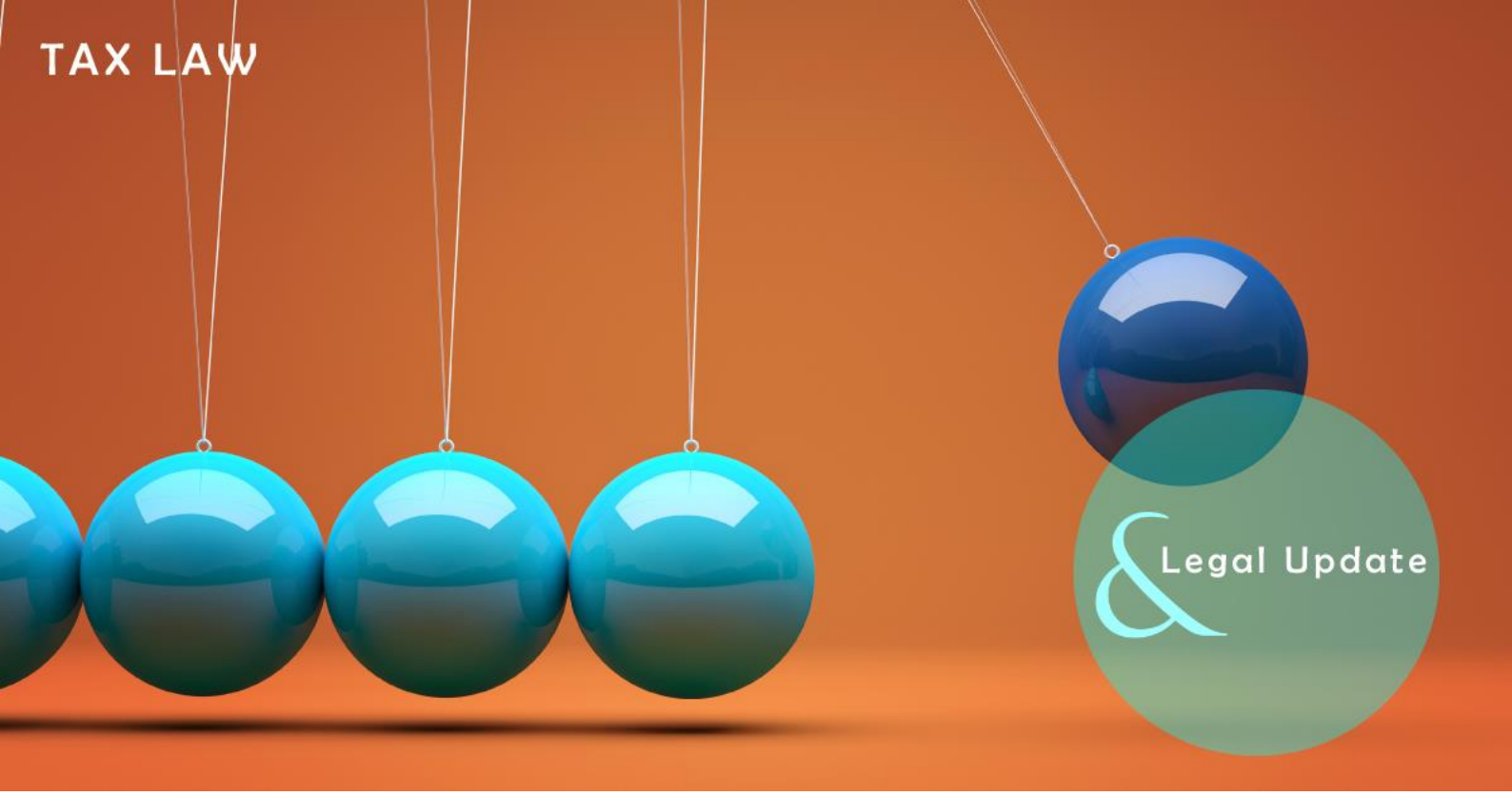

2018 Budget Law

On 29 December 2017, Law no. 205 of 27 December 2017 ("**2018 Budget Law**") was published in the Official Gazette. The main tax innovations are summarised below.

1. Tax regime for income deriving from peer-to-peer (P2P) lending

The definition of income from capital has been widened to include income deriving from peer-to-peer lending (**P2P lending**). Income deriving from P2P lending in the hands of individuals is subject to a 26% final withholding tax to be levied by the authorised platform management companies.

2. PIR (*piani individuali di risparmio*): definition of eligible investments widened

Eligible investments for PIR now include equity investments and other financial instruments issued by real estate companies.

3. Qualified participations and other equity financial instruments: personal income tax (IRPEF)

Income deriving from "qualified" equity investments in the hands of individuals and other entities subject to individual income tax ("**IRPEF**") will be subject to the same tax regime that applies to income deriving from "non-qualified" equity instruments. Therefore:

a. capital gains will be subject to a 26% substitute tax, with the same limits and according to the same procedures that apply to those deriving from non-qualified investments. The new provision applies to capital gains realised from 1 January 2019 onwards;

b. dividends and other income deriving from qualified participations and other participating financial instruments will be subject to a 26% substitute tax, with the same limits and according to the same procedures that apply to those deriving from non-qualified investments. The new provision applies to dividends and other income distributed from 1 January 2018 onwards, except for those accrued before 31 December 2017 and the distribution of which is resolved upon by 31 December 2022.

Qualified equity investment means shares (including rights or securities through which shares may be acquired) and quotas (and similar equity financial instruments), that represent:

a. for shares listed on a regulated market, either (i) more than 2% of the overall voting rights exercisable at ordinary shareholders' meetings or (ii) an interest in the relevant company's issued and outstanding capital of more than 5%,or

b. for shares not listed on a regulated market, more than 20% of the overall voting rights exercisable

at ordinary shareholders' meetings or (ii) an interest in the relevant company's issued and outstanding capital of more than 25%.

4. Step up of values for land and interests in non-listed Italian companies

The 2018 Budget Law reopens the opportunity for individuals that do not carry out business activities to step-up the tax value of (i) plots of land and (ii) participations in non-listed Italian companies owned on or before 1 January 2018, by paying a substitute tax equal to 8% of the market value of the relevant asset at 1 January 2018. The market value must be confirmed by a sworn opinion prepared by a qualified expert (e.g., accountants) no later than 30 June 2018. The substitute tax can be paid either as a one-off payment by 30 June 2018 or in three equal annual instalments; the first instalment is due on 30 June 2018.

5. Investment companies (SIM – *società di intermediazione mobiliare*): corporate tax rate

The 2018 Budget Law carves SIMs out from the list of financial entities subject to the 3.5% surcharge to be paid on top of the ordinary 24% corporate tax. The law also restores the 96% limit on the deductibility of interest expenses by financial intermediaries; the limit applies both for IRES and IRAP purposes.

6. Tax regime for dividends deriving from companies resident or located in black-listed countries

Profits deriving from companies located in a black-listed country may be subject to full taxation when distributed to Italian corporate shareholders instead of benefiting from the ordinary 95% exemption. The tax treatment of profits from black-listed countries has undergone significant changes over the last few years. Until 2015, countries and territories with a preferential tax regime (thus black-listed) were defined by a closed list included in a Ministerial Decree. Now the regime identifies black-listed countries as those "*States and territories with a nominal tax rate lower than 50% of the Italian tax rate*".

The 2018 Budget Law partially repeals the existing provisions regarding black-listed profits and clarifies a number of areas set out below.

Profits accrued in fiscal years when the distributing company was not considered to be black-listed are not considered to be black-listed even if the distributing company is a black-listed entity in the year of their distribution. The profits distributed by non-resident companies are (by presumption) deemed as firstly coming from companies other than black listed ones.

Black-listed profits received by Italian corporate shareholders are subject to full corporate tax (IRES) on 50% of their amount (rather than on their full amount), provided the recipient is able to demonstrate that the company that produced the profits actually carries out an industrial or commercial activity (as its main activity) in the black-listed State or territory where it is located.

7. Amendments to the threshold of deductibility of interest expenses for IRES purposes

Dividends received by non-Italian tax resident companies controlled are no longer included in the *Reddito Operativo Lordo* (or *ROL*). This is a limit (similar to EBITDA) that determines the threshold for the deduction of net interest expenses for IRES purposes (30% of the ROL). The amendment applies retroactively from fiscal year 2017.

8. Super-depreciation (*super-ammortamento*)

The ability to benefit from "super-depreciation" for investments in new tangible assets has been extended to 31 December 2018. Under the new provision, the cost of the new tangible assets is notionally increased by 30% (instead of the previous 40%), bringing the taxable base to 130% when it comes to tax depreciation for IRES purposes. Cars and other vehicles are excluded.

9. Hyper-depreciation (*iper-ammortamento*)

The ability to benefit from "hyper-depreciation" has been extended to 31 December 2018. Investments in hi-tech, cloud, ultra-broadband, industrial robotics, digital manufacturing, IT security, etc. benefit from a notional increase of 150%, bringing the taxable base to 250% when it comes to tax depreciation for IRES purposes. The benefit is also extended to investments in e-commerce management systems (in particular in software and digital services).

10. Optional step-up of the tax value of foreign controlling participations upon occurrence of certain extraordinary transactions

Certain extraordinary transactions are tax neutral (e.g., mergers and demergers) for both the companies involved and their shareholders. The downside is that the accounting step-up of values of assets or the recognition of goodwill is not relevant for tax purposes unless a substitute tax is paid (limitations apply).

The 2018 Budget Law extends the ability to step-up the tax values of certain assets in the context of certain extraordinary transactions relating to foreign controlling participations. In particular, this option allows the alignment of the tax values of controlling equity investments with their respective accounting values when the consolidated financial statements of the controlling entity show higher values for goodwill, trademarks and other intangible assets following an extraordinary transaction. Implementing procedures are expected to be defined.

11. Tax credit for the listing advisory costs of SMEs

From 1 January 2018, small and medium enterprises ("**SMEs**")[1] that start the procedures to be listed on a regulated market or a multilateral trading platform of a Member State of the European Union, may benefit from a tax credit of 50% of the costs of advisors incurred in the listing procedure, provided that the SME is listed at the end of the procedure. The tax credit may be used from the fiscal year following the one of the listing by way of set-off through the F24 payment form. The maximum amount that can be utilised on a yearly basis is Euro 500,000. The tax relief applies from 1 January 2018 to 31 December 2020. The tax credit is not subject to IRES and IRAP.

12. Web Tax

The 2018 Budget Law introduces a digital transaction tax ("**Web Tax**"), levied on any person, whether or not resident in Italy for tax purposes, who provides more than 3,000 services by electronic means a year to (i) an Italian tax resident business entity that acts as withholding agent or (ii) permanent establishments in Italy of non-Italian tax resident companies. B2C transactions are therefore excluded from the scope of the Web Tax. Other exclusions may apply.

The Web Tax applies to digital transactions related to services rendered by electronic means ("**Taxable Services**") provided both in Italy and abroad. As a general rule, Taxable Services are those the performance of which is automated and that are supplied through the Internet or an electronic network. A detailed list of the relevant services will be provided in a Ministerial Decree, which should be issued by 30 April 2018. The Web Tax is 3% of the value (net of VAT) of the transaction.

The Web Tax is applied by way of a withholding tax applied by the recipient of the Taxable Services, and is remitted within the 16th day of the following month. The Web Tax will be applied from 1 January of the year following the publication of the above mentioned Ministerial Decree.

13. New deadline for tax returns

The deadline for submitting income tax returns for IRES and IRAP purposes is postponed from 30 September to 31 October. Moreover, the deadline for the provision of sales and purchases lists (*spesometro*), for the second quarter of the year has been postponed from 16 September to 30 September.

Indirect taxes - VAT, registration tax, mortgage and cadastral taxes

1. Mandatory e-invoicing

Supplies of goods and services in both B2B and B2C transactions, carried out between vatable persons either resident, established or VAT registered in Italy must only be invoiced electronically from 1 July 2018 for good and services relating to fuel .From 1 January 2019 this regulation will also apply to other taxable persons.

[1] As defined by the EU Commission recommendation 2003/361/EC of 6 May 2003.

Electronic invoices (**e-invoices**) must only be transmitted through an electronic system (*sistema di interscambio*), using a special invoice format. E-invoices issued to non-vatable persons must be provided through a system that will be provided by the Italian Tax Authorities.

Invoices not issued in electronic format are deemed as not having been issued, thus relevant penalties may apply.

2. Cross-border transactions

From 1 January 2019, a new VAT compliance system will be implemented: data concerning the supply of goods and services to or from non-Italian vatable persons must be provided by vatable persons resident, established or identified as resident in Italy**.**

3. VAT grouping

The 2018 Budget Law amended the Italian VAT grouping regulations to align them with some recent principles handed down by the European Court of Justice.

The amendments clarify the relationships between transactions carried out between vatable persons participating in a VAT group, and Head Offices ("**HO**") or Permanent Establishments ("**PE**") of companies of the group that are outside the VAT grouping.

In particular:

a. the supply of goods and services by an HO or a PE (participating in a VAT group) to either its foreign HO or PE qualify as taxable transactions for VAT purposes;

b. the supply of goods and services received by an HO or a PE (participating in a VAT group) by either its foreign PE or HO, qualify as taxable transactions for VAT purposes.

4. Amendments to article 20 of the Registration Tax Act

The 2018 Budget Law introduces amendments to article 20 of Registration Tax Act ("**RTA**").

Under the previous version of article 20 of the RTA "*the registration tax is applied according to the intrinsic nature and the legal effects of the deeds registered, even if they do not match the title or apparent form of the deeds*" (our translation). Under this provision the registration tax was applied based on the legal effects of the relevant document, regardless of how it was defined by the parties and its economic effects.

Italian Tax Authorities used article 20 of the RTA in order to challenge certain series of transactions; they interpreted the provision as giving them the power to scrutinise the actual will of the parties taking into account deeds and contracts which were not the subject matter of the relevant request for registration.

In this context, the amendments to article 20 of the RTA aim at clarifying that, upon filing of the relevant document for the registration, the registration tax applies on the basis of only the effects that can be deduced from the document submitted for registration, regardless of (i) extra-textual elements and (ii) related deeds, documents or contracts.

In addition, the 2018 Budget Law explicitly provides that, again for registration tax purposes, Italian Tax Authorities are only allowed to challenge a transaction as an "abusive transaction" through the procedure provided for by article 10-bis of Law 27 July 2000, no. 212, according to which certain procedural steps must be followed.

5. Tax treatment of certain zoning and planning projects

Agreements and conventions between private and public bodies aimed at modifying the zoning of certain areas and any related works are

a. subject to registration tax at a fixed amount of Euro 200 (rather than to an ad valorem registration tax) and

b. exempt from mortgage and cadastral taxes.

This indirect tax regime also applies, under certain conditions, to urban development agreements provided for by the municipal law of Bolzano no. 13/1997.

Tax collection

1. Payments made by public entities

Reimbursements over Euro 5,000 (the previous threshold was fixed at Euro 10,000) from governmental or local bodies are subject to a preliminary check by the tax Authorities. If the recipient of the payment has outstanding tax liabilities, the payor must suspend the payment, up to the amount of the alleged debt, for 60 days (previously 30 days). The payment can be made if, during the 60 day period the tax Authorities do not send the payor (i.e., the governmental or local bodies) a specific request to pay the due amount to them, rather than to the payee.

2. Limitations regarding the use of tax credits by way of set-off in the F24 payment form

Italian Tax Authorities are allowed to suspend, for up to 30 days, the set off of a tax payment against existing tax credits in the payment form (F24). They can do this where the us of the tax credit is challengeable. If, after the assessment, the tax credit appears to have been applied correctly, or in any event after the 30 day period has elapsed, the payment is considered to have been properly made on the date of payment indicated in the F24.

3. Increase in local tax rates suspended for 2018

Increases in tax rates of VAT local and additional taxes, although approved during 2016 and 2017, are suspended. The suspension applies to VAT and to the regional and municipal taxes of IRPEF, IRAP and IMU (a real estate property tax).

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Esso non costituisce riferimento alcuno per contratti e/o impegni di qualsiasi natura.

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