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DIRECT TAXES

INCOME FROM EMPLOYMENT OF NON-RESIDENT PILOTS IN ITALY

Under Italian tax law, to determine the employment income produced in Italy by non-resident pilots, the following principles apply:

- income relating to domestic flights, carried out entirely within the Italian airspace, is taxable in Italy;
- income relating to international flights, carried out only partially within the Italian airspace, is taxable in Italy in proportion to the part of the work performed in Italy, determined according to the hours during which the activity is carried out within the Italian territory, including its airspace.

In any case, it is also necessary to examine the provisions of any double taxation agreements in place between Italy and the state of residence of the employee or the employer (Italian tax authority, answer to legal advice request 15 of 15 November 2025).

MERGER LOSSES CARRIED FORWARD

According to the Italian tax authority, if there is no sworn valuation report on the economic value of the net equity available in the case of a merger, tax losses may be carried forward only up to the amount of the respective book value of the net equity, as shown in the most recent financial statements or, if lower, in the balance sheet prepared in accordance with section 2501-*quater* of the Italian civil code, without taking into account any contributions or capital injections

made in the previous twenty-four months (Italian tax authority, answer to request for advance ruling 278 of 3 November 2025).

TRANSFER OF TAX CREDITS FOR CONSTRUCTION WORKS

The transfer of tax credits for construction bonuses within the framework of a contribution of a business is subject to the same limits that apply in the case of a sale of business. Accordingly, such a transfer adds to the calculation of the maximum number of “free” transfers that can be made by the holder of the tax credits (Italian tax authority, answer to request for advance ruling 281 of 4 November 2025).

GROUP TAXATION

The amendment of the allocation criterion for residual losses, made on the occasion of the tacit renewal of the option for the group taxation scheme for the three-year period 2025-2026-2027, remains effective, even if the group taxation scheme is interrupted during the first business year (2025) following the renewal (Italian tax authority, answer to request for advance ruling 282 of 4 November 2025).

EXCHANGE OF ASSETS

To determine the capital gain arising from an exchange of assets, section 86 (2) of the Italian income tax code (TUIR) provides that:

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- if the consideration consists solely of depreciable assets, and
- the depreciable assets received are recorded in the balance sheet at the same value at which the transferred assets were recorded,

the capital gain is equal only to any cash adjustment agreed upon.

However, according to the Italian tax authority, this provision does not apply where the exchange involves:

- a current asset represented by a building plot, and
- a future asset represented by an urban parking facility to be constructed, in addition to a cash adjustment,

since the latter, not yet existing, is not depreciable (Italian tax authority, answer to request for advance ruling 283 of 4 November 2025).

ESTABLISHMENT OF REAL RIGHTS OF ENJOYMENT

The constitution of a real right of enjoyment by the owner of a property qualifies as other income pursuant to section 67 (h) of the Italian income tax code (TUIR) and is taxable on the full amount received in the relevant tax period. In contrast, the transfer of the real right of enjoyment, following its establishment by the owner, qualifies as other income pursuant to section 67 (b) of the Italian income tax code (TUIR), and is taxable only to the extent of the related capital gain (Italian tax authority, answer to request for advance ruling 289 of 7 November 2025).

FLAT TAX FOR RETIREES

Income deriving from the liquidation of a foreign company constitutes foreign-source capital income and, therefore, falls within the scope of the optional scheme under section 24-ter of the Italian income tax code (TUIR) (i.e., the flat tax scheme for retirees) (Italian tax authority, answer to request for advance ruling 292 of 21 November 2025).

GROUP TAXATION

Companies that intend to opt for the group taxation scheme may make the payment of advance

instalments separately, provided that on the payment due date the option has not been exercised yet. Conversely, this option is not available if the companies involved have already exercised the option on the payment due date.

In light of the above, the payment of separate advance instalments after the deadline for exercising the option, without the option having been exercised – even by mistake – does not constitute a conclusive behaviour, which would give access to restoration of compliance ("*remissione in bonis*") (Italian tax authority, answer to request for advance ruling 293 and 294 of 24 November 2025).

TAX BENEFITS FOR "FIRST HOME" BUYERS

An individual who intends to benefit from the "first home" tax incentive for the purchase of a new property (second property), even if he or she is already owner of another home purchased with the same incentive (first property), is required to sell the first property within two years from the purchase of the second property.

According to the Italian tax authority, if the sale of the first property precedes the purchase of the second property, the tax credit recognized pursuant to section 7 of the Italian law 448/1998, up to the amount of the registration tax or VAT paid in relation to the first property, is available provided that no more than one year elapses between the sale of the first property and the purchase of the second property (Italian tax authority, answer to request for advance ruling 297 of 26 November 2025).

TAX DOMICILE

A change in the registered office of a company entails a corresponding change in its tax domicile. The company cannot freely choose its tax domicile (so as to indirectly influence the determination of the competent tax office for the issuance of tax assessments), because any misalignment between the registered office and the tax domicile, as determined pursuant to section 58 of the Italian DPR 600/1973, requires a motivated application and cannot be the result of a mere expression of the taxpayer's will (Italian Supreme Court, judgement 28505 of 27 October 2025).

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VAT

DEDUCTION

The right to deduct VAT cannot be denied where the taxable person:

- demonstrates the substantive requirement, i.e. that the supply of goods or the provision of services has actually taken place, and
- provides evidence of the formal requirement through a valid purchase invoice duly recorded in the VAT registers.

Proof of payment is not required for the purpose of exercising the right to deduct (Italian Supreme Court, judgement 27238 of 11 October 2025).

FACTORING

For VAT purposes:

- the financing commission, which remunerates the debt-collection service and whose amount increases in line with the length of the payment term and the level of risk assumed by the factor, and
- the case-opening fees paid by the client, corresponding to the lump-sum amount charged for setting up the factoring arrangement and more specifically covering the cost of the procedures required to comply with applicable anti-money-laundering obligations,

received by the factor in the context of a factoring transaction involving the sale of receivables or pledge-based factoring (where the factor undertakes the recovery and collection of receivables which, while not transferred to the factor, are used as collateral for the financing), constitute the consideration for a single and indivisible debt-collection service subject to VAT (CJEU, Judgment C-232/24 of 23 October 2025).

CIVIL LAW

DONATED REAL ESTATE

The newly amended section 563 of the Italian civil code regulating the "*reduction of donations*" provides that where:

- the *de cuius* has, during his or her lifetime, donated real estate in breach of the reserved share of the forced heirs (i.e., spouse and children),
- the donee has subsequently transferred the donated property,

the forced heirs will no longer be entitled to claim restitution of the assets from third-party purchasers, who have acquired the property (for consideration) from the donee.

In such circumstances, the forced heirs may only seek monetary compensation from the donee (provided that the donee's assets are sufficient to satisfy the claim).

Where the donee is wholly or partially insolvent:

- a third party, who acquired the property for consideration, bears no liability towards the forced heirs;
- a third party, who acquired the property gratuitously, is required to compensate the forced heirs in cash, limited to the benefit actually received.

The new provisions will apply to estates opened on or after 18 December 2025, i.e. to deaths occurring from that date onwards, irrespective of the date on which the donation was made.

For estates opened before 18 December 2025, the transitional rules allow forced heirs to continue to bring restitution actions against third-party purchasers of the donees, provided that, within six months from the entry into force of the law, they notify and record an extrajudicial notice of opposition to the donation against the donee and their successors in title, pursuant to section 563 (4) of the Italian civil code.

Failing such timely opposition, the new rules will also apply to estates opened prior to the law's entry into force, upon the expiry of six months from its entry into force (section 44 of the Italian law 182 of 2 December 2025, published in Official Gazette of the Republic of Italy 281 of 3 December 2025).

Yours sincerely,

HAGER & PARTNERS

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