State.
Auxiliary bodies of the Financial Administration	They are categories of public or private entities that intervene between the active and passive subjects of the tax and to which taxation functions or merely instrumental functions are attributed (the SIAE, the ACI).
Other auxiliary bodies of the taxpayer	Professionals authorized to submit tax returns electronically (accountants, labor consultants, tax advisors) and CAF (Tax Assistance Centres).

Taxable Persons

Persons required to pay taxes (taxpayers) must meet two essential conditions: they must demonstrate their ability to pay and be identified as the persons responsible for the tax liability.

PRINCIPAL OBLIGOR	He who finds himself in the factual situation that the law establishes as the cause of the tax obligation.
TRANSFER	Mechanism through which the tax burden is shifted.
RECOVERY	A credit towards the taxpayer equal to the amount for which the substitute is liable to the tax authorities, to avoid the tax remaining the responsibility of the substitute.
TAX AGREEMENTS	• **A withholding agent** is required, pursuant to legal provisions, to pay tax "in place of others" for facts and situations attributable to them, including as an advance payment. They are obligated to exercise the right of recourse, unless otherwise established. • **A taxpayer** is the person who is required, by law, to pay a tax jointly with others, for facts and situations attributable to them. Unlike a withholding agent, they have the right (but not the obligation) to exercise the right of recourse.
REPRESENTATION	As a rule, the representative is not liable for the payment of the tax, except in cases where the law provides for joint and several liability with the represented party.
SOLIDARITY	In the tax field, solidarity only operates on the passive side

Tax residency

Identifies the individuals to whom debts are attributable and is a qualifying factor for taxable status. Following the tax law reform, residency has assumed a fundamental role, thus shifting from a system of real taxation to a system of personal taxation aimed at ensuring progressive taxation through the application of two tax principles:

- worldwide income (all income of residents is taxed, wherever it is produced) and
- source of income (only income produced within the territory of the State is taxed).

CHAPTER VI.

ACCOUNTING OBLIGATIONS AND RECORDS

1. TAXPAYER OBLIGATIONS

Taxpayers are subject to a series of tax-related obligations, including identification, accounting, reporting, self-assessment, payment, and collaboration. Furthermore, certain categories of taxpayers are required to establish, maintain, and retain the accounting records required by the nature and/or size of their business. They are also subject to other formal/instrumental obligations, such as invoicing and periodic VAT settlement.

2. IDENTIFICATION OBLIGATIONS

To operate a business, art, or profession within the Italian territory, it is necessary, for VAT purposes, to submit a declaration within thirty days, prepared, under penalty of nullity, on forms compliant with those approved by the Director of the Revenue Agency (Article 35 of Presidential Decree 633/1972). Likewise, the declaration must be submitted even in the event of changes.

Legislative Decree No. 1 of January 8, 2024, introducing the new paragraph 3-bis to Article 35 of Presidential Decree No. 633 of October 26, 1972, has established new reporting obligations, within sixty days, for the person keeping the accounting records in the event of termination of their assignment.

From the date of sending this latter communication to the Revenue Agency, the place of storage is presumed to coincide with the taxpayer's tax domicile.

3. ACCOUNTING OBLIGATIONS

Civil, labor, and tax regulations require certain entities to maintain books and records, depending on the size and legal form of the company.

For audit purposes, pursuant to Article 13 of Presidential Decree No. 600 of September 29, 1973, the following are required to maintain accounting records:

a. companies subject to corporate income tax;
b. public and private entities other than companies, subject to corporate income tax, as well as trusts, whose sole or principal purpose is the exercise of commercial activities;
c. general partnerships, limited partnerships, and companies treated as such pursuant to Article 5 of Presidential Decree No. 597 of September 29, 1973;
d. natural persons operating commercial enterprises pursuant to Article 51 of the decree referred to in the previous letter.

The following are also required to maintain accounting records, pursuant to Articles 19 and 20:

e. natural persons practicing arts and professions, pursuant to Article 49, paragraphs 1 and 2, of the decree referred to in the first paragraph, letter c);
f. companies or associations of artists and professionals referred to in Article 5, letter c), of the decree referred to in the previous letter;
g. public and private entities other than companies, subject to corporate income tax, as well as trusts, whose exclusive or primary purpose is not the exercise of commercial activities.

Subject required to withhold taxes at source as advance payments on compensation paid must maintain the records indicated in Article 21 of the same decree for the purpose of ascertaining the income of recipients.

Subject who, outside the circumstances referred to in Article 28, letter b), of Presidential Decree No. 597 of September 29, 1973, engage in animal breeding activities must maintain the accounting records indicated in Article 21 of the same decree. 18-bis.

Both foreign entities conducting business activities through permanent establishments, Italian companies, entities, or entrepreneurs conducting commercial activities abroad through permanent establishments, and foreign entities conducting business in Italy through permanent establishments are required to maintain accounting records. These entities must record in their accounts, separately, the operating events involving the permanent establishments, determining their operating results separately, pursuant to Article 14, paragraph 5, of Presidential Decree No. 600/1973.

Pursuant to Article 14 of Presidential Decree No. 600/1973, the companies, entities, and commercial entrepreneurs listed above must in any case maintain:

- the general ledger and the inventory book;
- the registers required for VAT purposes;
- auxiliary records in which assets and income items must be recorded, grouped into homogeneous categories that allow for a clear and distinct identification of the positive and negative components that contribute to determining income;
- auxiliary inventory records intended to track changes in annual inventory levels.

The entities themselves must also:

- maintain, where applicable, a register of depreciable assets and the mandatory company books referred to in Article 2421, paragraphs 1 and following, of the Civil Code;
- prepare an inventory[6] and balance sheet with a profit and loss statement, pursuant to Article 2217 of the Civil Code, within three months of the deadline for filing the income tax return for direct tax purposes.

Individuals practicing arts and professions[7] and companies/associations of artists and professionals referred to in Article 5, letter c), of Presidential Decree No. 597/1973 must

[6] The inventory, in addition to the elements required by the Civil Code or specific laws, must indicate the size of the assets grouped into homogeneous categories by nature and value, and the value assigned to each group. The inventory of individual entrepreneurs must clearly indicate and value the assets and liabilities related to the business.

[7] Pursuant to art. 49, paragraphs 1 and 2 of the decree indicated in the first paragraph, letter c).

chronologically record in a special register the sums received in any form and denomination from the practice of their art or profession, including profit-sharing.
The rules of orderly accounting (Article 2219 of the Civil Code) require that accounts be kept without blank spaces, line breaks, or margin entries. Furthermore, erasures are not permitted; if erased, the deleted words must be legible. Accounting records, even if kept using computerized systems, must be retained for 10 years.

The general ledger, inventory ledger[8], and mandatory VAT and direct tax registers, which are not stamped and not optionally authenticated by the taxpayer, must be numbered consecutively for each year, indicating, page by page, the year to which they refer[9]. For example, for 2018, the numbering must be done according to the following sequence: 2018/1, 2018/2, 2018/3, etc. The year to be indicated on the registers is the year to which the accounting refers, not the year in which the pages were printed.

Accounting documents and records may also be stored on image media, provided, however, that they correspond to the documents and are always legible.

Pursuant to Article 7, paragraph 4-ter of Legislative Decree 357/94, accounting records kept using computerized systems must be transcribed onto paper media within three months of the tax return filing deadline.

If the required deadline has not yet expired, the registers are considered regular even without transcription, if they are updated on the magnetic medium and printed at the same time as the request to the supervisory authorities and in their presence. The same deadline (three months from the filing of the tax return) is referred to in Article 3, paragraph 3 of the Ministerial Decree of June 17, 2014, for the electronic storage of computer documents.

Regarding the evidentiary value of accounting records of registered businesses, we must refer to Articles 2709 and 2711 of the Italian Civil Code.

The books and other accounting records of registered businesses constitute evidence against the entrepreneur, pursuant to Article 2709 of the Italian Civil Code.

Case law tends to apply the evidentiary regime established by Article 2709 of the Italian Civil Code to all books kept by the entrepreneur, both mandatory and optional.

Pursuant to the principle of inseparability, pursuant to Article 2709 of the Civil Code, the documents, once invoked and exhibited, must be evaluated in their entirety, regardless of the party in whose favor or against whom they are based.

Failure to maintain mandatory accounting records is subject to administrative sanctions pursuant to Article 9 of Legislative Decree No. 471 of December 18, 1997. However, if an entrepreneur, for the purpose of evading income or value added taxes, or of enabling third parties to do so, conceals or destroys, in whole or in part, mandatory accounting records or

[8] For the inventory book, the indication of the year may be omitted if the annotations reported occupy only a few pages for each year, as indicated in circular no. 64/E of 1 August 2002.
[9] Circular 22 October 2001, n. 92/E and resolution 12 March 2002, n. 85/E.

documents, so as to prevent the reconstruction of income or turnover, he or she commits the crime referred to in Article 10 of Legislative Decree No. 74/2000.

4. ACCOUNTING REGIMES

Accounting regime, also known as tax regime, refers to the set of rules and procedures that every company must follow for maintaining accounts for the purpose of determining income and VAT.

The applicable accounting regimes are as follows:

a) ordinary: governed by Title II of Presidential Decree No. 600/73;
b) b) simplified for small taxpayers, art. 18 of Presidential Decree 600/73;
c) c) flat-rate for small taxpayers, art. 1, paragraphs 54-89 of Law 190/2014;
d) d) flat-rate for non-commercial third sector entities, art. 80 of Legislative Decree 117/2017.

4.1. ORDINARY ACCOUNTING SYSTEMS

The ordinary accounting system is mandatory:

- for joint-stock companies, public or private entities, and trusts that exclusively or primarily engage in commercial activities, regardless of turnover;
- for partnerships, sole proprietorships, professionals, and self-employed workers who, in the previous year, generated revenues/fees exceeding €500,000.00 for service activities and €800,000.00 for other types of activities.

It is always possible to opt for ordinary accounting, regardless of the revenue earned. This option is implemented through the actual application of the chosen regime (so-called conclusive behavior), provided that this choice is communicated in the first annual VAT return to be submitted subsequently.

This regime requires maintaining:

- a general ledger, pursuant to art. 2216 of the Italian Civil Code, which records daily business transactions;
- an inventory ledger, pursuant to art. 2217 of the Italian Civil Code, which records, in addition to the requirements of the Italian Civil Code, the stock of assets grouped into homogeneous categories;
- ledger accounts, consisting of the set of accounting records for the various accounts;
- the VAT registers required by Presidential Decree 633/1972:
  - the register of invoices issued;
  - the register of purchases;
  - the register of fees.

In the register of invoices issued, the operator must record all invoices issued, and for each invoice, the serial number, date of issue, customer information, and the amount of the taxable amount and the tax, broken down by the applicable rate, must be indicated.

Other registrations must also be made, for example self-invoices for purchases from non-residents.

As of January 1, 2019, transactions between entities resident or established in Italy are conducted using electronic invoicing. VAT operators under the simplified accounting regime who only issue invoices and use the data made available to them by the Revenue Agency are exempt from the obligation to maintain VAT registers.

As of January 1, 2020, entities engaged in "retail trade and similar activities" not required to issue invoices (such as traders, artisans, hotel managers, and restaurateurs) certify their daily payments by storing and electronically transmitting them to the Revenue Agency and are therefore no longer required to maintain the register of payments, which previously recorded the total amount of all transactions carried out on the same day.

In the VAT purchase register, businesses record purchase invoices, customs bills, and invoices for intra-Community purchases (i.e., from suppliers established in other EU countries received from their own suppliers for goods and services related to their business). Recording accounting documents in the VAT Purchase Register is required to benefit from the VAT deduction on purchases, which is based on the type of goods and services purchased.

In Italy, the standard VAT rate is 22%, but reduced rates are also available for specific goods and services:

- 4%, for example, for food, beverages, and agricultural products
- 5%, for example, for certain foods
- 10%, for example, for the supply of electricity and gas for domestic use, medicines, and building renovations for specific goods and services.

Pursuant to Article 24 of Presidential Decree 633/1972, retailers and other taxpayers referred to in Article 22 of the same decree may record in a special register, for the transactions carried out each day, the total amount of the consideration for taxable transactions and the related taxes, broken down by applicable rate, as well as the total amount of the consideration for the transactions referred to in Article 21, paragraphs 6 and 6-bis, separately for each type of transaction indicated therein. The annotation must be made, with reference to the day on which the transactions are carried out, by the following working day.

Effective January 1, 2020, entities carrying out transactions pursuant to Article 22 of Presidential Decree No. 633/1972 must electronically store and electronically transmit data relating to daily considerations to the Revenue Agency. By doing so, these entities are exempt from the obligation to record in the register of considerations (Legislative Decree No. 127/2015);

- the register of depreciable assets, pursuant to Article 16 of Presidential Decree No. 600/1973;
- the company books, where applicable.

It is possible not to maintain VAT registers and the register of depreciable assets, provided that the entries are made in the general ledger and, upon request by the Revenue Agency, the taxpayer is able to provide the same data that would have been required to be recorded in

the VAT registers and the register of depreciable assets, pursuant to Article 12 of Presidential Decree No. 435/2001.
Professionals and self-employed workers fall under the standard simplified accounting regime, but they may opt to maintain ordinary accounting by exercising a specific option or by demonstrating conclusive behavior.

If this regime is chosen, the taxpayer will be required to maintain a chronological record of assets and liabilities and financial transactions (a simple entry journal), in addition to VAT records and a register of depreciable assets.

For artists and professionals using ordinary accounting, income is determined by the difference between the amount of compensation, net of social security and welfare contributions, received in the tax period and the amount of expenses incurred during the same period of practicing their art or profession.

4.2 THE SIMPLIFIED ACCOUNTING REGIME

The following may adopt the simplified accounting regime:

- natural person operating commercial businesses;
- professionals and self-employed workers;
- shipping companies and de facto companies;
- partnerships;
- non-commercial entities, in relation to any commercial activity they engage in;

if the revenues/fees received do not exceed the following thresholds:

- €500,000 for businesses engaged in the provision of services;
- €800,000 for businesses engaged in other activities.

The above limits do not apply to professionals who are legally eligible for simplified accounting (natural accounting regime), unless they opt for ordinary accounting.

Taxpayers starting a business will make their choice based on forecast data, verifying the threshold adjusted pro rata temporis.

For businesses that simultaneously provide services and other activities, attention must be paid to the amount of revenues related to the primary activity. In the absence of separate revenue records, activities other than the provision of services are considered primary.

Circular No. 32/E/2023 of the Revenue Agency established that there are no permanence constraints, and the taxpayer can return to the regime without waiting for the three-year period to elapse, given that these are two natural regimes for smaller taxpayers.

Conversely, when businesses that could apply the simplified regime choose the ordinary accounting regime, their choice is binding for three years. For professionals, the simplified accounting regime is the default regime unless other options are exercised.

For accounting purposes, small businesses may:

a) without prejudice to the establishment of VAT registers, where mandatory, establish dedicated receipts and payments registers, where revenues collected and costs actually incurred are recorded in chronological order;
b) also use the VAT registers for income tax purposes, separately recording transactions not subject to VAT registration and, at the same time, making the necessary entries to account for missing receipts and payments in the year in which the accounting document is recorded for VAT purposes;
c) also use the VAT registers for income tax purposes, expressing a specific option that allows them not to record receipts and payments in these registers. In this case, an absolute presumption applies, according to which the revenue is considered collected and the cost paid on the date of registration of the accounting document for VAT purposes.

4.3 FLAT-RATE SCHEME FOR MINIMUM TAXPAYERS

Article 1, paragraphs 54 to 89, of Law No. 190 of December 23, 2014 (2015 Stability Law) introduced an optional "flat-rate" regime to streamline and simplify, subject to certain requirements, the income tax rules for individual taxpayers engaged in business, arts, or professions.

Access to this optional regime involves the application of a substitute tax on income taxes, regional and municipal surtaxes, and the regional tax on productive activities, amounting to 15%[10] of the taxable base[11]. This regime requires meeting both of the following requirements in the previous year:

- Revenues earned and/or compensation received not exceeding a certain threshold, currently €85,000[12];
- Expenses totaling no more than €20,000 gross for casual work, employment, and compensation to collaborators, including project-based work, including sums paid in the form of profits from participation in partnerships whose contribution consists solely of work and those paid for work performed by the entrepreneur or his family members.

Failure to meet any of the requirements will result in the termination of the regime in question starting from the following year. However, for revenues or compensation exceeding €100,000, the regime will cease to be effective from the same year in which this circumstance occurs[13].

For VAT purposes, taxpayers who opt for the flat-rate regime:

- are exempt from:

[10] Ridotta al 5% per i primi cinque anni di attività, in presenza dei requisiti previsti dall'art. 1, comma 65, L. n. 190/2014.
[11] Defined by applying the profitability coefficient corresponding to the ATECO code of the business carried out, as per Annex 2 of Law no. 145/2018, to the total revenues achieved and the compensation received (for the 2018 financial year, reference is made to Annex 4 of Law no. 190/2014).
[12] This value, previously equal to €65,000, was increased by Article 1, paragraph 54, letter a), of Law No. 197 of December 29, 2022 (Budget Law for 2023). The normal value (Article 9, Presidential Decree No. 917/1986) of the goods intended for the entrepreneur's personal or family consumption (Article 85, Presidential Decree No. 917/1986) contributes to determining the amount obtained.
[13] Grounds for forfeiture introduced by Article 1, paragraph 54, letter a) of Law No. 197 of December 29, 2022.

  - settlement and payment of the tax, except for purchases from abroad or subject to reverse charge;
  - filing the annual return;
  - recording of issued invoices, payments, and purchases;
  - maintaining and storing records and documents, except for purchase invoices and import customs bills;
- do not claim back the tax paid to their domestic suppliers and EU suppliers for taxable transactions in Italy;
- cannot establish and/or use a credit limit for the purchase of goods and services under tax suspension;
- are required to certify their consideration[14], except for activities exempt under Presidential Decree no. 696/1996;
- are required to register with VIES if they make intra-Community purchases exceeding €10,000 in the previous year (Article 38, paragraph 5, Legislative Decree no. 331/1993).

Finally, the provisions of Article 1, paragraph 57, of Law no. 190/2014, provide for a series of circumstances in which it is not possible to access the flat-rate scheme. Therefore, the following are excluded from the regime:

- individuals who avail themselves of special VAT regimes or flat-rate income tax regimes;
- non-residents, except for those residents in a European Union member state or a state party to the Agreement on the European Economic Area that ensures adequate information exchange, and who generate at least 75% of their total income in Italy;
- individuals who exclusively or primarily sell buildings or portions of buildings, building land, or new means of transport;
- individuals engaged in business, arts, or professions who simultaneously participate in partnerships, professional associations, or family businesses, or who directly or indirectly control limited liability companies or joint ventures, which engage in economic activities directly or indirectly related to those carried out individually;
- natural persons whose business is primarily conducted for employers with whom they have ongoing employment relationships or had employment relationships in the two previous tax periods, or for entities directly or indirectly linked to such employers, except for those starting a new business after completing the mandatory training period for the purpose of practicing arts or professions;
- those who in the previous year received employment and/or similar income exceeding €30,000, unless the employment relationship ended in the previous year (provided that no pension income or employment income from another employment relationship was received in that same year).

[14] Legislative Decree no. 36/2022 (PNRR 2 decree) established, starting July 1, 2022, the obligation to issue electronic invoices also for small and flat-rate taxpayers who in 2021 achieved revenues or fees exceeding €25,000, as well as for those who have opted for the special VAT regime. From January 1, 2024, the obligation is extended to all VAT holders, regardless of the amount of revenue generated.

4.4 THE REGIME FOR NON-COMMERCIAL THIRD SECTOR ENTITIES

Non-commercial third sector entities referred to in Article 79, paragraph 5 of the Consolidated Income Tax Act (TUIR) may opt for a flat-rate determination of business income by applying the profitability coefficient indicated in subparagraphs a) and b) to the revenues earned from the business, when conducted commercially, and adding the positive income components referred to in Articles 86, 88, 89, and 90 of the Consolidated Law on Income Tax, approved by Presidential Decree No. 917 of December 22, 1986:

a) provision of services:
   1) revenues up to €130,000, coefficient 7 percent;
   2) revenues from €130,001 to €300,000, coefficient 10 percent;
   3) Revenues over €300,000, coefficient 17 percent;
b) Other activities:
   1) Revenues up to €130,000, coefficient 5 percent;
   2) Revenues from €130,001 to €300,000, coefficient 7 percent;
   3) Revenues over €300,000, coefficient 14 percent.

For entities that simultaneously provide services and other activities, the coefficient is determined based on the amount of revenue from the primary activity. In the absence of separate revenue reporting, service activities are considered the primary activity.

The option is exercised in the annual tax return and is effective from the beginning of the tax period in which it is exercised until revoked, and in any case for a period of three years.

The revocation of the option is made in the annual tax return and is effective from the beginning of the tax period in which the return is filed.

Entities undertaking commercial business activities exercise the option in the return to be submitted pursuant to Article 35 of Presidential Decree No. 633 of October 26, 1972, as amended.

Positive and negative income components referring to years prior to the one in which the flat-rate scheme takes effect, the taxation or deduction of which has been deferred in accordance with the provisions of the Consolidated Law on Income Tax, approved by Presidential Decree No. 917 of December 22, 1986, which provide for or permit the deferral, contribute to the residual portions of the income for the year preceding the one in which the aforementioned scheme takes effect.

Tax losses generated in tax periods prior to the one in which the flat-rate scheme takes effect may be deducted from the income determined pursuant to paragraphs 1 and 2 according to the ordinary rules established by the Consolidated Law on Income Tax, approved by Presidential Decree No. 917 of December 22, 1986.

5. PERSONNEL ACCOUNTING

Personnel accounting provides the data necessary for the general accounting system to record costs incurred and payments made, and for the industrial accounting system to calculate production costs.

The employer must:

- establish, maintain, and maintain the Single Employment Register, introduced by Legislative Decree No. 112 of 2008, with the aim of simplifying and unifying all employment records into a single document, replacing several registers previously required by law.
  It records detailed information regarding hiring, contractual changes, salaries, absences, and terminations of employment relationships, ensuring the transparency and regularity of employment relationships and thus fulfilling legal obligations regarding labor and social security.
  The Single Employment Register typically consists of three areas, highlighting:
  - company and employee personal details;
  - certification, insurance status, and company branch;
  - salary and social security details;
- Deliver paychecks to employees, following specific procedures and deadlines, in accordance with Law No. 4 of January 5, 1953. By reading them, the employee can understand how their pay has been calculated, as well as any tax and social security deductions, leave entitlements, accrued vacation time, and the amount of severance pay (TFR);
- Maintain a medical check-up register in paper or electronic format in accordance with Article 53 of Legislative Decree No. 81/2008 (Consolidated Law on Safety) and with the minimum requirements set out in Annex 3A, when the nature of the work requires preventive and periodic check-ups, with a record of the assessment related to the specific job. No authentication is required.

Labor costs are made up of the following items:

- gross annual salary;
- employer-paid social security and insurance contributions (INPS and INAIL);
- provisions for severance pay and/or pensions or similar: i.e., provisions for supplementary pension funds other than severance pay;
- provisions for other costs: such as unused vacation, leave, and former holidays;
- charges established by the applicable collective bargaining agreement, such as health insurance, contributions to bilateral organizations, and the like.

Gross annual compensation is the sum of the gross salaries paid to the employee during the calendar year.
Gross compensation includes:

- base pay: defined by the individual employment contract, including items such as contingency pay, seniority increases, EDR, and *superminimo*;
- additional benefits: which are paid only when certain circumstances occur (e.g., performance bonuses, overtime bonuses, travel, etc.);

- deferred elements: which accrue based on work experience and are paid at specific times of the year (e.g., thirteenth/fourteenth month).
- taxes and social security contributions paid by the employee. The employer is considered a withholding agent on behalf of the employee towards INPS and the tax authorities. In fact, the employer directly withholds the taxes owed by the employee and remits them to the state coffers. Social security and insurance contributions paid by the employer, on the other hand, must be paid to guarantee the employee's pension (INPS contributions) and insurance against accidents and occupational diseases (INAIL contributions), as well as contributing to the financing of tools such as NASPI (National Social Security Fund), social safety nets, sickness and maternity benefits.

Their amount is determined by applying a percentage rate to the value of the gross monthly salary, a rate that varies based on the employer's activity, the number of employees employed by the employer, and the employee's legal status (blue collar, white collar, executive, or manager).

TFR is a portion of deferred compensation that the employer must set aside to be paid to the employee upon termination of employment.

The tax wedge is "*the ratio between the amount of taxes paid by an average individual worker and the corresponding total labor cost for the employer*.[15]"

In practice, the tax wedge is the difference between the labor cost borne by the employer for the employee and the net value of the salary, a difference that increases as the amount of taxes increases. The Italian tax wedge remains one of the most burdensome in the industrialized world.

Expenses for employee services, fully deductible from business income according to the accrual principle, including personnel costs (salary, social security contributions for all employees, severance pay), charitable donations and in-kind donations (fringe benefits), including personal ones (up to a limit of 0.5% of personnel costs as per Form 770).

[15] Definition provided by the OECD (Organisation for Economic Cooperation and Development).

Taxpayer Obligations.

All taxpayers are required to fulfill multiple obligations related to tax implementation, including identification, accounting, reporting, self-assessment, payment, and collaboration.

IDENTIFICATION OBLIGATIONS	Persons who undertake a business, art, or profession in Italy, or establish a permanent establishment therein, must declare this within thirty days to a local Revenue Agency office or to a provincial VAT office of the same Agency.
ACCOUNTING OBLIGATIONS	These obligations consist of preparing appropriate documentation to prove the existence/extent of each event related to the interested party's business, formally regularizing it, and maintaining and storing such documents.
ACCOUNTING RECORDS	Certain formalities are required for maintaining accounting records to ensure their integrity and correct completion.

Tax accounting regime
A set of rules and procedures that every business/self-employed person must follow to comply with the regulations. For tax purposes, individuals with business income (i.e., those who habitually engage in commercial activities) and those with self-employed income (i.e., those who habitually engage in arts and professions) are required to comply with specific accounting requirements (see Article 13 of Presidential Decree 600/1973):
1. Ordinary: governed by Title II of Presidential Decree 600/73;
2. Simplified for small taxpayers, Article 18 of Presidential Decree 600/73;
3. Flat-rate tax for small taxpayers, Article 1, paragraphs 54-89 of Law 190/2014
4. Flat-rate tax for non-commercial entities, Article 4 of Legislative Decree 460/1997
5. Flat-rate tax for non-commercial third sector entities, Article 80 of Legislative Decree 117/2017

Personnel accounting

is an integral and necessary part of general accounting, required to record wages, social security contributions, relationships with social security institutions, and to calculate severance pay (TFR). Furthermore, it provides the data needed by general accounting for recording costs incurred and payments made, and by industrial accounting, especially for calculating production costs.

Maintenance of the Single Employment Register, commonly known as the LU. (Legislative Decree No. 112 of 2008)	**Pay slip submission (Law No. 4 of January 5, 1953)**	**Medical examination log in paper or electronic format as required by Article 53 of Legislative Decree No. 81/2008**
The LUL records detailed information regarding hiring, contractual changes, salaries, absences, and terminations of employment relationships.	The following information is specifically indicated: gross salary, personal income tax (IRPEF) and social security (INPS) deductions, and tax withholdings (withholding taxes); provisions made by the company on behalf of workers; recognized net income.	When the nature of the activity requires mandatory preventive and periodic examinations, with a record of the assessment related to the specific task. No authentication is required.

CHAPTER VII

TAX DECLARATIONS

1. THE TAX RETURN

The tax return is a scientific document[16] through which the taxpayer, according to the principle of self-assessment or self-assessment, annually determines their taxable base and independently settles the income tax (IRPEF or IRES) due for the previous tax period, in order to pay the tax in the forms and within the legal deadlines (see Articles 1, 2, and 3 of Presidential Decree 322/1998; Articles 1-6 of Presidential Decree 600/1973).

For the above reasons, the return is:

- annual: that is, it refers to income generated in the previous calendar year;
- single: that is, it includes all income attributable to the taxpayer and the related taxes;
- a formal document: as it must be drawn up on specific forms;
- a non-negotiable and non-dispositive document: it contains a simple expression of knowledge, fairness, and judgment;
- a document by which options can be exercised regarding the taxation regime of certain income;
- a document for the voluntary or forced collection of taxes, or: a document serving as a request by the taxpayer for the reimbursement of undue taxes;
- peremptory: must be prepared and submitted within the established deadlines and in the manner (electronic, paper) established by law to avoid penalties for late filing;
- analytical: includes all the assets and liabilities necessary to determine the taxpayer's taxable income according to the rules governing the taxes themselves.

The income tax system transitioned in 1973 from a real and proportional system to a personal and progressive one, based on two income taxes—personal income tax (IRPEF) and corporate income tax (IRPES), in addition to the introduction of VAT as a harmonized tax.

IRPEF, the main tax in the Italian tax system, is governed by Presidential Decree No. 917 of December 22, 1986 (Consolidated Income Tax Act):

- affects the income of individuals, as a flow of wealth[17]. The basis for the tax is the possession of income, in cash or in kind, falling within one of the categories established by law, as indicated in Article 6 of the TUIR.
- it is general, as it applies to the taxpayer's entire income;
- it is personal, as it takes into account the taxpayer's economic and family situation;
- it is progressive, as it increases as the taxable base increases.

[16] According to the established principle of law, reaffirmed in Order No. 6995 of March 13, 2024, by the Tax Section of the Court of Cassation, "*The taxpayer's tax return and VAT return are deemed to be a declaration of knowledge, and are therefore subject to amendment, retraction, and even legal challenge by the appellant with an interest in it. The taxpayer is always permitted, in litigation, to prove that the original return is flawed by an error of fact or law and that the taxable event did not exist*."

[17] Income is a dynamic concept, represented by the change in assets over two points in time. Wealth, on the other hand, is a static concept.

Pursuant to Article 8 of the TUIR, total income is determined by adding the income from each category that contributes to it and subtracting losses arising from the exercise of arts and professions. The individual nature of the tax determines the relevance of deductions pursuant to Article 10 of the TUIR. Once the gross tax has been determined according to the applicable tax brackets, deductions for family expenses (pursuant to Article 12 of the TUIR), for employment and pensions (pursuant to Article 13 of the TUIR)[18], and for expenses (pursuant to Article 15 of the TUIR) will be subtracted.

Corporate income tax is levied on total net business income at a rate of 24%. Business income is defined as income derived from the operation of commercial enterprises, i.e., the habitual, albeit non-exclusive, professional practice of the activities listed in Article 2195 of the Italian Civil Code, and the activities listed in Article 32, paragraph 2, letters b) and c) that exceed the limits established therein, even if not organized as a business.

The following are also considered business income: a) income derived from the operation of activities organized as a business aimed at providing services that are not covered by Article 2195 of the Italian Civil Code; b) income derived from the exploitation of mines, quarries, peat bogs, salt marshes, lakes, ponds, and other inland waters; c) income from land, for the portion derived from the exercise of agricultural activities referred to in Article 2195 of the Italian Civil Code. 32, although within the limits established therein, where they apply to general partnerships and limited partnerships as well as to permanent establishments of non-resident natural persons carrying out business activities.

According to the derivation principle, overall income is determined by applying increases or decreases to the profit or loss shown in the income statement for the fiscal year ending in the tax period.

The following are subject to corporate income tax:

a) joint-stock companies, limited partnerships, limited liability companies, cooperatives, and mutual insurance companies, as well as European companies pursuant to Regulation (EC) No. 2157/2001 and European cooperative societies pursuant to Regulation (EC) No. 1435/2003, resident in Italy;
b) public and private entities other than companies, as well as trusts, resident in Italy, whose sole or principal purpose is the exercise of commercial activities;
c) public and private entities other than companies, trusts whose sole or principal purpose is not the exercise of commercial activities, and collective investment undertakings, resident in Italy;
d) companies and entities of any kind, including trusts, with or without legal personality, not resident in the territory of the State.

The entities other than companies referred to in subparagraphs (b) and (c) include, in addition to legal persons, unincorporated associations, consortia, and other organizations not belonging to other taxable entities, for which the tax liability is met in a single and independent manner. The companies and entities referred to in subparagraph (d) also include

[18] With the introduction of the single-family allowance, starting March 1, 2022, the tax deduction regime for dependent children applies only on a residual basis.

the companies and associations indicated in Article 5 of the TUIR. In cases where the beneficiaries of the trust are identified, the income earned by the trust is in any case attributed to the beneficiaries in proportion to the shareholding identified in the trust deed or other subsequent documents or, failing this, in equal shares.

For income tax purposes (and the regional tax on productive activities), returns must be prepared, under penalty of nullity, on compliant forms, pursuant to Article 1 of Presidential Decree No. 322 of July 22, 1998. Legislative Decree 1/2024, amending Presidential Decree No. 322/1998, has moved the deadline for filing income tax and IRAP returns forward from November 30 to September 30. As a result of this change, for entities with a business spanning two months, the filing deadline has been moved from the last day of the eleventh month following the end of the tax period to the last day of the ninth month following the end of the period.

Effective April 1, 2025, the delegated decree provides that individuals must file their tax return:

- between April 1st and June 30th of the following year, if the filing is made through an Italian Post Office, or
- between April 1st and September 30th of the following year if the filing is made electronically.

The above also applies to the filing of returns by companies or associations pursuant to Article 5 of Presidential Decree 917/86.

IRES taxpayers with fiscal years coinciding with the calendar year, starting in 2025, will also be able to file returns from April 1st to September 30th. Nothing changes for taxpayers with a two-year fiscal year, who will see the new deadline remain unchanged.

The common provisions regarding income tax assessment are contained in Presidential Decree No. 600 of September 29, 1973, where Article 1 establishes that "every taxable person must annually declare their income, even if no tax liability arises."

The return must contain the assets and liabilities necessary to determine taxable income. Omitted or undeclared income is subject to penalties.

Regarding the technical procedures for preparing and submitting the tax return, individuals submit their tax return using the Income Tax Return (Index PF) form or the 730 form, depending on their type of income.

Employees and pensioners with income from employment, pensions, and certain other income may submit the 730 form. Spouses may submit the 730 form jointly.

For employees and pensioners not required (or not interested in) submitting the 730 form, the reporting obligation is fulfilled through the single certification (CU, formerly CUD) produced and submitted annually by the withholding agent (employer or social security institution - see Article 4 of Presidential Decree 322/1998). All other individuals and taxpayers

not resident in Italy for tax purposes in the tax year and/or the year in which they submit their tax return must submit the Income Tax Return (Index PF) form.

Taxpayers whose tax period coincides with the calendar year and who are cumulatively required to file a tax return, an IRAP return, a VAT return, and a withholding agent's return must use the "unified annual return," the so-called single form for income and IRAP, while a separate return is required for VAT. Withholding agents must also file a separate return.

2. ELECTRONIC SUBMISSION OF THE RETURN

As mentioned above, Legislative Decree No. 1/2024 established that the tax return must be filed annually by September 30 of the year following the tax year, directly online or by contacting Tax Assistance Centers (CAF), qualified professionals, or the withholding agent (i.e., the taxpayer's employer).

The return is considered filed on the day it is transmitted to the Revenue Agency (AdE), and it is the taxpayer's responsibility to obtain a certificate of receipt from the intermediary[19].

Filings are considered definitive by the tax authorities and cannot be revoked; they can only be corrected by filing a new return within the established deadline. Taxpayers who need to correct a previously filed or transmitted return can submit a new form by the standard deadline, checking the "Corrective within the deadline" box.

If the "corrective" return shows a higher tax or lower credit, the taxpayer must pay the amounts due; if the payment deadline has already expired, they can use the "*ravvedimento operoso*" (active repentance) procedure to correct the late payment.

If, on the other hand, a higher credit or lower tax is shown, the taxpayer can request a refund or use the credit for the following year; alternatively, they can use it as a setoff against other taxes.

Once the filing deadline has passed, the taxpayer can correct or supplement it by filing a new return.

A supplementary return (increasing or decreasing) may be filed only if the original return has been validly filed; a return filed within 90 days of the deadline is also considered a supplementary return.

Supplements to correct errors or omissions may be filed within the deadline established for assessment pursuant to Article 43 of Presidential Decree 600/1973 (5 years), with the application of penalties, if the taxpayer realizes that something has been omitted.

[19] Within 30 days of the deadline for submitting the declaration, the intermediary must provide the taxpayer with a copy of the original of the submitted declaration, completed using a form compliant with the ministerial one, with a receipt from the Revenue Agency.

3. TERMS FOR FILING THE RETURN

Returns filed within ninety days of the deadline are considered valid, without prejudice to the application of administrative penalties for delay (late return).

Returns filed more than ninety days late are considered omitted but still constitute grounds for the collection of taxes due based on the taxable amounts indicated therein and of withholdings indicated by withholding agents.

Article 1 of Legislative Decree No. 471/1997 establishes the penalties applicable in the event of:

- failure to file a tax return (paragraph 1);
- incorrect declaration (paragraphs 2, 3, and 4) regarding income taxes and IRAP (regional production tax).

Regarding the impact on tax assessment and penalties, a tax return may be:

- "Omitted" when it is not filed at all or filed more than 90 days after the deadline;
- "Invalid" if it is not prepared according to ministerial forms or is not signed;
- "Incomplete" when a source of income is omitted;
- "Inaccurate" when a net income is not reported in its exact amount;
- "Fraudulent" when conduct is characterized by a particularly high degree of deception and attributable to the most insidious forms of tax evasion.

4. WITHDRAWAL DECLARATION FOR TAX WITHDRAWALS

Withdrawal agents who have paid sums or amount subject to withholding tax must submit an annual declaration, Form 770, for all recipients of compensation paid in any form in the previous calendar year and subject to withholding tax pursuant to Articles 2 and 4 of Presidential Decree No. 322/1998. The required documents are: the Single Certification[20] and Form 770[21].

Withdrawal agents, pursuant to Art. 23 of Presidential Decree No. 600/1973, who are required to withhold taxes at source and who pay compensation, in any form, subject to withholding tax pursuant to Article 4 of Presidential Decree No. 322/1998, are required to submit the declaration. The following are also required:

- bankruptcy trustees;
- liquidators;
- heirs who do not continue the deceased tax withholding agent's business;

[20] This document certifies the total amount of sums and values paid, indicating any withholdings applied. The ordinary C.U. can only be submitted electronically by withholding agents or through an authorized intermediary by March 16 of the year following the year in which the withholdings were made.

[21] The Single Declaration must contain the data and information necessary to identify the withholding agent, determine the amount of compensation and income paid in any form, and determine the amount of withholdings, contributions, and premiums.

- entities who earn income exempt from IRPEF but subject to INPS contributions and who were required to submit Form 01/M (for example, embassies, international organizations such as FAO or NATO, etc.);
- individuals who have paid income from employment and those treated as recipients of mandatory registration with INPS (formerly INPDAI), including those who have not applied withholding taxes (for example, international organizations or foreign companies employing Italian personnel abroad who are insured pursuant to Legislative Decree no. 317/1987);
- Administrations that have paid income from employment subject to social security and/or welfare contributions to INPS (formerly INPDAP);
- tax representatives of non-resident entities.

INAIL insurance holders must also submit, by submitting the form, the data relating to personnel insured against accidents and occupational diseases (Presidential Decree no. 1124/1965).

The declaration must be submitted, unless extended, by October 31st, exclusively online, including for those filing the declaration from abroad:

- directly;
- through authorized intermediaries.

The withholding agent is legally obligated to retain certificates proving the payment of withholding taxes and any other documentation required by tax law for the period corresponding to the tax authorities' exercise of their powers of assessment.

5. ANNUAL VAT RETURN

Every VAT registered person must submit an annual VAT return to the Revenue Agency, using a specific ministerial form, containing all tax-relevant transactions for a given business during the relevant tax period.

The return form is submitted electronically through the Revenue Agency's dedicated service by all VAT-registered entities established in Italy, whether or not they have carried out taxable transactions, by entities not established in Italy but who have identified themselves directly, by tax representatives in Italy of non-resident entities, by permanent establishments, and by parent companies participating in the group VAT system.

The following are exempt:

- Taxpayers who have recorded only exempt transactions for the tax year (Article 10 of Presidential Decree No. 633/1972), as well as those who, having availed themselves of the exemption from invoicing and registration requirements (Article 36-bis of Presidential Decree No. 633/1972), have carried out only exempt transactions.
- Taxpayers who take advantage of the advantageous tax regime for young entrepreneurs and redundant workers (so-called "new minimums", Article 27, paragraphs 1 and 2, of Legislative Decree No. 98 of July 6, 2011);

- Agricultural producers exempt from the requirements (Article 34, paragraph 6 of Presidential Decree No. 633/1972);
- operators of games, entertainment, and other similar activities, exempt from VAT obligations, who have not opted to apply VAT in the standard manner;
- sole proprietorships who have leased their sole business and do not engage in other VAT-relevant activities;
- taxable persons resident in other European Community member states, if they carried out only non-taxable, exempt, non-subject, or otherwise non-taxable transactions during the tax year;
- persons who have exercised the option to apply the provisions regarding entertainment and performance activities, exempt from VAT obligations for all income earned from commercial activities related to institutional purposes (Law No. 398 of December 16, 1991);
- persons domiciled or resident outside the European Union, not identified within the Community, who have identified themselves for VAT purposes in the Italian territory according to the procedures set forth in Article 74-quinquies of Presidential Decree No. 633/1972 for the fulfillment of obligations relating to all services provided to clients who are not taxable person;
- Taxpayers who avail themselves of the flat-rate tax regime for natural person carrying out business, arts, and professional activities;
- Occasional collectors of non-timber wild products falling within Ateco class 02.30 and occasional collectors of wild medicinal plants pursuant to Article 3 of Legislative Decree No. 75 of May 21, 2018, who in the previous calendar year achieved a turnover not exceeding €7,000 (Article 34-ter of Presidential Decree No. 633/1972).

By submitting the tax return form, it is possible to:

- determine the annual turnover;
- determine the total amount of VAT credit and debit;
- check the cases in which the entity must apply the pro-rata for the following year and the percentage;
- correct any errors in periodic payments.

6. OTHER TAX RETURNS

6.1 IRAP Return.

IRAP, pursuant to Article 3 of Legislative Decree No. 446 of December 15, 1997, applies to:

- companies and entities referred to in Article 87, paragraph 1, letters a) and b) of the TUIR;
- partnerships (general partnerships and limited partnerships) and those treated as equivalent pursuant to Article 5, paragraph 3, of the TUIR;
- natural person carrying out commercial activities;
- natural person, simple partnerships, and those treated as equivalent pursuant to Article 5, paragraph 3, of the TUIR) carrying out arts and professions;
- private entities other than resident companies whose exclusive or principal purpose is not the carrying out of commercial activities;

- non-profit organizations (limited to any commercial activity carried out);
- companies and entities of any type, with or without legal personality, not resident in the territory of the State (Article 73, paragraph 1, letter d), of the TUIR);
- State and public entities, including the autonomous administrations indicated in Article 74, TUIR

Individuals carrying out commercial activities with business income and individuals carrying out arts and professions with self-employed income, pursuant to Article 2, paragraph 6, and Article 4, paragraph 1, letter u), of Legislative Decree No. 108 of August 5, 2024 – which amended Article 11 of Legislative Decree No. 1 of January 8, 2024, and repealed Article 38 of Legislative Decree No. 13 of February 12, 2024, respectively – must submit the 2024 INCOME and IRAP forms by October 31, 2024. For IRES taxpayers, the deadline is the last day of the tenth month (instead of the fifteenth day of the tenth month) following the end of the tax period.

6.2 Registration Tax Declaration.

It has no formal or independent significance, since the very requirement for the tax, which consists of the preparation of written documents, satisfies the informational requirements typical of a tax declaration, as it expresses and contains all the elements necessary to quantify the taxable amount and apply the tax. In cases where a written document is missing, or in cases where events occur after registration and impact the determination of the taxable amount or the payment of the tax, it is necessary to provide a declaration (which, generally, is called a "declaration").

6.3 Inheritance Declaration.

The inheritance declaration must be submitted electronically by the entities referred to in Article 28 of Legislative Decree no. 101 of 31 October 1990. 346 (Consolidated Law on Successions and Donations) within 12 months of the date of opening of the succession, which generally coincides with the date of the taxpayer's death.

The return can be submitted directly by the taxpayer via online services, through an authorized intermediary, or at the competent Revenue Agency office.

There is no obligation to declare:

- if the estate is passed to the spouse and direct relatives of the deceased and the estate assets have a value not exceeding one hundred thousand euros and do not include real estate or real property rights, unless these conditions cease to exist due to a supervening inheritance;
- if all beneficiaries renounce the inheritance or legacy or request the appointment of a curator (not being in possession of the estate assets) before the deadline for filing the inheritance declaration, but it is necessary to notify the Revenue Agency (registered letter with acknowledgement of receipt) of such renouncement.

6.4 Customs declaration.

This is an expression of intent intended to subject goods to a specific customs regime, which has legally relevant consequences. It can be made in writing, verbally, through electronic means, or with other forms of expression of intent (e.g., through customs via the "nothing to declare" channel).

6.5 Excise Tax Declarations.

The taxable event for excisable goods is their production (anywhere in the EU) or importation (from third countries). However, excise duty is only due upon release for consumption. If the product is imported into an EU country but transported and supplied to another EU country, excise duty is due in the EU country where the products will be consumed or used.

7. TAXPAYER ASSISTANCE SERVICES

Some entities play both an instrumental role in tax collection by tax authorities and a role in facilitating the formal and substantive obligations required of taxpayers to maintain their tax status.

These are professionals authorized to electronically submit tax returns and CAF (tax assistance centers), which are required to register in the national CAF register held by the Ministry of Economy and Finance.

CAF tax assistance centers, organized as associations or private entities, staffed by qualified professionals, primarily offer tax assistance services, assisting taxpayers in completing and submitting tax returns, while also offering consulting services to optimize tax management.

CAF tax assistance centers primarily provide free services; for other services, a fee may be charged depending on whether the taxpayer is a member of a union (e.g., income tax return, IMU tax return, etc.).

The following categories may operate as tax assistance centers:

- trade unions of employees and pensioners with at least 50,000 members;
- tax withholding agents with at least 50,000 employees;
- workers' associations, incorporated as a Patronato, with at least 50,000 members.

Compliance certification, sworn certification, and tax certification are a method of verifying the correct application of tax provisions, assigned to the entities (CAF and professionals), who are authorized for this purpose and registered in a specific computerized register.

- The conformity certificate (art. 35 c 1 lett.a Legislative Decree 241/1997) is a certificate certifying that the data in the declarations prepared by the CAF correspond to the accounting records and related accounting documentation. It is issued by professionals (accountants and labor consultants) who hold a specific professional liability insurance policy for the light certificate.
- The certification (art. 35 c 1 lett. b Legislative Decree 241/1997) is a certification drawn up by a professional/CAF (Tax Assistance Centre) confirming the correspondence

between the accounting and non-accounting elements communicated to the Tax Authorities and relevant for the purposes of applying the ISA (Income Tax Assessment). It can only be issued if the CAF/Professional has kept the taxpayer's accounts and prepared the tax return. The tax certification, or so-called HEAVY ASSESSMENT (art. 36 of Legislative Decree 241/1997), requires great precision and implies careful judgment, as it involves a substantial check on the correct application of tax regulations regarding the determination, quantification, and payment of the tax; It can be issued by auditors registered in the registers of chartered accountants, bookkeepers, commercial experts, and labor consultants who have practiced the profession for at least 5 years, who have communicated their decision to issue the certification to the Revenue Agency, and who have taken out an appropriate insurance policy in addition to having maintained the taxpayer's accounting records during the tax period to which the certification refers.

The issuance of a false certificate of conformity/certification carries administrative fines for the CAF manager or the professional, and in the case of serious violations, a ban from issuing certificates/certifications for a period ranging from one to three years.

Anyone who issues a false certificate of conformity, whether heavy or light, is also subject to criminal prosecution, as provided for by Article 39 of Legislative Decree 241/1997, and is a party to the crime under Article 110 of the Criminal Code. Indeed, by issuing a certificate of conformity, they create a fraudulent instrument that can hinder the tax authorities' assessment process and, consequently, mislead the tax authorities (Cassation Ruling No. 30329/2022).

8. MULTICHANNEL ASSISTANCE CENTERS.

Multichannel assistance centers are Revenue Agency offices that provide tax information. They provide specialized telephone assistance for particularly complex issues and, in some cases, can cancel friendly notices and communications related to tax return settlements. They have offices in Cagliari, Pescara, Rome, Turin, Venice, Salerno, and Bari.

9. TAX FILR.

The tax FILE is the service that allows you to consult your tax information, including personal details, tax returns, refunds, payments made, registry documents, sector studies, and summary reliability indicators, as well as VIES registration.

Access is through an identity defined within the Public Digital Identity System, or with credentials provided by the Revenue Agency.

Taxpayers can delegate consultation of their tax drawer to the intermediaries referred to in Article 3, paragraph 3, of Presidential Decree 322/1998, up to a maximum of two. Intermediaries authorized to use the Entratel service can consult their customers' data by signing a specific Regulation that governs the use of the service.

10. THE CIVIS INTERACTIVE PLATFORM.

Since 2010, the Civis service has aided with irregularity reports, electronic notices, and payment notices through this web platform (Articles 36-bis of Presidential Decree No. 600/73 and 54-bis of Presidential Decree No. 633/72). It also allows for the submission of documents for formal verification (Article 36-ter of Presidential Decree No. 600/73).

To obtain assistance with communications received through the "Civis" online service, you must log in to the reserved area of the Revenue Agency website (using your SPID credentials, electronic identity card, or National Services Card).

You can receive notification of the completion of your Civis application free of charge via text message and email, to the email address and/or phone number you selected. You can also find out the outcome of your request on Civis, view and print the notification once it has been processed by the office.

You can also view and print the tax relief notification if the request concerns a payment slip.

11. VIDEO CALL WITH THE REVENUE AGENCY

Since March 2022, a new service has been introduced that allows you to communicate live with Revenue Agency officials and receive simplified assistance via video call, directly from your computer, smartphone, or tablet. With the video call service, you can schedule an appointment with Revenue Agency officials and receive remote assistance to:

- register a rental agreement
- file your inheritance tax return
- obtain assistance with tax returns and refunds
- request a duplicate health card

The tax return

It is a scientific document through which, each year, the taxpayer determines the taxable base and settles the income tax (Irpef or Ires) due for the previous tax period, in order to pay the tax in the forms and within the legal deadlines (see Articles 1, 2, and 3 of Presidential Decree 322/1998; Articles 1-6 of Presidential Decree 600/1973).

SELF-LIQUIDATION OF TAX

TELEMATIC TRANSMISSION

DECLARATION WITHIN THE DEADLINES
LATE DECLARATION
ULTRA-LATE DECLARATION WITHIN THE YEAR
ULTRA-LATE DECLARATION AFTER THE YEAR

Withholding agents are those who are required to withhold taxes at source (they withhold an amount that should have been paid to the person being replaced and pay it directly to the tax authorities as tax payment on behalf of the person being replaced). They must submit a single tax return every year (also for the purposes of INPS contributions and INAIL premiums) compliant with the Revenue Agency's forms.

Certificazione Unica

la dichiarazione - modello 770.

OTHER DECLARATIONS
ANNUAL VAT DECLARATION
IRAP DECLARATION
INHERITANCE DECLARATION
CUSTOMS DECLARATION
EXCITES DECLARATIONS

Some entities play an instrumental role in tax collection by tax authorities, but at the same time they also facilitate the formal and substantive compliance that taxpayers are required to comply with to maintain their tax position.

professionals authorized to electronically transmit tax returns

CAF

Tax Assistance Centers

- CAF for Employees;
- CAF for Employers

Compliance certification, sworn certification, and tax certification are a method of verifying the correct application of tax provisions, assigned to the aforementioned entities (CAF and professionals), who are authorized for this purpose and registered in a specific computerized register.

OTHER TAXPAYER ASSISTANCE SERVICES
Multichannel Assistance Centers
The tax file
The CIVIS interactive platform
Video call with the Revenue Agency

CHAPTER VIII.

TAX ASSESSMENT

1. ASSESSMENT

Assessment is the process by which the tax authorities determine the amount of tax liability in a tax system characterized by the self-determination and self-assessment of taxes and duties.

Over time, case law and legal doctrine have led to the development of two main theories regarding the nature of tax assessment. These have evolved over time: declarative theory and constitutive theory, followed by proceduralist theory.

According to the declarative theory, tax liability arises upon the occurrence of the factual condition identified by law. Therefore, the assessment would have a purely declaratory nature, establishing the existence of a tax obligation fulfilled, partially fulfilled, or entirely omitted by the taxpayer. According to the constitutive theory, the tax obligation arises following the filing of the tax return or at the time of issuance of the assessment document.

In the 1960s, a new theory developed alongside the previous ones: procedural theory. This theory considered an assessment to be a complex of acts and facts connected in a proceeding or sub-proceedings, necessary for determining the amount and amount of the tax.
Until the 1990s, the Tax Administration directly identified the taxpayer to be audited, assessed the tax, and oversaw its collection.

In subsequent years, its modus operandi changed due to the new general rules of tax proceedings contained primarily in the General Law on Administrative Procedures (Law No. 241 of 7 August 1990), the Taxpayer Statute (Law 212/2000), the reform of the penalty system, and the provisions relating to the establishment of the Tax Agencies.

Legislative Decree No. 13 of February 12, 2024, following the enabling law for tax reform No. 111 of August 9, 2023, introduced provisions regarding tax assessments, aimed at improving taxpayer participation in the assessment process and strengthening cooperation between national and foreign administrations. Among the new features introduced is the technically defined assessment document, which cannot be issued until after a cross-examination with the taxpayer.

2. POWERS OF INVESTIGATIVE

Tax control and assessment activities are carried out by the Financial Offices and the Guardia di Finanza, which enjoy powers and faculties functional to the performance of the investigation, exercised in different forms and for different purposes, pursuant to the tasks assigned separately by tax laws. Specifically, the powers of investigation are contained, among other things, in the Regional Ministerial Decrees 633 of 1972 and 600 of 1973.

Pursuant to Legislative Decree No. 68 of March 19, 2001, Articles 1 and 2, paragraphs 1 and 2, the Guardia di Finanza, the Economic and Financial Police, is responsible for the general functions of preventing, investigating, and suppressing violations of economic and financial law, as well as cooperating with the financial offices in the acquisition and retrieval of information useful for the purposes of assessing income and suppressing such violations.

The general extension to the Guardia di Finanza of these powers, provided for by individual laws for financial offices, is established by Article 1 of the Royal Decree-Law No. 63/1926, as replaced by Article 1 of Royal Decree-Law No. 1290 of July 8, 1937. This extension is confirmed by Articles 51 and 52 of Presidential Decree No. 633/1972 and by Articles 11 and 12 of the Italian Civil Code. 32 and 33 of Presidential Decree no. 600/1973, regarding VAT and income taxes, respectively.

Law No. 4 of January 7, 1929, extended the general functions of "tax police" to all members of the Corps, for the investigation of both criminal and administrative violations. Specifically, the Guardia di Finanza's power to investigate violations of the provisions of financial laws stems from Articles 34 and 35 of the law, which grants it the right to enter public establishments and any premises used for industrial or commercial purposes and conduct inspections and searches.

The subsequent Legislative Decree no. 68 of 19 March 2001, which maintained the provisions of Law no. 4/1929 and the regulating Law, assigned to the Guardia di Finanza the functions of "Economic and Financial Police" with general jurisdiction, as indicated in paragraph 2 of Article 2 of the aforementioned Legislative Decree no. 68/2001, for the prevention, investigation, and repression of violations regarding the revenue and expenditure of the State, Regions, Local Authorities, and the European Union. The subsequent paragraph 4 of Article 2 of Legislative Decree no. 68/2001 provides that the Corps' military personnel may exercise the inspection powers provided for by the provisions regarding the assessment of direct taxes and VAT for the performance of the economic and financial police duties indicated in paragraph 2 of the same article.

The Revenue Agency and the Guardia di Finanza identify taxpayers to be audited, also using risk analyses.

In fulfilling their duties, tax offices may, pursuant to Article 52 of Presidential Decree No. 633/72 and Article 32 of Presidential Decree No. 600/73:

- carry out access, inspections, and audits.

Access to the taxpayer's premises—conducted based on actual on-site investigation and control needs—is an administrative act of an authoritative nature. It consists of the auditors physically entering the premises where the taxpayer conducts their business, or, in the cases and ways strictly provided for by law, the taxpayer's home, even without or against the consent of the person who has access to the premises, subject to authorization from the Public Prosecutor.

Access is carried out, except in exceptional cases, during ordinary business hours, causing the least possible disruption to the taxpayer. Operators are provided with a specific

authorization indicating the purpose of the authorization, issued by the head of the office to which they report. A specific report is kept on the operations performed.
Access is instrumental to the exercise of other powers provided by law, including the search for books, registers, accounting and non-accounting documents, including electronic documents, useful for reconstructing the actual taxpayer's ability to pay.

The inspection activity consists of examining and analyzing records, books, registers, and documents, both paper and accessible via electronic devices, the establishment, maintenance, and retention of which are mandatory. It also involves comparing their contents with other documents/information found during the search or in subsequent phases of the audit, including business correspondence, accounting records maintained for internal management control purposes, and any non-accounting documentation.

The inspection may also extend to the accounting records of third parties who have had economic relationships with the auditee. The forced opening of sealed packages, bags, safes, furniture, and storage rooms, the examination of documents, and requests for information covered by professional secrecy are all cases in which the authorization of the Public Prosecutor or the judicial authority is always required.

Audits consist of examining various aspects of the taxpayer's activity and comparing it with the documents presented or found;

- inviting taxpayers, stating the reason, to appear in person or through representatives to provide data and information relevant to the assessment;

- sending taxpayers questionnaires containing specific data and information relevant to the assessment, both for them and for other taxpayers with whom they have had dealings, with an invitation to return them completed and signed;

- requesting government bodies and administrations, non-profit public entities, insurance companies and entities, and companies and entities that institutionally collect and pay on behalf of third parties to disclose, even in derogation of contrary legislative, statutory, or regulatory provisions, data and information relating to individuals listed individually or by category;

- Request copies or extracts of deeds and documents filed with notaries, registrars, land registrars, and other public officials. Copies and extracts, with a certificate of conformity to the original, must be issued free of charge;

- Request, with prior authorization from the Revenue Agency's central director of assessment or its regional director, or, for the Financial Police, the regional commander, from entities subject to assessment, inspection, or verification, the release of a declaration indicating nature, number, and identifying details of their relationships with financial operators;

- Request, with prior authorization from the Revenue Agency's central director of assessment or its regional director, or, for the Financial Police, the regional

commander, from financial operators and intermediaries, data, information, and documents relating to any relationship or transaction they have entered into;

- request, in accordance with procedures established by a non-regulatory decree of the Minister of Economy and Finance, to be adopted in agreement with the Supervisory Authority in accordance with European and international supervisory regulations and, in any case, subject to the prior authorization of the Central Director of Audit of the Revenue Agency or its Regional Director, or, for the Guardia di Finanza, the Regional Commander, from authorities and entities, information, data, documents, and credit, financial, and insurance-related information relating to the control and supervisory activities performed by them, even in derogation of specific legal provisions;

- request from the entities indicated in Article 13 data, information, and documents relating to activities carried out in each tax period, relevant for the purposes of the audit, with respect to their customers, suppliers, and self-employed workers;

- invite any other entity to exhibit or transmit, including photocopy, tax-relevant documents or records concerning specific relationships with the taxpayer and to provide relevant clarifications;

- request data, information, and documents related to condominium management from building administrators.

- conduct appropriate risk analysis activities.

3. THE VARIOUS TYPES OF AUDITS

Regarding income taxes, tax audits can be classified as:

1. automated audits;
2. formal audits;
3. substantive audits.

4. THE SO-CALLED LIQUIDATION OR AUTOMATIC AUDIT

The tax authorities—pursuant to Articles 36-bis of Presidential Decree No. 600/1973 for income taxes and 54-bis of Presidential Decree No. 633/1972 for VAT—use automated procedures to settle taxes, contributions, and premiums due, as well as refunds due, based on the returns submitted by taxpayers and withholding agents, by the beginning of the tax return filing period for the following year.

This is a mechanical check that, through arithmetic calculations on data and elements directly deducible from the submitted returns and those held by the tax registry, allows the tax authorities, among other things, to correct material and calculation errors made by taxpayers and to verify compliance with the tax return with tax payments.

The automatic check is also performed on "Communications of Periodic VAT Payment Data." In this case, before issuing the irregularity report, any inconsistencies found following the check are made available to the taxpayer through a specific compliance invitation letter, which is published both in the "Tax Drawer" - "The Agency Writes" section, and within the "Invoices and Fees" service - "Consultation" - "The Agency Writes" section.

When the automatic checks reveal a different result than that indicated in the tax return, or when the office's checks reveal a tax or higher tax, the outcome of the settlement is communicated to the taxpayer or the withholding agent to prevent repeat errors and to allow for formal compliance.

If, following the communication, the taxpayer or withholding agent discovers any data or elements that were not considered or incorrectly assessed in the tax assessment, they may provide the necessary clarifications to the tax authorities within sixty days of receiving the communication.

5. FORMAL AUDIT

The tax authorities, pursuant to art. 36-ter of Presidential Decree no. 600/1973, invite the taxpayer or withholding agent by telephone, in writing, or electronically to provide clarifications regarding the data contained in the declaration and to execute or transmit payment receipts or other documents not attached to the declaration or that differ from the data provided by third parties.

The Tax Offices do not request documents from the taxpayer or withholding agent relating to information available in the tax registry.

This formal review of the returns submitted by taxpayers and withholding agents—selected based on the selection criteria established by the Minister of Finance, considering specific analyses of tax evasion risk—can be carried out by December 31 of the second year following the year of submission.

An indication of the reasons that led to the correction of the taxable income, taxes, withholding taxes, contributions, and premiums declared, also to allow the reporting of any data and elements not considered or incorrectly assessed during the formal audit within sixty days of receiving the communication.

6. SUBSTANTIAL AUDIT

This audit is carried out by the Tax Administration based on selective criteria established annually by the Minister of Finance. Its purpose is to review the tax returns and identify those who have failed to submit them, using the data and information acquired and collected, as well as any information the Office may have.

The assessment notices, pursuant to art. 43 of the Presidential Decree. 600/1973, must be notified, under penalty of forfeiture, by 31 December of the fifth year following the year in which the declaration was submitted, while, in cases of failure to submit the declaration or submission of a null declaration, the assessment notice may be notified by 31 December of the seventh year following the year in which the declaration should have been submitted.

This type of audit can be of various types:

- for individual taxpayers who do not have business or self-employed income, it can be analytical, synthetic, or *ex officio*;
- for entities required to maintain accounting records (entrepreneurs, artists, and professionals), it can be analytical-accounting, analytical-inductive, and inductive-non-accounting.

7. ASSESSMENT OF NATURAL PERSONS

Article 38 of Presidential Decree no. 600 of 1973 regulates both analytical and synthetic assessments, both of which can be used to reconstruct the taxpayer's actual income.

The analytical assessment examines the individual income components and reconstructs the total income as the sum of the individual categories referred to in Article 6 of the TUIR.
Pursuant to Article 38, paragraphs 4 et seq. of Presidential Decree no. n. 600/1973, however, the office can always synthetically determine the taxpayer's overall income based on expenses of any kind incurred during the tax period.

The synthetic assessment may also be based, as amended by Article 10 of Legislative Decree 87/2018, on the inductive content of elements indicative of taxpayer capacity identified through the analysis of significant samples of taxpayers, differentiated also based on the household and territorial area to which they belong, by decree of the Ministry of Economy and Finance to be published in the Official Journal every two years, after consulting the National Institute of Statistics (ISTAT) and the most representative consumer associations regarding aspects relating to the inductive reconstruction method of total income based on taxpayers' spending capacity and propensity to save. With Ministerial Decree The new implementing rules were established on May 7, 2024.

The application of the synthetic assessment—both the one based on expenses incurred and the one that takes into account indicative elements of contributory capacity—is permitted provided that the total assessable income exceeds the declared income by at least one-fifth and, in any case, by at least ten times the amount corresponding to the annual social security benefit, the value of which is updated by law every two years, also based on ISTAT adjustment indices.

The office that performs the summary determination of total income is required to invite the taxpayer to appear in person or through representatives to provide relevant data and information for the assessment and, subsequently, to initiate the assessment procedure with acceptance pursuant to Article 5 of Legislative Decree No. 218 of June 19, 1997.

The income tax return, introduced by Legislative Decree 78/2010, was based on predefined parameters and standardized tables. Article 5 of Legislative Decree 108/2024 amended Article 38 of Presidential Decree 600/1973, establishing:

- new thresholds for its application. The previous threshold was set at one-fifth of the assessed income. The summary assessment can now be carried out if the assessable income exceeds the declared income by at least one-fifth and, in any case, ten times the social security benefit;
- that the taxpayer can always demonstrate that:
  - the expenses were financed with income other than that earned in the same tax period, with income exempt or subject to withholding tax, or, in any case, legally excluded from the taxable base, or by parties other than the taxpayer;
  - the attributed expenses have a different amount;
  - the portion of savings used for consumption and investments was created in previous years.

8. OFFICIAL ASSESSMENT

In cases of failure to file a tax return or the filing of invalid tax returns, the tax offices proceed with an official assessment pursuant to Article 41 of Presidential Decree 600/1973.

In this case, the office determines the taxpayer's total income based on the data and information collected or otherwise acquired. It may also rely on presumptions that are not serious, precise, or consistent, and may disregard, in whole or in part, the results of the tax return, if filed, and any accounting records of the taxpayer, even if regularly kept.

The deadline for proceeding with this assessment, pursuant to Article 43 of Presidential Decree 600/1973, is 12:00 p.m. 600/1973, which is that of December 31 of the seventh year following the one in which the declaration should have been submitted.

9. PARTIAL ASSESSMENT

If, following their investigations, data in the tax registry, or reports from other tax offices, the Guardia di Finanza, or public administrations, the Revenue Agency offices discover the existence of undeclared income or a higher amount of partially declared income that should have been included in taxable income, including income from shareholdings in companies, associations, and businesses, or the existence of deductions, exemptions, and benefits that are wholly or partially unentitled, as well as the existence of unpaid taxes or additional taxes, excluding the cases referred to in Articles 36-bis and 36-ter, they may limit themselves to assessing, based on the aforementioned elements, the taxable income or additional income, or the additional tax to be paid, including by availing themselves of the procedures for tax assessment by agreement and judicial conciliation.

10. ASSESSMENT OF PERSONS WITH BUSINESS INCOME AND SELF-EMPLOYMENT INCOME.

For entities required to maintain accounting records—holders of business income and self-employment income, as well as IRES taxpayers, excluding simple partnerships—for the purposes of direct taxes and VAT, the following methods are provided for substantive assessment pursuant to Article 39 of Presidential Decree No. 600/1973:

- the accounting (or analytical-accounting) assessment, pursuant to Article 39, paragraph 1, letters a), b), and c), of Presidential Decree No. 600/1973 and Article 54, paragraph 1, of Presidential Decree No. 633/1972, exclusively considers the taxpayer's official accounts, the balance sheet and income statement (where applicable), and the tax return and, for VAT purposes, the comparison between these and the tax payments.

  It involves identifying factual situations that differ from those attested by the accounting documents, balance sheet, income statement, and tax return, considered individually and/or compared with each other. Furthermore, it seeks to identify any substantial errors in the application of tax provisions governing the determination of overall income or the quantification of the VAT taxable base.

  For business income of natural persons—but applicable, pursuant to the reference made in Article 40 below, to the correction of returns of entities other than natural persons—the Office shall correct:
  - if the information provided in the return does not correspond to that in the balance sheet or profit and loss account;
  - if the provisions of the Consolidated Law on Income Tax have not been accurately applied;
  - if the incompleteness, falsity, or inaccuracy of the information provided in the return and its attachments is clearly and directly demonstrated by the reports and questionnaires referred to in paragraphs 2 and 4 of Article 32, first paragraph, of Presidential Decree 600/1973, by the records, documents, and registers exhibited or transmitted pursuant to paragraph 3 of the same paragraph, by the returns of other entities referred to in Articles 6 and 7, by the reports of inspections conducted on other taxpayers, or by other records and documents held by the Office;

- the analytical-inductive assessment referred to in Article 39, paragraph 1, letter d), of Presidential Decree no. 600/1973 and Article 54, paragraph 2, of Presidential Decree no. 633/1972.

  The conditions that justify its use are the incompleteness, falsity, or inaccuracy of the information indicated in the declaration and its attachments, discovered following a preliminary inspection of the accounting records or the preliminary execution of other investigative activities falling within the inspection powers of the Supervisory Bodies.

  The demonstration of the incompleteness, falsity, or inaccuracy of the declaration and its attachments can be proven not only on the basis of direct evidence, but also by circumstantial evidence with particularly strong and significant evidentiary value, and

according to serious, precise, and consistent presumptions, so-called simple presumptions;

- The non-accounting inductive assessment, or pure inductive assessment, is established in Articles 39, paragraph 2, letters a), c), d), d-bis), and d-ter), and Article 41 of Presidential Decree No. 600/1973, as well as in Article 55, paragraphs 1 and 2, of Presidential Decree No. 633/1972.

For its applicability, the existence of regulatory irregularities is required, such as:

- for income purposes:
  - failure to disclose in the business income tax return;
  - failure to maintain, or in any case the removal from inspection, one or more of the accounting records required by Article 14 of Presidential Decree No. 600/1973, or when such records are unavailable due to force majeure. Such omissions or subtractions must be shown in the report drawn up pursuant to Article 33 of Presidential Decree 600/1973;
  - when the omissions and false or inaccurate information found, or the formal irregularities in the accounting records resulting from the inspection report, are so serious, numerous, and repetitive that the records themselves are unreliable due to the lack of guarantees inherent in systematic accounting;
  - when the taxpayer has not complied with the requests issued by the offices pursuant to Article 32, first paragraph, numbers 3) and 4), of Presidential Decree 600/1973;

- for VAT purposes:
  - failure to submit the annual return;
  - when it appears, through the inspection report drawn up pursuant to Article 52 of Presidential Decree 633/1972, that the taxpayer has not kept, has refused to produce, or has otherwise withheld from inspection the registers required by this decree and the other mandatory accounting records pursuant to the first paragraph of Article 32. 2214 of the Civil Code and the laws on income tax, or even just some such registers and records;
  - when the inspection report shows that the taxpayer has not issued invoices for a significant portion of the transactions or has not retained, refused to produce, or otherwise withheld from inspection, all or a significant portion of the issued invoices;
  - when the omissions and false or inaccurate information or entries found pursuant to Article 54, or the formal irregularities in the registers and other accounting records resulting from the inspection report, are so serious, numerous, and repetitive that they render the taxpayer's accounting unreliable.

Using this methodology allows the Tax Administration to choose between different action strategies:

- it can rely on data and information collected or otherwise acquired;
- it can disregard all or part of the financial statements and accounting records;
- it can also rely on presumptions that lack the requirements of seriousness, precision, and consistency, precisely because of the seriousness of the violations.

11. PREVENTIVE DISCUSSION

Legislative Decree No. 219 of December 30, 2023, amended Law No. 212 of July 27, 2000, ("Taxpayer Statute"), introducing Article 6-bis, which establishes that all acts that can be challenged independently before the tax jurisdiction bodies must be preceded, under penalty of annulment, by an informed and effective hearing.

The Tax Administration, therefore, communicates the draft decision to the taxpayer, using methods that ensure its availability, assigning a deadline of no less than sixty days (before which the decision cannot be adopted) to allow the taxpayer to submit any counterarguments or, upon request, to access and obtain copies of the documents in the file.

If this deadline (60 days) expires after the deadline for the adoption of the final act, or if less than one hundred and twenty days elapse between the expiry of the deadline assigned for the exercise of the adversarial procedure and the deadline for the issuance of the provision, this last deadline is postponed to the one hundred and twentieth day following the expiry date of the deadline for the exercise of the adversarial procedure.

The document issued after the cross-examination must consider the taxpayer's observations and must contain the reasons why the Administration did not accept any observations from the party.
The general obligation to initiate a preliminary discussion does not apply, pursuant to paragraph 2 of the Article 6-bis, to automated, essentially automated, prompt settlement and formal verification of tax returns identified by decree of the Minister of Economy and Finance, as well as to justified cases of well-founded risk to collection.

Legislative Decree No. 13 of February 12, 2024, rewritten the tax assessment procedure referred to in Legislative Decree No. 218 of June 19, 1997, to coordinate and adapt this procedure to the new adversarial procedure.

The new Article 7-bis of the Statute, also introduced by the Legislative Decree of 30 December 2023, no. 219, provides, pursuant to paragraph 1, the annulment of acts of the Financial Administration for violation of the law, including the rules on jurisdiction, procedure, taxpayer participation, and the validity of acts.

12. NOTICE OF ASSESSMENT

After completing the substantive inspection, the Office notifies the taxpayer of the tax claim in a specific reasoned document, under penalty of nullity. This document must contain:

- the assessed taxable amounts and the applied rates
- taxes paid, gross and net of deductions, withholding taxes, and tax credits
- the office where information can be obtained and the person responsible for the procedure
- payment methods and deadlines
- the court to which appeal may be lodged.

Taxpayers receiving this notice may obtain a reduction in penalties if they waive their appeal, submit a request for an assessment with acceptance, and pay within the established deadline.

The assessment is void if the notice is not signed, contains the information, and provides the reason, and if the documentation containing the reason is not attached to it, as reported on another document unknown to or received by the taxpayer. Effective October 1, 2011, assessment notices issued by the Revenue Agency are enforceable (Law No. 111 of July 15, 2011).

13. ASSESSMENT

Agreement assessment, pursuant to Legislative Decree No. 218/97, a tool for deflationary tax disputes, is an adversarial assessment procedure through which the taxpayer can agree with the Tax Assessment Office on a higher tax due, thus reaching a resolution of the dispute in a pre-litigation phase.

Article 1 of Legislative Decree No. 13/2024 amended Legislative Decree No. 218/1997 to strengthen the role of the tax settlement agreement by aligning it with the preliminary hearing procedure referred to in Article 6-bis, paragraph 1, of Law No. 212/2000.

With the 2024 decree, Article 5-ter of Legislative Decree 218/1997 was repealed. The tax settlement agreement procedure takes the oral form, with the individual appearing upon invitation from the tax authorities. The preliminary hearing is conducted in written form during the initial phase.

Legislative Decree no. 13/24, Article 1, paragraph 1, letter b), and (2), letter d), of Legislative Decree no. 13/24, provides that the taxpayer may also comply with tax assessment reports[22], either unconditionally or subject to the correction of obvious errors in the report.

In the latter case, the office that prepared the report, within ten days of notification of conditional compliance, may correct the errors reported by the taxpayer by updating the report and shall immediately notify the taxpayer and the competent Revenue Agency office.

The deadlines for the assessment are in any case suspended until notification of the taxpayer's compliance and, in any case, no later than the thirtieth day following delivery of the tax assessment report.

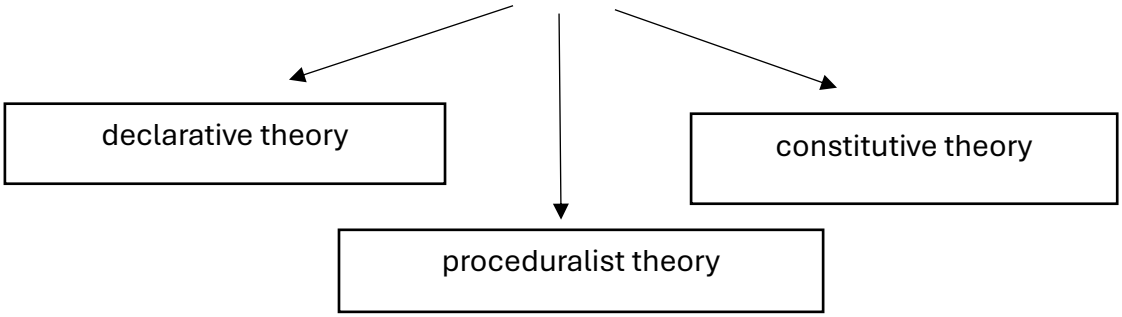
If the Administration deems it unnecessary to correct the errors, it will communicate the outcome and proceed with the subsequent procedures as usual.

In case of joining the PVC, the number of applicable sanctions is reduced by half.

[22] The objection may only concern the full content of the report of findings and must be made within thirty days of the date of delivery of the report by means of communication by the taxpayer to the competent Revenue Agency office indicated in the report and to the body that drafted it.

Tax assessment

This is the process through which the tax authorities determine the amount of the tax liability in a tax system characterized by self-determination and self-assessment of taxes and duties.



Legislative Decree No. 13 of February 12, 2024, following the enabling law for tax reform No. 111 of August 9, 2023, introduced provisions regarding tax assessments, aimed at improving taxpayer participation in the assessment process and strengthening cooperation between national and foreign administrations.

THE INSTRUCTORY POWERS

Tax control and assessment activities are carried out by the Financial Offices and the Guardia di Finanza, which enjoy powers and authority functional to the conduct of their investigations. These powers are exercised in various forms and for various purposes, pursuant to the tasks assigned separately by tax laws. Specifically, the investigation powers are contained, among other things, in the Regional Ministerial Decrees 633 of 1972 and 600 of 1973.

Pursuant to Legislative Decree no. 68 of 19 March 2001, Articles 1 and 2, paragraphs 1 and 2, the Guardia di Finanza, the Economic and Financial Police Force, is responsible for the general functions of preventing, investigating, and suppressing violations of economic and financial matters, as well as cooperating with the financial offices to acquire and retrieve information useful for the purposes of assessing income and suppressing such violations.

The Revenue Agency and the Guardia di Finanza identify taxpayers to be audited, including through risk analyses.
In fulfilling their duties, tax offices may, pursuant to Article 52 of Presidential Decree No. 633/72 and Article 32 of Presidential Decree No. 600/73:

carry out access, inspections and checks
invite taxpayers, indicating the reason, to appear in person or through representatives to provide data and information relevant to the assessment against them
send taxpayers questionnaires relating to specific data and information relevant for the purposes of the assessment
request that State bodies and Administrations, non-economic public bodies, insurance companies and institutions and companies and institutions that institutionally carry out collections and payments on behalf of third parties communicate data and information relating to subjects indicated individually or by category
request copies or extracts of deeds and documents filed with notaries, registrars, land registrars and other public officials
request, subject to the necessary authorisations, that the subjects subjected to investigation, inspection or verification issue a declaration containing the indication of the nature, number and identifying details of the relationships maintained with financial operators
request, subject to the necessary authorizations, data, information and documents relating to any relationship held or operation carried out
request, in accordance with procedures established by a non-regulatory decree of the Minister of Economy and Finance and subject to the appropriate authorizations, information, data, documents, credit, financial, and insurance-related information relating to the control and supervisory activities performed by them, even in derogation of specific legal provisions.
Perform appropriate risk analysis activities.

THE VARIOUS TYPES OF CONTROLS

THE SO-CALLED LIQUIDATION OR AUTOMATIC CONTROL	The tax authorities—pursuant to Articles 36-bis of Presidential Decree No. 600/1973 for income taxes and 54-bis of Presidential Decree No. 633/1972 for VAT—use automated procedures to settle taxes, contributions, and premiums due, as well as refunds due based on the returns submitted by taxpayers and withholding agents, by the beginning of the tax return filing period for the following year.
FORMAL CONTROL	Pursuant to Article 36-ter of Presidential Decree No. 600/1973, the Tax Administration invites the taxpayer or tax substitute by telephone, in writing, or electronically, to provide clarification regarding the information contained in the return and to execute or transmit payment receipts or other documents not attached to the return or that differ from the information provided by third parties.
SUBSTANTIAL CONTROL	It is carried out by the Financial Administration on the basis of selection criteria established annually by the Minister of Finance, and its purpose is to check declarations and identify those who have failed to submit them, using the data and information acquired and collected, as well as any information the Office is in possession of.

ASSESSMENT OF INDIVIDUALS Article 38 of Presidential Decree No. 600 of 1973 regulates both analytical and synthetic assessments.	
ANALYTIC ASSESSMENT	The analytical assessment examines the individual income components and reconstructs the overall income as the sum of the individual categories referred to in Article 6 of the TUIR.
SYNTHETIC ASSESSMENT	Pursuant to Article 38, paragraphs 4 et seq. of Presidential Decree no. 600/1973, the office may always synthetically determine the taxpayer's total income based on expenses of any kind incurred during the tax period. The synthetic assessment may also be based, as amended by Article 10 of Legislative Decree 87/2018, on the inductive content of elements indicative of taxpayer capacity identified through the analysis of significant samples of taxpayers.
EX OFFICE ASSESSMENT	In cases of failure to submit the declaration or submission of invalid declarations, the tax offices proceed with an official assessment, pursuant to Article 41 of Presidential Decree 600/1973.
PARTIAL ASSESSMENT	If, following their investigation, the Revenue Agency offices discover undeclared income or a higher amount of partially declared income that should have been included in the taxable income, they may simply determine, based on the aforementioned elements, the taxable income or higher income, or the higher tax to be paid, also using the procedures for tax assessment by agreement and judicial conciliation.
ASSESSMENT OF PERSONS WITH BUSINESS AND SELF-EMPLOYMENT INCOME.	For entities required to maintain accounting records—holders of business and self-employed income, as well as IRES taxpayers, excluding simple partnerships—for direct tax and VAT purposes, the following methods are available for substantive assessment pursuant to Article 39 of Presidential Decree No. 600/1973: • Accounting assessment • Analytical-inductive assessment • Extra-accounting inductive assessment or pure inductive assessment

PREVENTIVE DISCUSSION
Legislative Decree No. 219 of December 30, 2023, amended Law No. 212 of July 27, 2000 ("Taxpayer Statute"), with the introduction of Article 6 bis, which establishes that all acts that can be independently challenged before the tax jurisdiction bodies must be preceded, under penalty of annulment, by an informed and effective adversarial process.

ASSESSMENT WITH ADHESION
(Legislative Decree No. 218/97) is a tax litigation deflationary tool, an adversarial assessment procedure through which the taxpayer can agree with the Tax Assessment Office on a higher tax due, thus reaching a resolution of the dispute in a pre-litigation phase. Article 1 of Legislative Decree No. 13/2024 amended Legislative Decree No. 218/1997 to strengthen the role of adhesion assessment by aligning it with the prior adversarial procedure referred to in Article 6-bis, paragraph 1, of Law No. 212/2000.

CHAPTER IX.

THE COLLECTION SYSTEM

1. EXTINCTION OF THE TAX OBLIGATION

The collection system is designed to allow the Treasury to collect taxes and all tax revenues owed by the taxpayer, who extinguishes the tax obligation, through a standardized procedure.

In fact, the tax authority may only adopt collection methods established by law.

Payment of the tax, which can be made through direct deposit or following registration and can be made at a collection agent, a bank, a post office, or electronically, releases the taxpayer from their obligation to the tax authorities.

The collection of the main taxes occurs through direct payment by the taxpayer. If the taxpayer fails to pay or makes the payment late or for an amount lower than due, the Administration proceeds with the liquidation of the amount due and its collection.

2. COMPLIANCE

Compliance generally occurs through direct payment (on account or in full). This is the most common voluntary collection method and consists of the spontaneous payment of amounts due by the taxpayer or the withholding agent to the Treasury using the F23 and F24 forms.

Taxpayers with a VAT number are required to use electronic payment methods, including through intermediaries (professionals, trade associations, CAF, etc.), pursuant to Article 37, paragraph 49, of Legislative Decree no. 223/2006, converted with amendments into Law no. 248 of 04.08.2006.

Withholding agents make payments of withholding taxes as tax or on account.

3. OFFSETTING

Using the offsetting mechanism, taxpayers can offset tax debts with credits resulting from tax returns or periodic reports, using two different methods:

- vertical offsetting, which occurs when the offsetting credits and debts are of the same nature;
- horizontal offsetting: taxpayers can use tax credits to settle debts of a different nature than the credit used.

Paragraph 1 of Article 17 of Legislative Decree 241/1997 states: "*Taxpayers [...] make single payments of taxes, contributions due to INPS, and other sums to the State, regions, and social security institutions, with possible offsetting of credits for the same period, owed to the same*

entities, resulting from tax returns and periodic reports submitted after the date of entry into force of this decree."
However, the use of accrued tax credits as a set-off is subject to specific rules and limitations, some of which were introduced by Law No. 213/2023. Effective July 1, 2024, Article 1, paragraphs 94 and 95, of the law, amending Article 11, paragraph 2, of Legislative Decree No. 66/2014, provides:

- the exclusive use of the Revenue Agency's online services for offsets;
- the possibility of also using credits accrued against INPS and INAIL;
- the impossibility of using offsets in the case of tax assessments or enforcement assessments involving amounts exceeding €100,000.

Furthermore, Article 1, paragraph 5, of the Delegated Decree on Sanctions introduced Article 28-sexies into Presidential Decree no. 602/1973. This new article introduces the possibility of offsetting non-statutory, certain, liquid, and collectible credits claimed against public administrations for supplies, provisions, and contracts with unpaid taxes resulting from amicable notices. Improper offsetting of tax credits entails both administrative and criminal consequences for the taxpayer.

4. FORFEITURE AND STATUTE OF LIMITATIONS

The provisions of prescription and forfeiture are enshrined in the Civil Code, in Articles 2934 and 2964, which respectively state that "every right is extinguished by prescription when the holder does not exercise it for the period established by law" and "*when a right must be exercised within a given period under penalty of forfeiture, the provisions regarding the interruption of the statute of limitations do not apply*."

Pursuant to Article 3 of the Taxpayer Statute, the prescription and forfeiture periods for tax assessments cannot be extended. Both meet the need to ensure certainty and stability in relationships.

In tax matters, forfeiture occurs when, by express provision of law, the expiration of a time limit makes it impossible to exercise a power capable of acquiring a right, thus resulting in the loss of the right to tax liability in the event of failure or delay in completing the activities required by individual tax laws, the final act of which must be notified within the deadlines. Forfeiture refers to the power of assessment, the power of liquidation, the power of registration, and the taxpayer's right to reimbursement. Forfeiture, in principle, is not subject to suspension or interruption.

Unlike forfeiture, the legislator has clarified, with Article 2934 of the Civil Code, the consequences of applying the statute of limitations, namely, the extinction of the right if the holder does not exercise it within the time limits established by law. The statute of limitations must necessarily be contested by the debtor, as it cannot be raised by the judge ex officio. Statutes of limitations may be suspended or interrupted. The statute of limitations begins to run from the date of notification of the tax notice and matures with the term established by law.

Pursuant to Article 22 of Legislative Decree 173/2024 (formerly Article 20 of Legislative Decree 472 of December 18, 1997), the notice of contestation or the notice of imposition must be served, under penalty of forfeiture, by December 31 of the fifth year following the year in which the violation occurred, or within a different deadline established for the assessment of individual taxes. The tax rolls in which the penalties imposed pursuant to Article 20, paragraph 4 of the same decree, are recorded must be made enforceable within the same deadlines. The right to collect the imposed penalty expires after five years. Challenging the imposition order interrupts the statute of limitations, which does not run until the proceedings are concluded. The enabling law for tax reform, August 9, 2023, no. 111, among other things, intervenes on the terms of forfeiture for tax assessments, that is, whether reference should be made, as the initial effective year, to the year in which a right or an amount is used or rather to the year in which this right or amount arose.

The aforementioned enabling law addresses the topic under consideration in letter h) of Article 17, entitled "*Principles and guiding criteria for the assessment procedure, adhesion and voluntary compliance", where Article 1 establishes that "In exercising the delegation referred to in Article 1, the Government shall also observe the following specific principles and guiding criteria for the review of the assessment activity, also with reference to the taxes of local authorities: ...h) ensuring the certainty of tax law, through: 1) establishing the start of the deadline for assessment starting from the tax period in which the triggering event occurred, for components with multi-year effect, and the loss of the financial year, to avoid an excessive extension of this deadline as well as that relating to the obligation to retain accounting records and documentary supports, without prejudice to the powers of control of the Financial Administration over the entitlement to any refunds requested*."

5. TAX AND TAX AMNESTY

Amount of debt is one of the ways in which an obligation is extinguished and occurs when the positions of creditor and debtor are definitively united in the same person, for example, because the debtor succeeds to the creditor or vice versa, or because a third party succeeds to both. The obligation is extinguished by the cessation of the duality of the parties to the obligation.

Tax amnesty allows taxpayers to settle their tax obligations in a convenient manner. The government establishes the limits and application procedures. This institution allows taxpayers who have incurred tax debts, by submitting a specific application, to rectify their situation and pay the amount due according to the provisions established by law. If it affects all the taxpayers' positions, it is called a tax amnesty.

6. REGISTRATION ON THE ROLLER

The tax roll is the means of collecting taxes and revenues, including non-tax revenues. It is a collective administrative document containing the names of the debtors, the type of credit, and the related amounts due. It is prepared by the creditor and transmitted to the Revenue Collection Agency, which processes and notifies the payment notice for the purpose of collecting the indicated amounts.

The tax roll can be classified as:

- ordinary, when the data relating to the taxpayer and the taxable amount, rate, and tax due are indicated;
- extraordinary, when there is a well-founded risk to collection and, therefore, in addition to the tax due and interest, there are also penalties;
- final, with the registration of all taxes, penalties, and interest due;
- provisional with the registration of only a part of the amount owed by the taxpayer, for example when the assessment has been contested and has not yet been defined with a final ruling.

This is the formal act that authorizes the concessionaire to create, for each taxpayer, the so-called "payment slip." Legislative Decree No. 241 of July 9, 1997, entitled "*Rules for the simplification of taxpayers' obligations when filing income tax and VAT returns, as well as for the modernization of the tax return management system,*" was recently amended by Legislative Decree No. 1 of January 8, 2024.

7. INSTALLMENT PAYMENT

The taxpayer may choose to pay the amounts due as balances and advance payments of taxes and contributions resulting from the tax return in installments. The balance and advance payments of taxes and contributions are due by individuals holding an insurance position in one of the INPS-managed schemes, except for those due in December as advance payments of value added tax, may be paid in equal monthly installments, with interest accruing from the due date. In any case, payment must be completed by December 16 of the same year in which the tax return or tax return is filed, pursuant to Article 20 of Legislative Decree 241/97, as amended by Legislative Decree No. 1 of January 8, 2024, Article 8 (effective January 13, 2024).

This provision does not apply to amounts due pursuant to Title III of Presidential Decree No. 600 of September 29, 1973. Installment payments are due by the 16th of each month.
Pursuant to Article 19 of Presidential Decree No. 602/1973, upon request of a taxpayer experiencing temporary financial difficulty, the Revenue Collection Agency (*Agenzia delle Entrate Riscossione*) grants the distribution of payments for amounts registered in the tax roll, equal to or less than €120,000.00.

8. SUSPENSION OF COLLECTION

The taxpayer, pursuant to the 2013 Stability Law (Law No. 228 of December 24, 2012), which introduced the provision in Article 19 of Presidential Decree No. 602/1973, grants the distribution of payments for amounts equal to or less than €120,000.00. 1, paragraphs 537 to 543, can directly request the legal suspension of the tax bill from the Revenue Agency-Collection and await the outcome of the creditor institution's checks.

The request, which cannot be repeated, must be submitted, under penalty of forfeiture, within 60 days of the date the Revenue Agency-Collection notifies the taxpayer of the tax bill

or other collection documents. Upon receipt of the request, the Revenue Agency-Collection must forward it to the creditor entity and, pending a response, suspends collection proceedings. If the entity fails to respond within 220 days, the debt will be cancelled. If the submitted documents do not adequately demonstrate that the payment is not due, the creditor entity will reject the request and notify the Revenue Agency-Collection to resume collection activities.

9. EXECUTIVE ASSESSMENT

To expedite the tax collection process, thus bypassing the issuance and notification phase of the tax bill and shortening collection times, Legislative Decree no. 78/2010, converted, with amendments, by Law no. 122 of July 30, 2010, introduced so-called "executive assessment notices."

The tax collection reform, pursuant to Legislative Decree no. 110 of July 29, 2024, will expand the scope of the executive assessment, referred to in Article 29 of Legislative Decree no. 78/2010, extending it to the majority of taxes entrusted to the Revenue Agency-Collection through registration, with the aim of abandoning this latter institution, increasingly making use of executive assessment.

Indeed, Article 14 of the delegated decree now includes—in consideration of the need to streamline and expedite all forced collection processes, ensuring the efficiency of this phase of the anti-evasion effort—a number of procedures that will no longer be followed by payment notices within the aforementioned Article 29, paragraph 1, letter h, of Legislative Decree 78/2010, which had, at the time, introduced enforcement assessments for income tax and VAT purposes.

10. FORCED COLLECTION

To recover amounts owed by the taxpayer, the Revenue Collection Agency can intervene through forced collection, through enforcement actions.

This forced collection is achieved after completing specific and preliminary phases:

- assessment of the unpaid tax;
- registration;
- notification of the tax notice;
- activating the debt collection procedure;
- initiating enforcement proceedings.

The taxpayer has 60 days from notification of the tax demand. After a further 30 days, if the taxpayer fails to pay, submits a specific request for payment by installments, or requests a suspension order, the Revenue Collection Agency will activate the precautionary and enforcement procedures required for forced collection.

11. PRECAUTIONARY PROCEDURES AND PROPERTY PRECAUTIONARY MEASURES TO GUARANTEE THE TAX AUTHORITIES

The tools provided by the tax system to protect tax debts include the precautionary measures provided for by Article 22 of Legislative Decree no. 472/97 (article not repealed by the new Decree on administrative and criminal sanctions, Legislative Decree 173/2024), according to which, upon notification of the tax charge, the sanctioning order, or the report of findings, and after their notification, the Tax Office or Authority, when it has well-founded fears of losing the guarantee of its credit, may request, with a reasoned request to the President of the Tax Court of Justice, the registration of a mortgage on the assets of the offender and of the jointly and severally liable parties and the authorization to proceed, through a judicial officer, with the precautionary seizure of their assets, including the company.

In order to strengthen the measures established to secure tax credits and support the related collection procedures, the above-mentioned requests may be forwarded by the Provincial Commander of the Guardia di Finanza, in accordance with the reports of findings issued by the subordinate departments, promptly notifying the Provincial Directorate of the Revenue Agency, which will examine the request and communicate any observations to the President of the Provincial Tax Commission and to the requesting Provincial Commander.
After twenty days of receipt of the request, the Revenue Agency's approval is deemed to have been obtained.

Given this, the following conditions must be met for the adoption of the precautionary measures established by Articles 22, paragraph 1, of Legislative Decree no. 472/1997 and 27, paragraphs 5-7, of Legislative Decree no. 185/2008:

- the existence of a duly served notice of dispute, a penalty imposition order, a tax assessment notice, a tax assessment report, or a recovery order, demonstrating the existence of a so-called *fumus boni iuris*, i.e., the reliability and sustainability of the tax claim;
- the well-founded fear (so-called *periculum in mora*) on the part of the Tax Office of losing the guarantee of the tax credit.

The precautionary measures are:

- mortgage. The registration of a mortgage, which concerns real estate, rights, income, and all other assets indicated in Article 2810 of the Civil Code, is intended to establish a pre-emption right, granting the Tax Administration the right to expropriate the assets pledged as collateral for its credit and to be satisfied with a preferential payment on the price obtained from the expropriation;
- precautionary seizure, which has the task of preventing the offender's assets from being dispersed.

12. FOREWORD PROCEDURES

The seizure of sums, movable property, and/or immovable property initiates foreclosure proceedings, which must be preceded by the notification of the demand for payment in all cases where the notification of the payment notice was issued more than one year ago.

Within 5 days of receiving the demand, the debtor may pay the amount due, pay the outstanding sums in installments, or legally suspend collection in the cases and within the time limits established by law.

- Foreclosure and auction of movable and immovable property. After the mortgage registration, if the debt remains unpaid, the Revenue Collection Agency may proceed with forced foreclosure, which leads to the auction of the debtor's property or movable property and the allocation of the proceeds to the creditor Treasury.

  A foreclosure order cannot be carried out if the property is the debtor's only property, is used for residential purposes, is registered as a resident, and is not a luxury property.

  The law provides that the taxpayer, with the consent of the Revenue Agency (*Agenzia delle Entrate-Riscossione*), may personally sell the foreclosed or mortgaged property within five days prior to the first auction or, if the auction is unsuccessful, within the day prior to the second auction. The entire proceeds will be paid directly to the Revenue Agency (*Agenzia delle Entrate-Riscossione*), which will use the amount to settle the debt and return any excess amount to the debtor within ten business days of collection.

- Third-party seizure concerns debts owed by the debtor to third parties, such as bank accounts, salaries, pension benefits, or property owned by the debtor. This procedure requires a third party to directly pay the Revenue Agency (*Agenzia delle Entrate-Riscossione*) the amount owed to the debtor, who, in turn, is the third party's creditor.

  If the seizure concerns wages, salaries, or any other benefits deriving from an employment relationship, the debt collection agent is subject to certain limits: up to €2,500, the seizure limit is one-tenth; between €2,500 and €5,000, it is one-seventh; and above €5,000, it is one-fifth.

  It is not possible to seize the sums deposited in the current account if they represent the debtor's last salary or wages, which are always available for any need.

The taxpayer subject to enforcement proceedings may oppose the enforcement by challenging the creditor's right to act against him by filing an opposition to enforcement before the competent court pursuant to Article 615 of the Italian Code of Civil Procedure. They may also challenge the formal regularity of the enforcement order, while recognizing the validity of the claim, by filing an opposition to enforcement proceedings pursuant to Article 617 of the Italian Code of Civil Procedure.

13. REFUNDS

In the legal tax relationship, it may happen that the taxpayer assumes the role of creditor, while the Tax Authority assumes the role of debtor, for example, due to a material error, a duplication, or the total or partial non-existence of the obligation to pay.

It is therefore possible for a taxpayer to be entitled to a refund following an undue payment (undue refund), following the cessation of the justification for the due payment (refund from return), but also following deductions, withholdings, discounts, tax credits, and advance payments that subsequently prove to be greater than the amount due (refund from declaration).

The taxpayer will have the right, ex officio or upon request, to obtain reimbursement from the Tax Authority of the amount unduly paid to the Revenue Agency.

From January 2020, for direct and indirect taxes, refunds arising from the settlement of declarations and requests under the jurisdiction of the Revenue Agency are processed through an automated payment procedure and by bank transfer.

Furthermore, the possibility of offsetting the claimed credit against taxes and contributions due is provided.

If the taxpayer voluntarily makes an undue payment, they must submit a specific refund request to the competent tax office within the time limits established by the individual law governing the tax paid. The request must contain the reasons for which they believe they are entitled to a refund and must be filed with the Revenue Agency office responsible for the taxpayer's place of residence for tax purposes, at the time they filed the tax return that gives rise to the right to a refund. For indirect taxes, the competent Revenue Agency office is the one where the tax return was registered.

Following the submission of the request, various scenarios may arise:

- if the request is rejected, the taxpayer may appeal to the competent Tax Court within 60 days of notification of the rejection decision.
- if the financial office does not act on the request (administrative silence) within ninety days of its submission, the taxpayer can challenge the administrative silence regarding the request until the right to reimbursement has expired.

Regarding official reimbursement, pursuant to Article 38, paragraph 5, when the amount of the direct payment made by the taxpayer is greater than the tax assessed by the tax office based on the tax return review conducted under the procedure referred to in Article 36-bis of Presidential Decree No. 600 of 1973, the tax authority must provide the required refund, upon proposal of the office that discovered the error committed, to its own detriment, by the taxpayer.

Then there is the case referred to in Article 41. The first paragraph of the law states that when material errors or duplications committed by the tax office emerge, it must reimburse the excess taxes unduly recorded.

The legislator has provided certain forms of protection for the taxpayer's right to reimbursement. Indeed, the Italian Tax Procedure Code, Legislative Decree No. 546/1992, in Article 1, provides: Article 19 of the Legislative Decree, which establishes an exhaustive list of acts that can be independently challenged by private individuals, includes among these "the express or tacit refusal to repay taxes, fines, interest, or other undue charges."

Article 21, which establishes a general rule protecting the right to reimbursement against the tax authorities' tacit refusal, indicates the timeframes and circumstances in which the taxpayer may appeal, and establishes that, against the tax authorities' silence ("tacit refusal") in response to a request for reimbursement of amounts paid but not owed by the taxpayer, the taxpayer may appeal to the First Instance Tax Court only after the ninetieth day from the submission of the reimbursement request, within the time limits established by the individual tax laws and until the right to reimbursement expires. Furthermore, it provides that, in the absence of specific provisions, the taxpayer must submit a reimbursement request within two years of the payment or the day the grounds for reimbursement occurred, whichever is later.

EXTINCTION OF THE TAX OBLIGATION

COMPLIANCE	Payment is generally made through direct payment (on account or in full). This is the most common voluntary collection method and consists of the spontaneous payment of the sums due by the taxpayer, or the tax withholding agent, to the Treasury using the F23 and F24 forms.
COMPENSATION	With the offsetting mechanism, taxpayers can offset tax debts with credits resulting from tax returns or periodic reports, using two different methods: • vertical offsets • horizontal offsets
LAPSE AND STATUTE OF LIMITATIONS	The institutions of prescription and forfeiture are contemplated in the Civil Code, in Articles 2934 and 2964, which respectively state that "*every right is extinguished by prescription when the holder does not exercise it for the period determined by law" and "when a right must be exercised within a given time limit under penalty of forfeiture, the rules relating to the interruption of the prescription do not apply*".
CONFUSION AND TAX AMNESTY	Confusion is one of the ways to extinguish an obligation and occurs when the positions of creditor and debtor are definitively united in the same person. Tax amnesty allows taxpayers who have incurred tax debts, by submitting a specific application, to rectify their situation and pay the amount due in accordance with the provisions established by law.

REGISTRATION ON THE ROLL

The tax collection register is the means of collecting taxes and other revenues, including non-tax revenues. It is a collective administrative document containing the names of the debtors, the type of credit, and the related amounts owed. It is prepared by the creditor and transmitted to the Revenue Collection Agency, which processes and notifies the payment notice for the purposes of collecting the indicated amounts.

INSTALLMENT PAYMENT	The taxpayer can choose to pay in installments the sums due as balance and advance payment of taxes and contributions resulting from the tax return.
SUSPENSION OF COLLECTION	Pursuant to the 2013 Stability Law, Law 228/2012, which introduced Article 1, paragraphs 537 to 543, taxpayers can directly request the legal suspension of the tax bill from the Revenue Agency (*Agenzia delle Entrate-Riscossione*) and await the outcome of the creditor's investigations.
EXECUTIVE ASSESSMENT	In order to speed up the tax collection process, thus bypassing the issuance and notification phase of the tax bill and shortening collection times, Legislative Decree no. 78/2010, converted, with amendments, by Law no. 122 of 30 July 2010, introduced the so-called "executive assessment notices".
COMPULTIVE COLLECTION	To recover amounts owed by taxpayers, the Revenue Collection Agency can intervene through forced collection and enforcement actions.

PRECAUTIONARY PROCEDURES AND PROPERTY PRECAUTIONARY MEASURES TO GUARANTEE THE TAX

The protection of tax debts includes the precautionary measures provided for by Article 22 of Legislative Decree No. 472/97 (article not repealed by the new Decree on Administrative and Criminal Sanctions, Legislative Decree 173/2024):
Registration of a mortgage, which affects real estate, rights, income, and all other assets indicated in Article 2810 of the Civil Code;
Precautionary seizure, which serves to prevent the offender's assets from being lost.

The seizure of sums, movable property, and/or immovable property initiates enforcement proceedings, which must be preceded by notification of the demand for payment in all cases where notification of the payment demand was issued more than a year ago.

REFUNDS

A taxpayer may be entitled to a refund following an undue payment (undue refund), following the cessation of the justification for the due payment (refund from return), or following deductions, withholdings, tax credits, or advance payments that are subsequently found to be greater than the amount due (refund from declaration). The taxpayer will have the right, ex officio or upon request, to obtain reimbursement from the Tax Administration of the amount unduly paid to the Revenue Agency.

CHAPTER X.

TAX SANCTIONS

1. OVERVIEW OF THE REGULATORY PENALTIES

Violation of tax obligations results in the imposition of penalties. Depending on the nature of the violations committed and the greater damage caused to the taxpayer, these penalties can be divided into:

- administrative penalties, resulting from an administrative tax offense and imposed by the public administration;
- criminal penalties, resulting from a criminal tax offense and imposed by the judicial authorities.

The administrative penalty system has its legislative origins in Law No. 4/1929, which underwent profound changes over time, as each decree establishing a tax regulated the scope of the related penalties.

The necessary reorganization of the matter occurred with Law No. 662/1996, implemented through three legislative decrees, in force since 1 April 1998, which concerned:

- the reform of administrative penalties for violations of direct taxes, VAT, and tax collection (Legislative Decree No. 471 of December 18, 1997),
- the general principles of administrative penalties for violations of tax laws (Legislative Decree No. 472 of December 18, 1997),
- the reform of administrative penalties for violations of business, production, and consumption taxes, and other indirect taxes (Legislative Decree No. 473 of December 18, 1997).

Tax crimes, however, were addressed in Legislative Decree No. 74 of March 10, 2000.

Both the administrative and criminal penalty systems were revised by Legislative Decree No. 24 of September 24, 2015. 158 but further and important changes were made by the Tax Decree connected to the 2020 Budget Law (Legislative Decree 26 October 2019, no. 124, converted with amendments by Law 19 December 2019, no. 157), changes concerning a tendency to increase the penalties for the various criminal offences and in some cases the introduction of lower punishability thresholds.

Of note is the application of "disproportionate" or "extended" confiscation (Article 240-bis of the Criminal Code) to certain tax crimes, and only in certain specific cases, as well as the extension of the corporate liability system provided for by Legislative Decree no. 231 of 8 June 2001 to certain criminal offences provided for by Legislative Decree no. 74/2000.

But over time, the need to design a new tax sanctions system has become increasingly pressing. This objective, repeatedly highlighted by the Constitutional Court (ruling no. 46 of 17 March 2023 on the proportionality of the administrative sanctions provided for by Legislative Decree no. 471/1997) and by the Court of Cassation, as well as by the European Court of Justice, is to make the system of sanctions related to tax violations more proportional,

bringing them closer to the levels existing in other European countries, while ensuring "the effective application of the sanctions."
Thus, Legislative Decree No. 87 of June 14, 2024, which entered into force on June 29, 2024, which revises the tax penalty system, pursuant to Article 20 of Law No. 87 of August 9, 2023, was published in the Official Journal No. 150 of June 28, 2024. 111.

The main changes concern:

- Legislative Decree 74/2000, which regulates crimes relating to income tax and VAT,
- Legislative Decree 471/1997 concerning non-criminal tax penalties relating to direct taxes, VAT, and tax collection,
- Legislative Decree 472/1997 concerning general provisions on administrative tax penalties,
- provisions relating to administrative tax penalties on business, production, and consumption, as well as other indirect taxes.

The provisions of Articles 2, 3, and 4 of the decree published in the Official Journal apply to violations committed starting September 1, 2024.

Finally, the Legislature recently intervened with the approval of Legislative Decree No. 173 of November 5, 2024, containing the Consolidated Law on Administrative and Criminal Tax Penalties. The Consolidated Law was introduced pursuant to Article 21, paragraph 1, of Law 111/2023, containing "Principles and guiding criteria for the reorganization of the tax system through the drafting of consolidated texts and a tax law code."

The entry into force of the new provisions on administrative and criminal penalties was established by Article 173 of the Italian Legislative Decree. 102 of the same Consolidated Law, effective January 1, 2026.

In accordance with the principles and guidelines established by the law, the existing legislative provisions regarding administrative and criminal tax penalties have been reorganized into a single body of legislation, organizing them into their respective areas of jurisdiction.

The legislative intervention is of a compilation nature because, net of any textual updates, the current provisions have been incorporated into the Consolidated Law without changing its wording. Furthermore, the express repeal of provisions deemed obsolete or incompatible has been ordered.

The Consolidated Law consists of 102 articles, is divided into 3 Parts and 8 Titles, and brings together all the main sanctioning provisions, including:

- general principles and sanctioning provisions contained in Legislative Decrees Nos. 471 and 472 of December 18, 1997, which regulate direct taxes, value added tax, and collection;
- tax laws in various areas: rules on registration, mortgage, land registry, inheritance, gift, stamp duty, government concession, private insurance, life annuity contracts, entertainment tax, and the RAI license fee;

- criminal tax provisions: collection of tax laws and crimes, including the provisions of Legislative Decree No. 74 of March 10, 2000, which regulate crimes relating to income and value added taxes.

It consists of the following parts:

- PART I - Provisions on Administrative Sanctions
- PART II - Provisions on Criminal Sanctions
- PART III - Final Provisions

2. ADMINISTRATIVE TAX SANCTIONS

Administrative tax sanctions are punitive measures imposed against taxpayers who fail to comply with tax provisions and are divided into two types:

- administrative sanctions for the repression of tax violations, which include monetary penalties, i.e., the payment of a sum of money that does not bear interest.
- additional sanctions, imposed only in cases expressly provided for by Article 23 of Legislative Decree No. 173/2024 (for example, disqualification from holding the positions of auditor, director, or auditor of joint-stock companies)

Among the most common administrative tax penalties are:

- a fine, which requires the payment of a sum of money, the amount of which varies depending on the severity of the violation.
- suspension of the license or authorization to operate a business, imposed when the taxpayer repeatedly and consistently fails to comply with tax regulations.
- disqualification, imposed when the taxpayer commits serious and repeated violations, such as tax fraud.
- confiscation, imposed in cases of tax evasion or tax fraud.

3. GENERAL PRINCIPLES RELATING TO ADMINISTRATIVE SANCTIONS

There are some general principles regarding administrative sanctions and their application:

- Principle of Personality (Articles 1, 4, 8, and 12 of Legislative Decree No. 173/2024 and Article 7 of Legislative Decree No. 269/2003) "Sanctions are attributable to the natural person who committed the violation." Sanctions cannot be passed on to heirs.

  In the case of violations committed by legal person, sanctions are attributable exclusively to the entity

  In the event of sanctions imposed by employees or legal representatives of an entity, the latter is jointly liable with the perpetrator of the violation.

- Principle of legality and non-retroactivity (Article 2, paragraph 1 of Legislative Decree 173/2024) "The sanction must be provided for by a law that entered into force before the violation was committed." Therefore, the identification of unlawful conduct and

the determination of sanctions are reserved exclusively to the legislator, and analogical interpretation is also absolutely prohibited.

- Principle of non-retroactivity of the sanctioning provision, that is, "no one can be subjected to sanctions for an act that, according to the law at the time it was committed, does not constitute a punishable violation." And more. The prohibition of retroactivity of the more unfavorable rule is established, therefore "If the law in force at the time the violation was committed and subsequent laws establish sanctions of a different extent, the more favorable law applies, unless the imposition order has become definitive".

- Favor rei principle (Article 2, paragraphs 2 and 3 of Legislative Decree 173/2024) If the amount of the penalty for a given violation is modified or eliminated entirely, the most favorable penalty must be applied, unless the imposition order has become final.

- Imputability principle (Article 3 of Legislative Decree 173/2024) The person who committed the violation must have been capable of understanding and willing at the time of the violation cannot be subject to punishment. Anyone who, at the time of committing the act lacked the capacity to understand and be willing according to the criteria set out in the Criminal Code (principle of imputability) nor awareness and intent of their conduct (intent or negligence) cannot be subject to punishment.

- Principle of imputability (Article 3 of Legislative Decree 173/2024) The person who committed the violation must have been of sound mind at the time of the violation. If the perpetrator of the violation acted in the interest of a company or entity with legal personality, the latter is liable for the payment of the fine. For example, in the case of a violation committed by the director, based on the "principle of exclusive attribution to the legal person," the company is liable, and the fine will be imposed on it.

- Negligent or intentional violation (Article 4, paragraphs 1 and 3 of Legislative Decree 173/2024) The violation must be at least negligent and therefore result from negligent failure to comply with tax obligations, including those relating to the payment methods.

- Interest does not apply to penalties. Interest is not applied on penalties (Article 1, paragraph 3 of Legislative Decree 173/2024).

- Penalties are not transferable to heirs. The penalty cannot be passed on to heirs (Article 8 of Legislative Decree 173/2024).

There are cases in which the penalty must be reduced or cannot be applied, such as in the event of disproportion between the amount of the tax and the penalty (Article 7, paragraph 4 of Legislative Decree 173/2024), objective uncertainty of the law (Article 8 of Legislative Decree 546/1992, Article 10, paragraph 3 of Law 212/2000, and Article 5, paragraph 2 of Legislative Decree 173/2024), reliance and good faith on the instructions of the Financial Administration (Article 10, paragraph 2 of Law 212/2000), etc.

4. GROUNDS FOR NON-PUNISHABILITY

The grounds for non-punishability neutralize or render inapplicable the penalty associated with a precept or a rule.

The grounds for non-punishability in the tax field are provided for by Article 89 of Legislative Decree 173/2024 and can be summarized as follows:

- Innocent error of fact, in terms of a misperception of a situation or rule;
- Error of law due to unavoidable ignorance of the tax law;
- Objective uncertainty regarding the scope of a law;
- Failure to pay attributable to a third party;
- Force majeure;
- Merely formal violation.

The reform of the tax and criminal tax sanctions system, definitively approved on May 24, 2024 by the Council of Ministers (the so-called Sanctions Decree), among the many amendments made to Legislative Decree no. 74/2000, introduced, in Article 1, paragraph 1, letter g), new grounds for non-punishability of criminal offenses involving payments, as provided for by the new Articles 82, 83, and 84 of Legislative Decree 173/2024. Paragraph 3 of Article 84 introduces a special ground for non-punishability of undue set-off through undue credits, which applies when there is objective uncertainty regarding the specific elements or qualities that establish entitlement to the credit.

Furthermore, the crimes referred to in Articles 82 and 83 are not punishable if the failure to pay is due to impossibility arising from causes not attributable to the perpetrator, arising, respectively, from the withholding or collection of VAT. (See Article 89 of Legislative Decree 173/2024).

Furthermore, regarding administrative tax penalties, the new Article 5 of Legislative Decree 173/2024, paragraph 7, provides that taxpayers who comply with the instructions issued by the tax authorities in circulars, inquiries, or consultancy reports, by submitting a supplementary tax return and paying the tax due within 60 days of their publication, are not punishable, "*provided that the violation was due to objective conditions of uncertainty regarding the scope and scope of application of the tax law.*"

5. VOLUNTARY RELATIONSHIP

Voluntary releasing is a general procedure designed to encourage the spontaneous fulfillment of tax obligations, allowing taxpayers to correct any irregularities and, therefore, their tax position by declaring additional income beyond that already declared, making omitted or insufficient payments, or fulfilling other obligations that should have been fulfilled previously. The violator is required to pay a minimum fine within the terms established by law (Article 14 of Legislative Decree 173/2024) to remedy the non-compliance.

The penalty may be applied to income taxes, VAT, and other indirect taxes, even if the violation has not been reported or investigated, to reward the violator's voluntary behavior.

If the violation has not already been ascertained, and no inspections, audits, or other administrative investigations of which the offender or jointly liable parties have been formally aware, the penalty will be reduced.

6. THE PROCEDURE FOR IMPOSING PENALTIES

The procedure for imposing penalties is governed by the combined provisions of Articles 18, 19, and 20 of Legislative Decree 173/2024 and can follow three distinct methods:

- the ordinary procedure (Article 18 of Legislative Decree 173/2024) is an immediate enforcement procedure applicable to tax-related penalties. It allows for the issuance of a penalty notice concurrent with the assessment notice. It is mandatory when penalties are to be imposed because of formal irregularities. It begins with the notification of the infringement to the taxpayer and jointly liable parties within 90 days of the violation being discovered, or 180 days if the notification is addressed to a non-resident. The notification of infringement is distinct in content and must contain, under penalty of nullity:
  - an indication of the facts attributed to the violator;
  - the supporting evidence;
  - the rules applied;
  - the criteria used to determine the penalties;
  - the minimum penalties established by law for each individual violation.

  In such cases, the penalty procedure essentially follows the same steps as the tax assessment procedure (initiation, exercise of investigative powers, issuance of the order). A quick resolution of the alleged penalty is permitted with the payment of one-third of the fine imposed.

  Within the deadline for filing an appeal, the offender or jointly and severally liable parties may:
  - opt for the expedited resolution by paying an amount equal to one-third of the amount indicated.
  - submit defensive arguments.
  - immediately challenge the notice of dispute by appealing to the competent body.

- derogation procedure, applicable if the sanctions are linked to the tax to which they refer (art. 20, paragraph 1, Legislative Decree 173/2024). In this case, the sanctions are imposed without prior contestation through a simultaneous act of notice of assessment or reasoned rectification (under penalty of nullity).

  The taxpayer may apply for a simplified settlement, and the penalties will be reduced by one-third if payment is made within the deadline for filing the appeal.

- Special procedure (Article 20, paragraph 4, Legislative Decree 173/2024) applicable to penalties for non-payment or late payment of taxes that are imposed through registration without prior dispute. In this case, a simplified settlement is not permitted.

7. CRIMINAL SANCTIONS AND NEW MEASURES INTRODUCED BY LEGISLATIVE DECREE 87 OF JUNE 14, 2024

Until the 2000s, the system of criminal tax penalties in Italy was governed by Law No. 516 of 1982, the so-called "Criminal Penalty Law". The "Handcuffs for Tax Evaders" law, which introduced a general increase in penalties compared to the past, including among tax offenses violations previously considered merely formal and eliminating the administrative preliminary requirement, i.e., the requirement that administrative proceedings be completed before criminal proceedings can be initiated. Law no. 205 of 1999, which decriminalized minor offenses, led to the law on tax offenses, Legislative Decree 74/2000, one of the most comprehensive pieces of legislation on the subject.

Subsequently, Legislative Decree no. 158/2015 profoundly changed the main criminal and administrative tax sanctions, as did Legislative Decree no. 124/2019, by raising the criminal law framework for most tax crimes and lowering some criminal liability thresholds.

Legislative Decree no. 75 of July 14, 2020, implemented Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law.

However, it was with the very recent Legislative Decree no. 87 of June 14, 2024, published in the Official Journal no. 150 of June 28, 2024, the legislator has implemented a significant change to the administrative and criminal tax penalty system, implementing Article 20 of Delegated Law No. 111/2023.

Significant changes are made with the aim of making the penalties for tax violations more proportionate, mitigating their burden and aligning them with the levels already in place in other European countries, on the one hand, and ensuring their effective enforcement, on the other.

The decree consists of four articles that impact and amend:

- the provisions common to administrative and criminal sanctions, the relationship between criminal proceedings and tax proceedings, and the mechanisms for implementing the ne bis in idem principle;
- the legislative measures for administrative sanctions concerning income taxes, IRAP (regional production tax), and VAT;
- the general provisions regarding administrative sanctions contained in Legislative Decree 472/1997, later incorporated into the Consolidated Law 173/2024;
- the provisions relating to administrative sanctions concerning business, production, and consumption taxes, as well as other indirect taxes.

The new criminal tax penalty system places significant emphasis on debt repayment. Regarding "collection crimes," and therefore the failure to pay withholding taxes and VAT, the

additional offense is excluded in the presence of tax debt repayment plans: payment of the tax debt, even in installments, affects punishability and can result in a reduction of up to half the penalty.

Tax debt repayment plans also have effects on preventive seizure aimed at mandatory confiscation: seizure is excluded when the tax debt is being settled through installments, including following conciliation or settlement procedures, provided that, in these cases, the taxpayer is up to date with the relevant payments.

Furthermore, the amendment still provides that debt collection offenses are not punishable when the offense is based on causes not attributable to the perpetrator, also taking into account the factors indicated that the judge must take into account, such as a non-transitory liquidity crisis due to the uncollectability of receivables due to proven insolvency or over-indebtedness of customers, or the failure to pay certain and collectible receivables by public administrations, and the inability to implement appropriate measures to address the crisis.

The reform also introduces the possibility of incorporating, in criminal proceedings, into evidence of the facts established therein, judgments rendered in tax proceedings that have become irrevocable, as well as administrative acts that definitively assess taxes, even following compliance, if they concern violations arising from the same acts for which the criminal action was brought.

To fully implement the principle of ne bis in idem, it is established that in tax proceedings, a final judgment of acquittal, rendered following a trial against the same individual and on the same material facts as those being assessed in the tax proceedings, has the force of res judicata.

Furthermore, it is important to introduce a compensation mechanism, which requires the judge and the administrative authority to consider, when imposing a sanction, any already imposed. The rationale for this lies precisely in the prohibition of bis in idem, which also imposes a requirement to recalculate the applicable sanction where a criminal or administrative sanction has already been imposed for the same act, through a definitive provision or judgment against the same individual. This is to make the legal system's enforcement action more proportionate to the types of unlawful acts.

8. EQUIVALENT CONFISCATION

Equivalent confiscation is a patrimonial measure that occurs when it is not possible to directly confiscate the assets that are the proceeds or profits of the crime, allowing for action to be taken against other assets of the convicted person of equivalent value.

This institution deserves mention in this discussion as it has found application with reference to tax crimes, having been envisaged for the first time by Law 244/2007 (the so-called "2008 Budget Law"), which, in paragraph 143 of its first article, provides for the application of Article 322-ter for crimes under Articles 2 to 11 of Legislative Decree no. 74/2000, now Articles 74 to 85 of Legislative Decree 173/2024.

Subsequently, the legislator decided to introduce a specific provision regarding confiscation in tax crimes, implemented through Article 10 of Legislative Decree no. 158/2015, which introduced Article 12-bis into Legislative Decree no. 74/2000, now Article 87 of the Consolidated Law. By virtue of these provisions, confiscation by equivalent means applies to the following crimes:

- Fraudulent tax return using invoices or other documents for non-existent transactions;
- Fraudulent tax return through other means;
- Inaccurate tax return;
- Failure to file a tax return;
- Issuance of invoices or other documents for non-existent transactions;
- Failure to pay certified withholding taxes;
- Failure to pay VAT;
- Undue compensation;
- Fraudulent evasion of tax payments.

The possibility of applying confiscation in the event of a conviction for a tax crime that resulted in tax evasion, both at the declaration and collection stages, tends to target the benefit resulting from tax evasion. Therefore, this provision serves as a motivational function for taxpayers, potential perpetrators of tax crimes.

This is an ablative measure adopted with respect to assets or other benefits held by the active perpetrator of the crime and of a value corresponding to the price or profit of the conviction (so-called *tantundem*).

The prerequisite is that it is impossible to proceed with the confiscation of the profit or price of the crime. Furthermore, it can only be applied in the expressly provided cases, and it must be proven that the assets directly connected to the crime for which the proceeding is being made are not found.

Furthermore, Article 88 of Legislative Decree 173/2024 provides for disproportionate or extended confiscation for the most serious tax offenses when:

- the amount of fictitious liabilities exceeds €200,000.00;
- the evaded tax exceeds €100,000.00;
- the untrue amount indicated on invoices exceeds €200,000.00;
- the amount of taxes, penalties, and interest exceeds €100,000.00;
- the amount of assets lower than the actual amount or fictitious liabilities exceeds €200,000.00.

SUMMARY SHEETS CHAPTER X

TAX SANCTIONS
Violation of tax obligations results in the imposition of sanctions.

ADMINISTRATIVE SANCTIONS

CRIMINAL SANCTIONS

The legislature recently passed Legislative Decree No. 173 of November 5, 2024, containing the Consolidated Law on Administrative and Criminal Tax Penalties. **The Consolidated Law** was introduced pursuant to Article 21, paragraph 1, of Law 111/2023, containing "Principles and guiding criteria for the reorganization of the tax system through the drafting of consolidated texts and a tax law code."
The new provisions on administrative and criminal penalties were set to come into force on January 1, 2026, by Article 102 of the same Consolidated Law.

THE MOST COMMON ADMINISTRATIVE TAX SANCTIONS:

FINE	payment of a sum of money of a variable amount based on the seriousness of the infringement committed.
SUSPENSION OF THE LICENSE OR AUTHORIZATION TO EXERCISE COMMERCIAL ACTIVITY	imposed when the taxpayer repeatedly and continuously fails to comply with tax provisions.
PROHIBITION	imposed when the taxpayer commits serious and repeated violations, such as tax fraud.
CONFISCATION	imposed in cases of tax evasion or tax fraud.

THE PRINCIPLES OF ADMINISTRATIVE SANCTIONS

Principle of Personality (Articles 1, 4, 8, and 12 of Legislative Decree No. 173/2024 and Article 7 of Legislative Decree 269/2003)	Principle of legality and non-retroactivity (Article 2, paragraph 1 of Legislative Decree 173/2024)
Principle of Non-Retroactivity of Sanctions	Principle of *favor rei* (Articles 2, paragraphs 2 and 3 of Legislative Decree 173/2024)
Principle of Attributability (Article 3 of Legislative Decree 173/2024)	Principle of imputability (Article 3 of Legislative Decree 173/2024)
Culpable or Intentional Violation (Article 4, paragraphs 1 and 3 of Legislative Decree 173/2024)	Inapplicability of interest to penalties (Article 1, paragraph 3 of Legislative Decree 173/2024)
Non-Transferability of Sanctions to Heirs (Article 8 of Legislative Decree 173/2024).	

THE PROCEDURE FOR IMPOSING SANCTIONS

is governed by the combined provisions of Articles 18, 19, and 20 of Legislative Decree 173/2024. It can follow three distinct methods:

- the ordinary procedure (Article 18 of Legislative Decree 173/2024) for immediate imposition;
- the derogation procedure, applicable if the sanctions are linked to the tax to which they refer (Article 20, paragraph 1, Legislative Decree 173/2024);

CRIMINAL SANCTIONS

Until the 2000s, the system of criminal tax penalties in Italy was governed by Law No. 516 of 1982, the so-called "handcuffs for tax evaders" law.
Law No. 205 of 1999, which decriminalized minor offenses, led to the adoption of the law on tax crimes, Legislative Decree 74/2000.
Legislative Decree No. 158/2015 profoundly changed the main criminal and administrative tax penalties, as did Legislative Decree No. 124/2019.
Legislative Decree No. 87 of June 14, 2024, implemented a significant change to the administrative and criminal tax penalty system, implementing Article 20 of Delegated Law No. 111/2023.

CONFISCATION OF EQUIVALENTS

This is a patrimonial measure that intervenes when it is not possible to directly confiscate the assets that are the proceeds or profits of the crime, allowing for action to be taken against other assets of the convicted person of equivalent value.
Regarding confiscation in tax crimes, Article 10 of Legislative Decree No. 158/2015 introduced Article 12-bis into Legislative Decree No. 74/2000, now Article 87 of the Consolidated Law.

CHAPTER XI.

TAX LITIGATION

1. THE LEGAL FRAMEWORK

Tax litigation is the judicial process that governs the resolution of tax disputes between taxpayers and the tax authorities.

If a taxpayer believes their rights and legitimate interests have been infringed by an act of the tax authorities, they can challenge it and initiate tax proceedings to obtain the removal of the act itself, and any consequences already incurred.

The phases of tax litigation typically begin with notification of the contested act to the taxpayer, followed, if applicable, by the administrative adversarial phase and, subsequently, the filing of an appeal to the Tax Courts, as special administrative judges, where the proceedings are based, which will unfold through a series of activities detailed by law.

The relevant legislation can be found in:

- Legislative Decree No. 545/1992, on the regulation of Tax Commissions
- Legislative Decree No. 546/1992, on the regulation of tax proceedings
- the Code of Civil Procedure, as a residual measure, to the extent compatible.

However, in recent years, tax proceedings have been profoundly reformed, first by Legislative Decree No. 156/2016 and, more recently, by Law No. 130 of August 31, 2022, as well as by the very latest amendments made by Legislative Decree No. 220/2023, which contains innovations in the field of tax litigation and was published in the Official Journal on January 3, 2024.

2. TAX JURISDICTION BODIES

The tax jurisdiction, precisely by virtue of the amendments made by Article 1, paragraph 1, letter b), of the Italian Civil Code, has the power to adjudicate tax proceedings. a) and by art. 4, paragraph 1, letter a) of Law 31 August 2022, n. 130, is organized:

- for first-instance proceedings, in the First-Instance Tax Courts (formerly Provincial Tax Commissions) located in each provincial capital and with jurisdiction over the province, composed of one or more sections, each composed of a president, a vice-president, and no fewer than four judges.

  Starting January 1, 2023, these Courts will decide disputes with a value up to €5,000.00 in a single-judge composition, while in cases not specified in a single-judge composition, the normal provisions applicable to collegiate proceedings will apply; the section of the panel will decide the dispute with the assistance of three judges.

- for appeal proceedings, in the Second-Instance Tax Courts (formerly Regional Tax Commissions) located in each regional capital and with jurisdiction over the region.
- For legitimacy judgment, an appeal to the Supreme Court of Cassation is foreseen for reasons relating to jurisdiction, competence, for violation or false application of legal provisions, for nullity of the sentence or procedure, for insufficient, omitted or contradictory motivation.

The jurisdiction of the Tax Courts covers taxes of all types and types, including regional, provincial, and municipal taxes (Article 2 of Legislative Decree No. 546/92).

This jurisdiction does not cover matters relating to enforcement proceedings following notification of the payment notice or the notice containing the demand to fulfill the obligation arising from the tax roll.

3. CONTESTABLE DOCUMENTS

There are numerous categories of documents that can be challenged before the tax courts, as identified below in Article 19 of Legislative Decree No. 546/1992:

a) the tax assessment notice;
b) the tax payment notice;
c) the order imposing penalties;
d) the tax roll and payment notice;
e) the default notice;
f) e-bis) the registration of a mortgage on the properties referred to in Article 77 of the Presidential Decree of 29 September 1973, no. 602, and subsequent amendments;
g) e-ter) the seizure of registered movable property pursuant to Article 86 of Presidential Decree No. 602 of September 29, 1973, as amended;
h) the documents relating to the land registry operations indicated in Article 2, paragraph 2;
i) the express or tacit refusal to refund taxes, fines, interest, or other undue charges;
j) i-bis) the express or tacit refusal of the application for self-regulation in the cases provided for in Article 10-quater of Law No. 212 of July 27, 2000;g-ter) the express refusal of the application for self-regulation in the cases provided for in Article 10-quinquies of Law No. 212 of July 27, 2000;
k) the denial or revocation of tax relief or the rejection of applications for facilitated settlement of tax relationships;
l) k-bis) the decision rejecting the request to initiate a mutual agreement procedure submitted pursuant to Council Directive (EU) 2017/1852 of 10 October 2017, or pursuant to international agreements and conventions for the avoidance of double taxation to which Italy is a party, or pursuant to the Convention on the Elimination of Double Taxation in Case of Adjustment of Profits of Associated Enterprises No. 90/436/EEC;
m) any other act for which the law provides for independent appeal before the tax courts of first and second instance.

4. PARTIES IN THE PROCEEDINGS

In the contentious process, we can identify two main parties:

- The appellant is the citizen-taxpayer (natural or legal person) who initiates legal proceedings to remove documents deemed unlawful.
- The respondent is the person who issued the contested document, the Revenue Agency and the Customs and Monopolies Agency, the collection agent, and the entities registered in the register referred to in Article 53 of Legislative Decree 446/97, entities who issued the contested document or failed to issue the requested document.

In the second instance proceedings, the party challenging the first instance ruling will be the appellant.

5. JOINT PARTNERSHIP

If the subject matter of the appeal inextricably concerns multiple parties and the appeal has not been filed by or against all of them, the Court of Jurisdiction will order the adversarial proceedings to be completed by summoning them to appear within a set deadline, under penalty of forfeiture (Article 14 of Legislative Decree 546/92).

Paragraph 6-bis, introduced with the 2023 reform to protect the taxpayer, also establishes that "*in the event of service defects raised with respect to a prerequisite document issued by a party other than the party issuing the contested document, the appeal shall always be filed against both parties*." The taxpayer will, in any case, be required to complete the adversarial proceedings.

A voluntary joinder of parties occurs when there are parties who can intervene voluntarily or be summoned to court because, together with the appellant, they are recipients of the contested act or parties to the disputed tax relationship. These parties must appear in court in the manner prescribed for the respondent, where applicable.

Technical assistance:

- the citizen-taxpayer must appear in court with technical assistance as provided for by Article 12 of Legislative Decree 546/92, mandatory assistance except for disputes not exceeding €3,000.00;
- The Revenue Agency, the Customs and Monopolies Agency, and the collection agent against whom the appeal is lodged, appear in court directly or through their superior territorial structure. The clerks or secretariats of the judicial offices also appear directly in court for disputes concerning the unified contribution;
- the local authority against which the appeal is lodged may also appear in court through the director of the tax office, or, for local authorities without a management figure, through the holder of the organizational position in which the office is located;
- the region may also appear in court through the directors of the financial and tax offices, as well as through officials designated by the authority through its own provision (new paragraph 3-ter of Legislative Decree 546/1992).

6. POWER OF ATTORNEY FOR LITIGATION

Pursuant to paragraph 7 of Article 12 of Legislative Decree No. 546/1992, "*the assignment of counsel must be conferred by public deed or by a certified private agreement, or even at the bottom or margin of a procedural document, in which case the handwritten signature is certified by the counsel "unless the appointor affixes his or her digital signature*."

We now have the option of digitally signing the attorney's mandate, while when the power of attorney is granted on paper, the attorney electronically files an image copy on a computer medium, certifying its compliance pursuant to Article 22, paragraph 2, of Legislative Decree No. 82/2005, with the relevant declaration.

The provision of electronic procedures for the notification and filing of documents in tax proceedings has raised questions regarding the methods of signing and authenticating the power of attorney for litigation, as well as its notification and filing within the SIGIT.

The new paragraph 7-bis confirms that the power of attorney for litigation is considered to be placed at the bottom of the document to which it refers when issued on a separate electronic document filed electronically together with the document to which it refers, but also when issued on a separate sheet of paper of which a digital copy, including an image copy, is made, filed electronically together with the document to which it refers.

7. THE APPEAL

The appeal filed with the Court of Justice of First Instance with territorial jurisdiction must be served within 60 days of notification of the contested document and must contain the following information:

- the Court of Justice to which it is addressed,
- the name of the appellant and his legal representative,
- the domicile or designated domicile of the authorized lawyer,
- the tax code of both,
- the certified email address,
- the office against which the document is filed,
- the contested document,
- the subject of the application,
- the grounds for the appeal.

The appellant, therefore, must notify the tax authority and the collection agents of the appeal by certified email (art. 16-bis, paragraph 3, of Legislative Decree no. 546/1992) according to the provisions contained in the telematic tax process (PTT) dictated by Ministerial Decree 23/12/2013 no. 163.

For proceedings initiated with an appeal notified after September 2, 2024, Article 16-bis, paragraph 3, requires parties, consultants, and technical bodies to use exclusively electronic means for the notification and filing of procedural documents, documents, and jurisdictional provisions (Article 1, paragraph 1, letter g), no. 2 of Legislative Decree no. 220/2023), except

for the cases provided for in Article 79 of Legislative Decree no. 546/1992. Therefore, even for disputes up to €3,000.00, for which technical defense is not mandatory, notification of the appeal remains mandatory.

The provision of a certified email address constitutes a valid domicile for all purposes (Article 16-bis, paragraph 4, of Legislative Decree no. 546/1992).

Within 30 days of notification of the appeal, the appellant must file an appearance before the Tax Court of Justice, where the appeal is subjected to a preliminary admissibility examination by the President of the relevant section of the Court of Justice.

In compliance with the provisions of the electronic tax process (PTT) established by Ministerial Decree No. 163 of December 23, 2013, the appellant's appearance in court, under penalty of inadmissibility, is made exclusively by filing an appeal, previously notified via certified email (PEC), through the Tax Justice Information System (SIGIT) (Article 16-bis, paragraph 3, of Legislative Decree No. 546/1992).

The respondent must appear in court within sixty days of notification of the appeal, filing counterarguments and other documents submitted for communication, and presenting its defense, again through the Tax Justice Information System (SIGIT).

The obligation of the appellant and the defendant to appear in court via SIGIT does not apply only to those who decide not to avail themselves of technical assistance in cases involving a value of less than €3,000.00 and when the judge, with a reasoned order, authorizes filing by a method other than electronic means.

Violations of the provisions of Article 16-bis and the current technical rules of tax proceedings, thanks to the introduction of paragraph 4-bis in Article 16-bis of Legislative Decree No. 546/1992, for proceedings initiated with an appeal notified after September 2, 2024, will not constitute grounds for invalidating the filing, except for the obligation to regularize the filing within the peremptory deadline established by the judge.

Every year from August 1st to August 31st, the running of procedural deadlines is automatically suspended and resumes at the end of the suspension period.

8. SUSPENSION OF THE CONTESTED ACT

The taxpayer's action in filing the appeal does not entail suspension of the legal effects of the contested act. Therefore, the taxpayer may request the first or second instance Tax Court where the case is pending to suspend the execution of the contested act if he or she believes the act may cause serious and irreparable harm.

The taxpayer may submit the request for suspension in the appeal itself or with a separate document that must be notified of to the other parties and filed with the court.

The reform introduced by Legislative Decree no. 156 of 2015 made it possible to request the suspension of the contested decision even in subsequent instances, and if the Court grants the suspension, its effects remain in effect until the date of publication of the ruling.

In cases where the contested decision is suspended, the hearing of the dispute must be scheduled no later than 90 days after the ruling.

For proceedings initiated after January 5, 2024, Legislative Decree no. Law No. 220 of 2023 introduced the possibility of appealing the order by which the First Instance Tax Court rules on the suspension request:

- the precautionary order issued by the single judge can only be appealed by filing an appeal with the same First Instance Tax Court in a collegiate composition, to be notified to the other parties within a mandatory period of 15 days from its notification by the secretariat.
- The collegiate precautionary order may be appealed before the Tax Court of Second Instance within 15 days of its notification by the secretariat.

The new Article 47-ter of Legislative Decree No. 546/1992 grants the Tax Courts, whether single-judge or collegiate, the power to resolve the case when deciding the precautionary application. In order for this provision to be applied and for a simplified ruling to be issued, neither party must declare that they intend to propose additional grounds or jurisdictional rules, and additional elements must be present, namely, that at least 20 days have passed since the last notification of the appeal, that the adversarial proceedings and the preliminary investigation have been fully verified, and that the parties have been heard on the matter, or that the Judge recognizes the taxpayer's appeal as manifestly well-founded, inadmissible, inadmissible, or unfounded.

9. HANDLING THE CASE

When the deadline for the parties to appear in court expires, the Presidents of the sections preliminarily examine the appeal to determine whether the conditions exist, pursuant to art. 27 of Legislative Decree No. 546/1992, to declare by decree, subject to appeal before the Tax Court of Justice, the inadmissibility or suspension, interruption, or termination of the proceedings. Otherwise, a hearing is scheduled, which will be communicated by the secretariat of the Tax Court of Justice to the parties at least 30 clear days in advance.

The dispute is heard in chambers, unless at least one of the parties has requested a public hearing (art. 33 of Legislative Decree No. 546/1992). The parties, under penalty of forfeiture, may:

- file documents within 20 clear days before the hearing;
- file explanatory briefs within 10 clear days before the hearing;
- file brief written responses within 5 clear days before the hearing.

Regarding documents, we must refer to Article 25 of Legislative Decree No. 546/1992, as amended by Legislative Decree No. 220/2023 with the insertion of paragraph 5-bis, which regulates the power to certify and certify the conformity of copies of filed documents

(procedural documents, judicial orders, and documents) with respect to documents held pursuant to Legislative Decree 82/2005. Documents and documents contained in the electronic file do not need to be re-filed in subsequent phases of the trial or in its subsequent instances. Furthermore, according to this new provision, the judge must not consider paper documents and documents for which the parties have not provided a computerized copy with a certification of conformity to the original.

On the day of the hearing, the rapporteur presents the case to the panel, which immediately thereafter deliberates on the decision, which is taken by majority vote and in secret in the council chamber.

For investigative purposes, within the limits of the facts submitted by the parties, the Tax Court has all the powers of access, request data, information, and clarification granted to tax offices and local authorities by each tax law. It also has the power to avail itself of the expertise of technical bodies within the State administration and other public bodies, including the Guardia di Finanza, or to request technical expertise.

The Tax Court, where it deems it necessary and even without the parties' agreement, may admit witness testimony, taken in the manner set forth in Article 257-bis of the Italian Code of Civil Procedure.

In the event of a public hearing (Article 34, Legislative Decree No. 546/1992), the parties may conduct their defense within the following time limits, under penalty of forfeiture:

- they may file documents 20 clear days before the hearing;
- explanatory briefs may be filed 10 clear days before the hearing.
- brief replies are not permitted.

After the rapporteur, at the public hearing, presents the facts to the panel and the parties conclude their discussion, minutes are drawn up and the panel deliberates in secret in chambers.

10. EVIDENCE

The specific rule on the burden of proof in tax proceedings set forth in Article 7, paragraph 5-bis, of Legislative Decree No. 546 of December 31, 1992, introduced by Article 6 of Law No. 546 of August 31, 2022, deserves particular attention. 130. This rule is based on three fundamental precepts:

- the administration must prove in court the violations alleged in the contested act, while "it is up to the taxpayer to provide the reasons for the refund request, when it is not a consequence of the payment of amounts subject to contested assessments";
- the judge "bases the decision on the evidence emerging in the proceedings," and
- "the judge annuls the tax assessment" if "the evidence of its validity is lacking or contradictory, or if it is otherwise insufficient to demonstrate, in a detailed and precise manner, in any case consistent with the substantive tax law, the objective reasons underlying the tax claim and the imposition of penalties."

With the aforementioned paragraph 5-bis, the legislator intended to make a specific reference, in the tax context, to the general rule according to which "anyone wishing to assert a right in court must prove the facts on which it is based", while anyone "who objects to the ineffectiveness of such facts or objects that the right has been modified or extinguished must prove the facts on which the exception is based" (pursuant to art. 2697 of the Civil Code). However, many questions have been raised in relation to the interpretation of this provision.

A superficial interpretation of paragraph 5-bis would lead to the assertion that it would be possible to derogate from the requirement of complete and comprehensive justification of the introductory appeal, legitimizing the taxpayer to oppose the tax claim with an apparent justification, relying on the fact that it is the tax authority that must provide "proof of the contested violations" in court and that, therefore, if the authority itself fails to further prove its case, the judge can annul the tax assessment notice. According to this approach, the amendment would have imposed a more burdensome burden of proof on the tax authorities, which would be responsible for providing specific proof of the violations it alleges and could no longer rely on presumptions, with the sole exception of absolute presumptions established by law.

However, the most plausible interpretation, shared by most legal practitioners, is that paragraph 5-bis should be read in relation to a thoughtful use of the presumptions that may have been indicated in the tax notice to justify the claim: presumptions not established by law must be serious, precise, and consistent, as stated in Article 2429 of the Civil Code. Therefore, the tax authority official must carefully weigh the evidence he intends to use, which must be well-founded and objective, and not contradictory and/or incomplete.

Indeed, Article 7, paragraph 5-bis, "does not constitute a repeal, not even implicit, of the use of non-legal presumptions in tax matters, specifically, simple presumptions meeting the requirements of Article 2729 of the Civil Code. Rather, it dictates to the tax judge the rules for evaluating evidence, establishing that if the evidence, even presumptive, provided by the tax authority, when required to do so, is contradictory or insufficient, then the judge must annul the tax notice, and must do the same if it is even lacking, as, indeed, the provision in question superfluously provides" (Court of Cassation, Section V, June 13, 2024, no. 16493).

Another important innovation regarding evidence is the introduction of testimonial evidence in tax proceedings.

The amendment to Article 7, paragraph 4, of Legislative Decree No. 546/1992 replaced the provision regarding the inadmissibility of oaths and testimonial evidence in the original wording of the provision, continuing to include the prohibition on oaths, but introducing testimonial evidence in tax proceedings.

The admissibility of testimonial evidence is left to the discretion of the judge, who may admit it in cases where he deems it necessary for the purposes of reaching a decision, even without the parties' agreement.

The taking of testimonial evidence must occur in the forms and manners established by Article 257-bis of the Italian Code of Civil Procedure, and therefore in accordance with the provisions for the taking of written testimony in civil proceedings.

The Tax Court of Justice orders the party requesting the deposition to prepare the testimony form and serve it on the witness. The witness gives the deposition by completing the testimony form in its entirety, answering each question separately, and specifying which questions he or she is unable to answer, stating the reason. If the witness wishes to abstain, he or she must complete the testimony form, indicating the reasons for abstention.

The deposition must be signed and sent in a sealed envelope by registered mail or delivered directly to the court clerk's office.

There are limits to the use of testimonial evidence. Specifically, if the tax authority's claim is based on minutes or other documents that are authentic until a complaint of forgery is filed, it is admissible only with reference to factual circumstances different from those certified by the public official.

The new provision applies to appeals served from September 16, 2022.

11. SUSPENSION, INTERRUPTION, AND TERMINATION OF PROCEEDINGS

A tax proceeding is suspended pursuant to Article 39 when a complaint of forgery has been filed, or a question arises regarding the status or capacity of a legal person that must be decided by preliminary ruling. The first- and second-instance Tax Court of Justice orders the suspension of proceedings in any other case in which it itself or another first- and second-instance Tax Court must resolve a dispute on whose resolution the decision of the case depends.

The first- and second-instance Court may suspend proceedings when:

- in any other case in which it itself or another first- and second-instance Tax Court of Justice must resolve a dispute on whose resolution the decision of the case depends;
- upon the parties' request, if a request has been submitted to initiate a mutual agreement procedure pursuant to international agreements and conventions for the avoidance of double taxation to which Italy is a party, or pursuant to the Convention on the Elimination of Double Taxation in Case of Adjustment of Profits of Associated Enterprises No. 90/436/EEC;
- upon the taxpayer's request, if a request has been submitted to initiate a mutual agreement procedure pursuant to Council Directive (EU) 2017/1852 of 10 October 2017.

The interruption provided for in Article 40 occurs in the event of events that compromise the regularity of the adversarial proceedings:

- death, removal, or suspension from the register, roll, or list of one of the appointed counsel;
- death or loss of capacity to appear in court of one of the parties.

In the event of an interruption or suspension of proceedings, no procedural steps may be taken. The time limits are interrupted and begin running again upon the filing of the application pursuant to Article 43. In fact, an interrupted or suspended proceeding may be continued upon request of the parties to the President of the Chamber of the Court of Justice, who, if there are no impediments, proceeds to appoint a rapporteur. The proceeding may be resumed within the mandatory time limit of six months, otherwise it is terminated.

The proceeding is terminated by withdrawal of the appeal, inaction by the parties, cessation of the dispute, or resolution of the pending tax case.

The appellant who withdraws the appeal must reimburse the other parties for their costs, unless otherwise agreed, and the withdrawal cannot take effect unless accepted by all parties to the proceeding, who must sign the acceptance along with their defense counsel.

When the parties, following a suspension or interruption, must continue or resume proceedings and fail to do so within the legal timeframe or within the timeframe established by the judge, this is called inactivity.

The dispute ceases to exist when the appellant loses interest in having their claim recognized.

This can occur:

- through voluntary compliance by the taxpayer;
- through cancellation of the tax assessment by the Administration;
- in cases involving the resolution of pending tax disputes, as provided for, for example, by Articles 48 and 48-bis of Legislative Decree 546/92 regarding conciliation.

12. THE DECISION-MAKING PHASE

The tax trial concludes with the judgment (Article 36, Legislative Decree No. 546/1992), which is pronounced in the name of the Italian people and contains:

- the name of the Italian Republic;
- the composition of the panel, the parties, and their counsel;
- a summary of the proceedings;
- the motions, requests, and conclusions of the parties;
- a summary of the factual and legal reasons for acceptance or rejection, relating to the merits and to the issues pertaining to the voidability or nullity of the act;
- the operative part;
- the date of the decision;
- the signature of the presiding judge and the drafting judge, the absence of which would result in irremediable nullity, which may also be raised ex officio.

Within 30 days of the decision, the judgment is published by filing it with the Court's secretariat, and the ruling is communicated to the parties within 10 days of filing (Article 37 of Legislative Decree 546/1992).

For first- and second-instance proceedings initiated by appeal served after September 2, 2024, within 30 days of the decision, the judgment must be published, in its original full text, by electronic filing with the Court's secretariat, and must be communicated to the parties within three days of filing. The ruling's ruling is communicated to the parties within three days of filing (Article 1, paragraph 1, letter r, of Legislative Decree no. 220/2023); Failure to digitally sign the tax judge's judicial orders renders them null and void (Article 1, paragraph 1, letter h of Legislative Decree No. 220/2023).

Article 67-bis of Legislative Decree No. 546/1992 establishes the immediate enforceability of first- and second-instance judgments; however, Legislative Decree No. 156 of 2015 introduced the possibility of also requesting suspension of the judgment:

- the appellant may ask the Tax Court of Second Instance to suspend, in whole or in part, the enforceability of the contested judgment if there are serious and well-founded reasons.
- anyone who has appealed to the Supreme Court of Cassation may ask the Court of Justice that issued the contested judgment to suspend, in whole or in part, its enforceability to prevent serious and irreparable damage.

13. ORDERING OF LITIGATION COSTS

The Tax Court, with its ruling, also regulates and awards legal costs, ordering the losing party to pay (Article 15, Legislative Decree No. 546/1992). However, it may declare that the litigation costs be offset, in whole or in part, in the event of mutual defeat or when there are serious and exceptional reasons that must be expressly justified.

Furthermore, for proceedings initiated with an appeal notified after January 4, 2024, "*the offsetting of costs may be declared even when the party has been successful on the basis of decisive documents that it produced only during the proceedings*" (Article 1, paragraph 1, letter e) of Legislative Decree No. 220 of December 30, 2023).

14. COMPLIANCE JUDGMENT

This proceeding, introduced by Article 70 of Legislative Decree no. 546/1992 and updated by Legislative Decree no. 156/2015, is the instrument that allows the taxpayer to request the Tax Court, which issued the judgment for which enforcement is sought, to issue all the necessary measures to ensure compliance with the provisions of the judgment itself. It is the only remedy available to the taxpayer regarding the enforcement of tax judgments.

The compliance proceeding may be initiated to request enforcement of a favorable judgment, even if not final, only if the conditions are set forth in Article 70 of Legislative Decree no. 546 of 1992, specifically:

- the ineffective expiration of the legal deadline for fulfilling the obligation imposed by the ruling on the Tax Administration, or, in any case, the ineffective expiration of the 30-day deadline from the taxpayer's formal notice;

- a judgment whose enforcement requires specific action not performed by the losing office.

15. APPEALS

The legal remedy for appeal against a ruling by the first-instance Tax Court is the appeal; judgments issued by the second-instance Tax Court are subject to appeal in cassation, and finally, the appeal may be revoked. Without prejudice to the provisions of Legislative Decree No. 546/92, by express reference to Article 49, the provisions of Title III, Chapter I, of Book II of the Code of Civil Procedure apply in this matter.

16. APPEAL TO THE COURT OF JUSTICE OF SECOND INSTANCE

The appeal must be filed within 60 days of notification of the first-instance judgment and must contain specific content, meaning it must indicate the court to which it is addressed, the parties, the details of the contested judgment, the facts, the specific grounds for the appeal, and the requests.

The respondent must appear within 60 days of notification of the appeal.

During the appeal phase, as regulated by the text of Article 58 in force until January 3, 2024, the appellate judge "could not order new evidence" and the parties "could produce new documents." Everything changed with Legislative Decree no. 220/2023, in force from February 4, 2024, which amended the text of Article 58, establishing the following:

- "new evidence is not permitted, and new documents may not be produced unless the panel deems them indispensable for the purpose of deciding the case, or the party demonstrates that they were unable to submit or produce them in first-instance proceedings for reasons not attributable to them";
- "additional grounds may be submitted if the party becomes aware of documents not submitted by other parties in the first-instance proceedings, which reveal defects in the contested documents or provisions";
- "the filing of delegations, powers of attorney, and other documents conferring authority that are relevant to the legitimacy of the signature of documents, notifications of the contested document, or documents that constitute a prerequisite for their legitimacy, which may be produced in the first-instance proceedings also pursuant to Article 14, paragraph 6-bis, is never permitted".

The Tax Court of Second Instance first decides on the merits, ordering, where necessary, the renewal of invalid acts performed in the first instance, except in specific cases in which it refers the case to the Court of First Instance that issued the contested ruling (when it declares jurisdiction declined or denied by the first judge, when it recognizes that the adversarial proceedings in the first instance were not properly constituted or integrated, etc.).

Article 52 of Legislative Decree No. 546/1992 provides that in the second instance the appellant may request the suspension, in whole or in part, of the enforceability of the

contested ruling if there are serious and well-founded reasons. In this case, the Tax Court of Second Instance is required to schedule a hearing for the suspension within a maximum of 30 days from the date of filing the request.

17. APPEAL FOR CASSATION.

In tax matters, an appeal to the Supreme Court is permitted for the same reasons established by the Code of Civil Procedure. Therefore:

1) for reasons pertaining to jurisdiction;
2) for violation of the rules of jurisdiction, when the rules of jurisdiction are not prescribed;
3) for violation or misapplication of provisions of law and national collective bargaining agreements;
4) for nullity of the judgment or proceedings;
5) for failure to examine a fact decisive for the judgment that was the subject of discussion between the parties.

The appeal, which must contain, under penalty of inadmissibility, the identification of the parties, the judgment being contested, a summary of the facts, the grounds for the appeal, an indication of the legal provisions on which they are based, and the designation of the power of attorney if granted in a separate document, must be signed by a lawyer registered in the register of attorneys at the Court of Cassation and holding a special power of attorney.

The appeal must be served on the opposing party within 60 days of notification of the contested judgment, or, in the absence of notification, within one year of publication, and filed with the Court Registry within 20 days of notification to the last opposing party.

The appellant to the Court of Cassation may submit to the Court that issued the contested judgment a motion to suspend its enforceability to avoid serious and irreparable harm. The hearing on this motion cannot be delayed beyond 30 days from the filing of the motion.

18. APPEAL FOR *SALTUM*

By agreement of the parties, the ruling of the First Instance Tax Court of Justice may be challenged by appeal to the Court of Cassation, omitting the appeal. In this case, the appeal may only be filed for violation or misapplication of legal provisions.

Revocation

Another means of appeal is revocation, which may be:

- Ordinary appeal, if the judgment is challenged due to defects arising from the judgment itself or concerning elements known or knowable by the party, and must be filed within the ordinary appeal deadlines (revocation error, theoretical conflict of res judicata).

- Extraordinary appeal, if the judgment is challenged due to the emergence of fraud on the part of the party, false evidence, discovery of documents, or fraud on the part of the judge established by a final judgment, and must be filed within sixty days of the discovery of the revocation defect, provided that this is after the expiration of the appeal deadline.

Article 65, paragraph 3-bis, of Legislative Decree No. 546/1992 provides that the provisions of Article 52 of Legislative Decree No. 546/1992 regarding suspension apply, where compatible, to the revocation procedure.

Filing a revocation does not suspend the deadline for filing an appeal to the Court of Cassation.

19. LITIGATION DEFLATION TOOLS

In the innovative developments that have followed recent reforms, the legislator has always pursued a clear objective: to discourage recourse to tax courts to resolve disputes between tax authorities and taxpayers by strengthening litigation deflation tools.

The main litigation-deflationary mechanisms include "voluntary disclosure," "*accertamento con adesione*" and "preventive adversarial proceedings." We have already outlined the key elements of these procedures in previous chapters. However, our discussion could not conclude without mentioning self-defense, appeals and mediation, and judicial and extrajudicial conciliation.

Self-defense.

This consists of the tax authorities' power to intervene, either ex officio or at the request of a party, to modify or annul previously issued orders, without waiting for a judge's decision.
The most frequent cases of self-defense arise when illegality arises from a mistake in the person's identity, a logical or computational error, an error in the basis of the tax, or double taxation.

The exercise of the power of self-defense and the consequent annulment of the unlawful act can also be carried out if:

- the deed has become final due to the expiration of the appeal deadline.
- the case is still pending;
- the taxpayer filed an appeal, which was rejected for formal reasons (inadmissibility, inadmissibility, or inadmissibility) with a final judgment.

The annulment of the unlawful deed automatically entails the annulment of the related documents and the obligation to repay the amounts collected based on the annulled documents.

The institution of tax self-regulation, governed by Ministerial Decree 37/1997 (now repealed), underwent significant changes with Legislative Decree no. 219/2023, being introduced into the Taxpayers' Statute in Articles 10-quater and 10-quinquies, effective January 18, 2024.

Article 10-quater governs mandatory self-regulation: the tax authorities are required to cancel—in whole or in part—even without a request from the taxpayer, or to waive tax assessments, even while a judgment is pending or in the presence of definitive decisions, where there are cases of manifest illegitimacy of the decision, as provided for in the same article (mistaken identity, miscalculation, error in identifying the tax, etc.). This obligation does not apply if a final judgment has been issued in the tax authorities' favor or if one year has passed since the finalization of the decision, which was tainted by the lack of an appeal.

Article 10-quinquies regulates optional self-regulation: the Financial Administration, outside the cases provided for in the previous article, may cancel, in whole or in part, taxation acts or waive them, even without a request from a party, where it recognises the illegitimacy or groundlessness of the act or tax, even for an act that has already become final or is pending judgment.

Another important innovation introduced in Article 19 is that it provides for the possibility of appealing against an express or tacit refusal (submitted after the ninetieth day from the filing of the self-regulation request) on the self-regulation request provided for in Article 10-quater (mandatory self-regulation) and the possibility of appealing against only an express refusal on the self-regulation request provided for in Article 10-quinquies (optional self-regulation).

20. COMPLAINTS AND MEDIATION.

Tax mediation, introduced by Article 39, paragraph 9, of Legislative Decree No. 98/2011, which inserted Article 17-bis into Legislative Decree No. 546/1992, subsequently amended by Article 9, paragraph 1, letter l), of Legislative Decree No. 156/2015 and by Article 10 of Legislative Decree No. 50/2017 is a tool for deflationary tax litigation, designed to prevent and avoid disputes that could be resolved without resorting to a judge.

The appeal was intended to be an expression of the power of self-regulation and the conciliatory power to re-determine the claim. However, in the context of the systemic changes introduced by the tax reform, the legislator sought to strengthen the self-regulation mechanism, introduce the requirement for a generalized preliminary hearing before issuing the assessment notice, and strengthen the adhesion assessment procedure. Article 2, paragraph 3, of Legislative Decree No. 220/2023 eliminated the mediation requirement for tax appeals up to €50,000 notified to tax authorities and collection agencies starting from January 4, 2024.

21. JUDICIAL CONCILIATION

Judicial conciliation, introduced by Article 2-sexies of Law No. 656/1994, is now regulated by Articles 48 to 48-ter of Legislative Decree No. 546 of 1992. It is an institution through which disputes pending before the Tax Courts can be resolved. Following the amendment introduced by Legislative Decree No. 156 of 2015, conciliation can be undertaken both in the first instance, where the taxpayer can obtain a reduction of administrative penalties to 40% of the

minimum established by law, and in the second instance, where a 50% reduction is provided. Conciliation before the Court of Cassation is not permitted.

Significant changes were made by Law 130/2022, which provided for the possibility for the Court itself to formulate a conciliation proposal.

Article 48 provides for conciliation outside of the hearing. If the parties reach an agreement, pending trial, to settle the dispute in full or in part, they may submit a joint application signed by both parties, and the Court of Justice will issue a judgment discontinuing the dispute in full or in part. This agreement constitutes the basis for the collection of the sums due.

Article 48 bis provides for conciliation during a hearing. Each party, 10 days before the hearing date, has the right to file a motion for the total or partial reconciliation of the dispute. If the parties also reach a conciliation during a subsequent hearing, the conciliation is finalized with the preparation of a report detailing the amounts owed in tax, interest, and penalties. This report constitutes the basis for the collection of the sums due. In this case, too, the proceedings conclude with a judgment discontinuing the dispute.

If a conciliation proposal is made by one party or the judge and is rejected by the other party without justifiable reason, the party who rejected it shall bear the costs of the proceedings, increased by 50%, if the recognition of its claims is lower than the content of the proposal.
If conciliation is achieved, however, the costs shall be offset, unless otherwise agreed by the parties.

Article 48-bis.1, introduced into Legislative Decree no. 546/92 by Law 130/2022 (Article 4, paragraph 1, letter g), provided that for appeals subject to appeal pursuant to Article 17-bis of Legislative Decree no. 546/92 and notified starting from 16 September 2022, the Tax Court of Justice, where possible, could also formulate a conciliation proposal to the parties, whether in a hearing or outside of a hearing, taking into account the subject matter of the proceedings and the existence of issues that can be easily and quickly resolved.

Legislative Decree 220/2023, in addition to abolishing the complaint-mediation phase, introduces the possibility of conciliation before the Court of Cassation (pursuant to Article 4, paragraph 2), for proceedings initiated before the Court of Cassation from the day after the decree enters into force, therefore, from January 5, 2024.

These provisions on out-of-court conciliation also apply, where compatible, to disputes pending before the Court of Cassation, for which a reduction in penalties of sixty percent of the minimum provided by law is provided for in the event of conciliation being reached during the proceedings.

TAX LITIGATION

is the judicial procedure that regulates the resolution of tax disputes between taxpayers and the tax authorities.

APPLICABLE LEGISLATION
Legislative Decree No. 545/1992, on the regulation of Tax Commissions
Legislative Decree No. 546/1992, on the regulation of proceedings
Code of Civil Procedure, insofar as compatible.
Legislative Decree No. 156/2016
Law No. 130 of August 31, 2022
Legislative Decree No. 220/2023, containing innovations in the field of tax litigation, published in the Official Journal on January 3, 2024

THE BODIES OF THE TAX JURISDICTION

Tax jurisdiction, pursuant to the amendments introduced by Article 1, paragraph 1, letter a) and Article 4, paragraph 1, letter a) of Law No. 130 of August 31, 2022, is organized as follows:

- For first-instance proceedings, in the First-Instance Tax Courts
- For appeal proceedings, in the Second-Instance Tax Courts
- For decisions on legitimacy, an appeal to the Supreme Court of Cassation is available.

CONTESTABLE DOCUMENTS	Acts indicated by art. 19 of Legislative Decree no. 546/1992
THE PARTIES IN THE PROCEEDINGS **PUBLIC PROSECUTOR'S OFFICE** **APPEAL** **CASE HANDLING** **EVIDENCE** **DECISION-MAKING PHASE**	The appellant is the citizen-taxpayer (natural or legal person) who initiates legal proceedings for the removal of documents deemed unlawful. The respondent is the Revenue Agency and the Customs and Monopolies Agency, the collection agent, and the entities registered in the register referred to in Article 53 of Legislative Decree 446/97, entities that issued the contested document or failed to issue the requested document.
PUBLIC PROSECUTOR'S OFFICE	Paragraph 7 of Article 12 of Legislative Decree No. 546/1992 "The assignment of counsel must be conferred by public deed or by a certified private agreement, or even at the bottom or in the margin of a procedural document, in which case the handwritten signature is certified by the counsel "unless the assignor adds his or her digital signature."
APPEAL	notified within 60 days of notification of the contested act by certified email (art. 16-bis, paragraph 3, of Legislative Decree no. 546/1992) in accordance with the provisions contained in the telematic tax process (PTT) dictated by Ministerial Decree 23/12/2013 no. 163.

CASE HANDLING	The dispute is dealt with in chambers, unless at least one of the parties has requested a public hearing (art. 33, Legislative Decree no. 546/1992)
EVIDENCE	Article 7, paragraph 5-bis, of Legislative Decree No. 546 of December 31, 1992, introduced by Article 6 of Law No. 130 of August 31, 2022. "The administration shall prove in court the violations contested in the contested act," while "it is the taxpayer's responsibility to provide the reasons for the refund request, when it is not a consequence of the payment of amounts subject to contested assessments." The amendment to Article 7, paragraph 4, of Legislative Decree No. 546/1992 replaced the provision regarding the inadmissibility of oaths and witness testimony in the original wording of the provision, continuing to include the prohibition on oaths but introducing witness testimony in tax proceedings.
DECISION-MAKING PHASE	Tax proceedings conclude with a ruling (Article 36, Legislative Decree No. 546/1992), which is issued on behalf of the Italian people. Within 30 days of the ruling, the ruling is published by filing it with the Court's secretariat, and the ruling is communicated to the parties by the secretariat within 10 days of filing (Article 37 of Legislative Decree No. 546/1992).

THE APPEALS

THE APPEAL	must be initiated within 60 days of notification of the first instance ruling
APPEAL FOR CASSATION	In tax matters, an appeal to the Supreme Court is permitted for the same reasons established by the Code of Civil Procedure.
SO-CALLED APPEAL FOR SALTUM	By agreement of the parties, the ruling of the First Instance Tax Court may be challenged with an appeal to the Supreme Court, thus waiving the appeal.