



Italy: Dignity decree - new tax measures for enterprises

Tax Alert
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Law Decree no. 87 of 12 July 2018, which introduces 'urgent measures for the dignity of workers and enterprises' (the so-called 'Dignity Decree'), was published in Official Gazette no. 161 of 13 July 2018 and has been in force since 14 July 2018. The Dignity Decree must be converted into law and therefore amendments are still possible.

Besides important changes to employment law, the Dignity Decree contains certain tax measures. Listed below are the most important ones.

1. Measures aimed at limiting the relocation of enterprises which have received state aid.
2. Restriction on the 'hyper' depreciation benefit.
3. Amendments to the R&D tax credit.
4. Increased tax on gaming machines.
5. Amendments to the filing deadlines for the *Spesometro*.
6. Limitations to the split payment regime.

Measures aimed at limiting the relocation of enterprises which have received state aid (article 5)

The Dignity Decree imposes certain restrictions on Italian and foreign enterprises which operate in Italy and have benefitted from any kind of state aid (including tax incentives) that is conditional on production investment. This aid ceases if the economic activity, or a portion of it, is relocated outside the EU/EEA within five years of the conclusion of the activity. In this case, penalties also apply (proportional to the state aid received).

Moreover, Italian and foreign enterprises which operate in Italy and have benefitted from state aid (including a tax benefit) that is conditional upon production investment in a particular site, will lose their benefit if the economic activity, or a portion of it, is relocated to another site in Italy or in the EU/EEA, within five years of conclusion of the eligible activity or completion of the investment. In this case, the enterprise must return the benefit plus interest.

For the purposes of the Dignity Decree, 'relocation' means the transfer of an economic activity, or part of it, from one production site to another, by the enterprise which has received state aid or an enterprise controlled by/related to it under article 2359 of the Italian Civil Code.

These rules do not apply to benefits already granted or approved, or to investments already started, before the entry into effect of the Dignity Decree.

Restriction on the 'hyper' depreciation benefit (article 7)

With the purpose of encouraging production investment in Italy, the Dignity Decree limits the scope of the 'hyper' depreciation benefit⁽¹⁾ to assets intended to be used in production facilities located in Italy.

Moreover, if assets are sold or intended to be used in production facilities located abroad, even within the same enterprise, the benefit is revoked. In this case, the enterprise must 'recapture' previous hyper-depreciation instalments. Therefore, it must adjust its taxable income in the tax return of the year when the event (sale/foreign destination of assets) occurs, increasing it by an amount corresponding to the higher depreciation of the previous years. No penalties (or interest) will apply.

The new restriction will not affect the provision whereby 'hyper' depreciation will continue to be granted – under certain conditions – if the taxpayer sells and replaces an asset with another new asset having similar or superior technological features.

This rule applies to investments made after the entry into effect of the Dignity Decree (i.e. from 15 July 2018).

Amendments to the R&D tax credit (article 8)

The Dignity Decree limits the R&D tax credit regime governed by article 1(35-36) of the Budget Law for 2015 (see our Tax Alerts of [2 December 2014](#), [11 August 2015](#) and [6 July 2018](#)).

From the fiscal year in progress on 14 July 2018 (i.e. 2018, for calendar-year taxpayers), purchase or licensing costs for certain IP – i.e. technical expertise, industrial and biotechnological patents, semiconductor topography rights or plant variety rights – will no longer qualify for the R&D tax credit if the seller/licensor belongs to the same group (i.e. the seller/licensor is an enterprise or individual controlling the enterprise that benefits from the R&D tax credit, or is related to it or under common control with it, within the meaning of article 2359 of the Italian Civil Code).

(1) This regime, which allows a 150 percent increase in the purchase cost of certain tangible assets used in the technological and digital development of enterprises promoted by the Italian Government under the 'Industry 4.0 plan', was introduced by the 2017 Budget Law and extended, by the 2018 Budget Law, to investments made in 2018 and – under certain conditions – until 31 December 2019 – see our Tax Alert of [16 January 2018](#).

Article 8 also confirms that, in all circumstances (i.e. also when the seller/licensor is an independent third party), such expenses are relevant for the purpose of the R&D tax credit on condition that the IP is used directly and exclusively to pursue the eligible R&D activities.

Increased tax on gaming machines (article 9)

As part of a set of measures designed to combat pathological gambling, the Dignity Decree increases the tax on revenues from gaming machines (*prelievo erariale unico* or "PREU").

PREU on AWP slot machines will rise from 19 percent of the amounts played to:

- 19.25 percent from 1 September 2018;
- 19.50 percent from 1 May 2019.

In the case of Video Lottery Terminals, PREU will rise from 6 percent of amounts played to:

- 6.25 percent from 1 September 2018;
- 6.50 percent from 1 May 2019.

Quarterly communication of data in invoices received and issued ("Spesometro" – article 11)

The Dignity Decree modifies the filing deadlines for the *Spesometro* as follows:

- The deadline for filing the data related to the third quarter of 2018 is postponed to 28 February 2019 (instead of 30 November 2018).
- For taxpayers opting for the filing of the *Spesometro* on a six-monthly (instead of quarterly) basis, the Decree clarifies that the following deadlines apply:
 - 30 September of the same year, for the first semester;
 - 28 February of the following year, for the second semester.

Split payment (article 12)

From 15 July 2018, the split-payment regime⁽²⁾ will no longer apply to services rendered by the self-employed (i.e. self-employed individuals, such as professionals, whose payments are subject to withholding tax for income tax purposes) to all categories of clients covered by the split-payment rule.

(2) For an overview on the regime, see '[Investment in Italy](#)', section 9.8.4 and our Tax Alert of [27 June 2017](#).

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