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### DIRECT TAXES

#### NON-OPERATING COMPANIES

The provisions on "non-operating companies" may be disapplied, if there is an objective impediment not attributable to the company, which made it impossible to earn income. To this end, the impediment must be outside the sphere of the business's causal control and must not be prolonged so as to make it impossible, in absolute and objective terms, to exercise the business activity (Italian Supreme Court, judgement 24731 and 24732 of 7 September 2025).

#### ACCRUAL PERIOD

Costs and income that result from a tax dispute must not be recorded in the accounts if the first instance judgement is the subject of an appeal deemed "admissible and not manifestly unfounded". Costs and income must be recorded in the accounts only if these items have become reasonably certain both as regards their existence and their amount (Italian Supreme Court, judgement 24485 of 4 September 2025).

Please note that the principle set forth in the above judgement is contrary to the previous interpretations of both the Italian Supreme Court and the Italian tax authority's practice, according to which the disputed income items should become tax relevant in the business year in which the judgement is filed, regardless of the level of proceedings and of whether the judgement has become final.

#### CARS GRANTED TO EMPLOYEES TO BE USED FOR PRIVATE AND BUSINESS PURPOSES

The sums that the employer withholds from the employee for additional features to be installed on cars granted to them for business and private use do not reduce the fringe benefit's value to be subjected to income taxation (IRPEF). This is because these features are not included in the valuation determined according to the tables provided by the Italian Automobile Club (ACI) (Italian tax authority, answer to request for advance ruling 233 of 9 September 2025).

Employees are not required to subject electricity supplied by the employer to charge cars granted to employees for private and business purposes to taxation. This is because electricity has already been taken into account when determining the lump sum value reported in the tables provided by the Italian Automobile Club (ACI). Hence, if the employer provides the employees with a rechargeable card to recharge a car granted for private and business use at public charging stations, no taxable fringe benefit arises for the employee - up to a certain annual threshold - regardless of whether the car granted is used for private or for business purposes (Italian tax authority, answer to request for advance ruling 237 of 10 September 2025).

#### OFFSETTING OF TAX CREDITS

Tax credits granted as incentives, which must be used within a certain time limit may be offset against tax liabilities actually due and not to make advance

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payments or prepayments that do not correspond to actual tax liabilities (as in the event of prepayments calculated by using the forecast method but entirely unjustified).

However, if the tax credits (even if they actually exist) are used to pay "undue" tax liabilities, the set-off is indeed illegitimate, yet attributable to undue setoffs and not to non-existing setoffs (Italian Supreme Court, judgement 26273 of 27 September 2025).

### BI-ANNUAL TAX SETTLEMENT PROPOSAL ("CONCORDATO PREVENTIVO BIENNALE")

The Italian tax authority provides clarifications on the bi-annual tax settlement proposal (CPB), with a special focus on, *inter alia*:

- supplementary tax returns,
- taxpayers subject to flat tax schemes,
- eligibility requirements and grounds for exclusion (FAQ of 25 September 2025 and video conference of 18 September 2025).

### DEFERRED TAX ASSETS - DTA

The tax credits resulting from the conversion of DTA pursuant to article 44-bis of the Italian law-decree 34/2019 (tax code "6834") may be used for setoffs, and any excess amounts may be transferred to third parties (Italian tax authority, answer to request for advance ruling 2583 of 26 September 2025).

### FLAT TAX ON RENTAL INCOME

Despite the Italian Supreme Court's judgement to the contrary, according to the Italian Ministry of Economics and Finance (MEF) the option for the flat tax on rental income ("*cedolare secca*") on residential leases is never permitted if the tenant is a business, even if the property is granted for use its clients and/or employees (Parliamentary inquiry no. 3-02159 of 25 September 2025).

### TAX BENEFITS FOR "FIRST HOME" BUYERS

The "first home" tax benefit under article 1, note II-bis of the Tariff, Part I, enclosed to the Italian legislative decree 131/1986, is not forfeited if a usufruct right is established on the subsidized property, but only in the event of transfer of the property (Italian Supreme Court, judgement 25863 of 22 September 2025).

If a residential property is purchased with the "first home" tax benefits and then converted into an office classified as A/10, the "first home" tax benefit may be used again on the purchase of a new home (Italian Supreme Court, judgement 25868 of 22 September 2025).

The "first home" tax benefit also applies to the purchase of properties under construction classified as non-luxury homes. Furthermore, the tax benefit also applies to exchanges of a property with a property under construction, where it pursues the purpose of securing a first home to the purchaser (Italian Supreme Court, judgement 25761 of 22 September 2025).

### DEADLINE FOR THE REFUND OF UNDUE TAXES

The 48 months deadline for submitting a refund request commences on the date of payment of the tax prepayment only if, already at the date of payment, there is no reasonable ground to consider such prepayment due, either in its entirety or in that specific amount. However, if the prepayment was made solely to comply with the interpretation provided by the Italian tax authority, the forfeiture deadline for the refund request of the excess amount commences from the settlement of the balance, which represents the final deadline for the fulfilment of the tax obligation (Italian Supreme Court, judgement 25872 of 22 September 2025).

### VAT

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#### PROPORTIONAL VAT DEDUCTION

The sale of an operational building recorded under fixed assets is excluded from the calculation of the deduction percentage as it constitutes an extraordinary and one-off event. In this regard, it is irrelevant that, prior to the sale, the building was reclassified under current assets (Italian tax authority, answer to request for advance ruling 231 of 8 September 2025).

#### VAT ON NON-EXISTENT TRANSACTIONS

VAT assessed in relation to invoices issued for subjectively non-existent transactions is not deductible; in the event of a tax assessment settlement ("*accertamento con adesione*") VAT paid to the Treasury is not deductible as business expenses for IRES (corporate tax) and IRAP (regional tax on productive activities) purposes, since it is unrelated to business

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operations.

### NATURAL CATASTROPHE (NAT CAT) INSURANCE POLICIES - CLARIFICATIONS AND DEADLINE EXTENSION

Be hereby informed that further to the entry into force of the Italian law-decree 39/2025, the deadline set forth under article 1 (101) of the Italian law 213/2023 for the signing of nat cat insurance policies covering damage to business assets has been extended.

More specifically, now, this obligation must be met within the following deadlines:

- the obligation to take out insurance has been postponed to 1 January 2026 for small and micro enterprises, as defined under the Commission's delegated directive (EU) 2023/2775;
- to 1 October 2025 for medium sized enterprises, as defined under the delegated directive (EU) 2023/2775;
- whereas the deadline for large enterprises by which to sign a nat cat insurance policy remains unchanged (by 31 March 2025), but there is a penalty-free 90 days period.

Please be reminded in this regard of the criteria set forth under the above European regulation for the classification of enterprises based on their size:

**Micro enterprises** (at least two of the three following thresholds are not exceeded):

- Balance sheet total: up to EUR 450,000.
- Net turnover: up to EUR 900,000.
- Average number of employees during the business year: up to 10.

**Small enterprises** (at least two of the three following thresholds are not exceeded):

- Balance sheet total: up to EUR 5,000,000.
- Net turnover: up to EUR 10,000,000.
- Average number of employees during the business year: up to 50.

**Medium-sized enterprises** (at least two of the three following thresholds are not exceeded):

- Balance sheet total: up to EUR 25,000,000.
- Net turnover: up to EUR 50,000,000.
- Average number of employees during the business year: up to 250.

**Large enterprises** (at least two of the following three criteria are exceeded):

- Balance sheet total: more than EUR 25,000,000.
- Net turnover: more than EUR 50,000,000.
- Average number of employees during the business year: more than 250.

The Italian Ministry of Enterprises and Made in Italy (MIMIT) clarified in its FAQs published on 1 April 2025 that the obligation refers to: enterprises with registered office in Italy and enterprises with registered office abroad having a permanent establishment in Italy, and required to register with the Companies' Register (excluding agricultural enterprises pursuant to article 2135 of the Italian civil code) as to the assets used in the exercise of operations and recorded under item B-II, no. 1), 2) and 3) of the Assets of the balance sheet pursuant to article 2424 of the Italian civil code, even if not owned by the company (but used for example under a lease, or a financial lease, or under an agreement on other forms that ensure availability).

However, the following assets are excluded from the obligation to sign a nat cat insurance policy:

- assets already covered by a similar insurance policy, even if taken out by persons other than the entrepreneur who uses the assets;
- properties under construction since they are recorded under item B-II, no. 5);
- properties that are unlawful constructions, or were built without the required authorizations, or became unlawful after the date of construction;
- vehicles registered with the Italian vehicles public register (PRA)

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Moreover, enterprises that do not hold - under any title - assets recorded under item B-II, no. 1), 2) and 3) are exempted from the obligation to sign a nat cat insurance policy.

If you need any further clarification on the regulations and the obligations to fulfil in relation to the signing of nat cat insurance policies, please do not hesitate to contact us.

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Yours sincerely,

HAGER & PARTNERS