

# New and Fairer Tax Rules to Attract Multinational Investment in Italy

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New measures aim to make Italy more attractive from a tax perspective for multinational investors. The forthcoming rules are intended to be more open, less restrictive and more “growth orientated”.

**T**hrough Article 12 of Law No. 23<sup>1</sup> the Italian legislature has given the Italian Government the task to formulate new tax rules that are more reasonable, transparent and growth oriented, to enable Italy to finally become more attractive for multinational enterprises that intend to operate in the Italian territory.

The Italian Government has worked together with the Italian tax authorities and has already submitted to the Italian Parliament, for technical comments, a few schemes of legislative decrees for the growth and internationalization of the enterprise. In particular, there are three schemes under consideration:

- Decree 161—measures for the growth and the internationalization of the enterprises;
- Decree 162—electronic transmission of the VAT transactions; and
- Decree 163—other measures for the growth and the internationalization of the enterprises.

At the same time, the Italian Government, through the “Investment Compact” law<sup>2</sup> has introduced a new optional tax regime (the “Patent Box”) which permits the income deriving from the use of owned intangibles to be subject to a more favorable taxation system in Italy.

This article summarizes the content of Decree 161 and the Patent Box regime.

## I. Measures for the Growth and the Internationalization of the Enterprises (Decree 161)

### A. Italian Unilateral and Bilateral Advance Pricing Agreement (APA)

A new Article 31-ter will be added to Decree 600/1973 (“Assessment and audit”) and it will include provisions for the Italian unilateral APA and the bilateral APA. It has been thought necessary to legitimize and strengthen the existing rules on the Italian unilateral APA.

#### 1. Italian Unilateral APA

Based on this rule, Italian taxpayers will be entitled to make an APA<sup>3</sup> with the central unit of the Italian tax authorities in the following areas:

- transfer pricing;
- definition of the fair market values for the in- and outflow of assets in the case of a transfer of a legal entity residence;
- presence of the requisites that confirm the existence of a permanent establishments in Italy;
- definition of the fair market attribution of profit and losses to a permanent establishment in Italy; and

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