

Setting up your Business in Italy

Issues to consider



Italy is one of largest economy in the world. Manufacturing in Italy is a very important industry, while the most important productions is related to foods and beverage, touristic services and the sale of luxury products.

To setting up a business in Italy there are a number of issues which you must consider for tax, social requirements, financial statements. This document furnish a brief description about some of the common questions we come across and gives you practical information about the issues you need to consider. It is not exhaustive, but provide a very short and useful guide to the reader about Italian doing business in.

What type of Business Structure should we use?

There are advantages and disadvantages to all of them, and there is no one correct answer, it's all dependent on your specific business circumstances and needs. A brief overview of the main structures is below:

Establishment (a branch of your overseas business)

- Not a separate legal entity but an extension of the overseas parent company
- No limited liability or ring-fencing of the Italian operations
- If have a permanent establishment in Italy then profits from this PE are liable to Italian Corporation tax
- Must file **parent company accounts**, translated into Italian, to the Italian Chamber of Commerce, even if these are not made publically available overseas.

Limited Company:

- Provides limited liability and ring-fencing to Italian operations
- Gives a perception of a local business, with longevity
- Corporation tax to be paid on company profits
- Financial statement is required to be filled to the Italian Chamber of Commerce by 30 days from its approval by the shareholders;
- Accounts require auditing if in **group as a whole**

	Until 31 December 2015	Since 1 January 2016
Total Revenues	€ 35.000.000	€ 40.000.000
Total Assets	€ 17.500.000	€ 20.000.000
Workforce	250 (yearly average)	250 (yearly average)

Limited Liability Partnership:

- Managing partners are unlimited liable; capital partners are limited liable
- Profits are allocated to members who then pay Income Tax on these profits personally

Setting up your Business in Italy

Issues to consider



- LLP are required to pay IRAP (regional tax)

How much Corporation Tax will the business pay?

Current Corporation Tax rates in Italy are:

Tax rate (%)		Taxable profit
<i>Companies and branches – IRES (corporate tax)</i>	24%	Net income
<i>Companies and branches – IRAP tax</i>	3.9%	EBITDA (with limited deductibility of labor costs)

(NB: rates are for the tax year to 12/31/2017)

According to Italian tax law, corporate taxable income is based on results of statutory profit and loss statement, with several adjustments provided by the Italian tax law; in particular, several costs are not fully deductible (costs for vehicles, entertainment expenses, telecommunications) or are deductible under the limitations provided by the Italian tax law (e.g. directors fees are deductible on a cash basis and interest expenses are deductible up to 30% EBITDA with several adjustments).

What if we use Italian to set up our holding company?

Dividends received by resident companies are tax exempt for 95% of their amount. The almost fully total exemption is provided both for domestic and foreign dividends, if the distributing company is not resident of a state or a territory that has a privileged tax regime for Controlled Foreign Companies (CFC) purposes. In such a case, the parent company is required to show that the residence of the distributing company is not aimed at avoiding or reducing the national taxable income.

Gains on alienation shares and financial instruments assimilated to shares are 95% tax exempt if the following conditions are satisfied:

- The participation has been held for at least 12 months;
- The participation is classified as a financial asset in the first balance sheet closed after the acquisition;
- The participated company is engaged in a business activity;
- The participated company is not resident of a state or a territory that has a privileged tax regime (in such a case, the parent company is required to show that the residence of the daughter is not aimed at avoiding or reducing the national taxation income.

What if we make cross-border transactions between group companies?

[Country] Italy follows internationally recognizes **Transfer Pricing (TP)** rules where cross-border trading and financial transactions between affiliated entities have to be conducted on an arm's length basis. The price and terms should be the same as if the transactions had been between completely independent parties. [Briefly explain the transfer pricing regime]

Typical transactions between affiliated entities that are covered by TP regulations are:

- Sale and purchase of goods
- Provision of management services
- Property rental charges
- Transfer of intangible assets e.g. trademarks, patents
- Sharing of knowledge, expertise, business contacts etc.
- Provision of financial support e.g. inter-group loans and charging a "market" interest on loans

A business will need to prepare a Transfer Pricing Report proving the arm's length basis of transactions. The report will include a functional and risk analysis, analysis of the adopted pricing model and benchmarking of the arm's length basis.

From 2010 companies can prepare and declare to the national tax authorities that a documentation describing the TP procedure has been set; in presence of this documentation, if properly prepared, no penalty are charged in case of tax assessment regarding TP issues.

What Employment Taxes and Social Security will need to be paid?

Individuals are considered resident in Italy if, for the greater part of the tax period, are registered in the Civil Registry or if they are resident or domiciled in Italy according to Italian Civil Law.

We would advise any new entrant to Italy or person who spends time working in Italy to take professional advice to determine whether they are Italian tax resident.

Current Personal Income Tax rates in Italy are:

Band of income (CU)	Tax rate (%)
0 – 15.000	23%
15.001 – 28.000	27%
28.001-55.000	38%

Setting up your Business in Italy

Issues to consider



55.001-75.000	41%
over 75.000	43%

(NB: the above rates are increased by a regional surtax from 0,9% to 1,4% that may be further increased by the municipal and provincial surtax, levied by each municipality at about 1%).

Employers and employees are also required to pay social security contributions.

Current Social Security rates are:

<i>Employer</i>	around 30-35% depends on the type and size of the business
<i>Employee</i>	around 10% depends on the type and size of the business

It is the employers' legal responsibility to pay over employee's tax and social security contributions to the Italian tax authorities. Social security contributions are deductible for income tax purposes.

Italy has reciprocal Social Security Agreements with different countries (for example EU countries, USA, Canada, Australia etc), according to which if an employee is seconded to Italy, he can remain under the social security scheme of his/her home country for a defined period of time (usually for a maximum of 24 months for EU countries and for a variable duration in relation to the single reciprocal agreement for non-EU countries). In this case both the employer and the employee are exempt (totally for EU countries or partially for non- EU countries) from paying Italian Social Security contributions.

What is Value Added Tax (VAT) and should the business be registered?

VAT is a "goods and services tax" on supplies made, the standard rate of which is 22% (since 1st October 2013). If an European Entity makes taxable B2C in excess of Euro 35.000 in any calendar year then it MUST be registered for VAT.

There are two types of supply

- Taxable – must charge VAT on supplies, can reclaim input VAT
- Exempt – cannot charge VAT nor reclaim input VAT

The supply of most types of goods and services in Italy would be classed as Taxable supplies. However when these supplies are made to companies which are outside of Italy advice needs to be sought as to what rate of VAT, if any, to use.

If an Italian entity sells goods or provides services to its non EU parent then there is no VAT chargeable on this overseas supply.

VAT is applied on an accrual basis. The supplier owes to the tax authorities when he issues an invoice and not at the time he receives the payments. However, the supplier, is entitled to a credit for the VAT shown on his own suppliers' invoice at the time he receives the invoice from his supplier and not at the time he makes the payment. This means that the actual tax

Setting up your Business in Italy

Issues to consider



burden is only borne by the end user, who has no right to recover the VAT he has paid. Specific rules are applied for the VAT Claim and VAT compensation with other taxes or social contributions.

Can we provide Share option plans to our staff?

Many companies see Share Option plans as being an important way of attracting, motivating and retaining key staff.

Italy gives tax benefits (in presence of specific and rigorous conditions) to employees and employers on share option plans also in case of an overseas mother company stock option. However this is a very technically complex area and careful planning needs to be undertaken as soon as share option plans are being considered for implementation in Italy.

How else can we compensate our employees?

Italy has a very comprehensive range of compensation and benefit options available for companies to offer their employees.

Pensions, private medical insurance, life and disability cover are now commonplace benefits provided by many Italian businesses to their workforce.

Financial statements requirements

The issue of statutory financial statements is mandatory required by Italian law; it is mandatory for private companies and limited companies.

Italian law requires adherence to Italian GAAAPs; the use of IFRS is mandatory or permitted only in specific cases specifically regulated by law.

Statutory Financial Statements includes following documents:

- Balance Sheets
- Income Statements
- Cash Flows¹
- Disclosures
- Management Report²

IFRS Application for Financial Statements

Mandatory IFRS Application	NOT Permitted IFRS Application	IFRS Application only permitted
<input type="checkbox"/> IFRS application is <u>mandatory</u> since 2005 required for Consolidation accounts of listed companies, companies issuing public financial	<input type="checkbox"/> IFRS application <u>NOT permitted</u> for stand-alone financial statements of not listed insurance companies and listed insurance companies that	<input type="checkbox"/> IFRS application <u>permitted</u> since 2005 for Consolidation accounts and stand-alone financial statements of companies included into the

¹ Mandatory since 1 January 2016
² Not mandatory for small entities or micro-entities



Setting up your Business in Italy

Issues to consider



<p>instruments, financial companies under Financial Authorities control, listed insurance companies and not listed insurance companies</p> <ul style="list-style-type: none"> ❑ IFRS application permitted until 2005, but <u>mandatory</u> required since 2006 for stand-alone financial statements of listed, companies that issue public financial instruments, banks, financial companies under Financial Authorities control. ❑ IFRS application <u>mandatory</u> since 2006 for listed insurance companies (stand-alone financial statements) that have not to issue Consolidation accounts 	<p>issue the Consolidation Financial statements.</p> <ul style="list-style-type: none"> ❑ IFRS application <u>NOT permitted</u> for stand-alone financial statements of “minor” companies (companies identified by Italian law in the article 2435-bis Civil Code that may issue a limited financial statements). 	<p>Consolidation accounts of listed companies, companies issuing public financial instruments, banks and financial companies under Financial Authorities control;</p> <ul style="list-style-type: none"> ❑ IFRS application <u>permitted</u> for the other companies which have to issue consolidation accounts (excluding “minor companies”) and other companies included into the consolidation accounts (except “minor” companies); ❑ IFRS <u>permitted</u> for stand-alone financial statements of companies not reported in previous bullet points (except “minor” companies) (*).
---	--	---

Audit requirements

The audit of statutory financial statements is mandatory required for:

- Private companies;
- Limited companies:
 - Have a share capital equal to or higher than € 50.000 (the minimum required for private companies)
 - Have to draw up consolidated financial statements
 - Control another company that is subject to statutory audit
 - For two subsequent financial years, have passed two of the three limits established for the definition of SME.
- All companies drawing up consolidated financial statements
- Listed companies
- Banks, stock broking companies, found management companies, regulated financial institutions

Statutory audit may be performed by the Boar of Statutory Audit (“Collegio Sindacale”) and, in this case, all the members of the board of auditors must be enrolled in the register of independent auditors as the Italian Minister of Economy. For listed companies, PIE, companies that draw up consolidated financial statements and banks, stock broking companies, found management companies and regulated financial institutions the statutory audit must be mandatory performed by independent audit firm.

For listed companies, parent companies or subsidiaries of listed companies, Banks, stock broking companies, found management companies, regulated financial institutions the Independent Audit have to be registered in the Special Register managed by Consob (Italian Securities and Exchange Commission). In order to check their independence and technical eligibility, Consob requires the independent auditors to report figures and news and send deeds and documents, also on a periodical basis.

To discuss your requirements please contact the International Office on +44 (0) 1245 449266 or email us directly.

Kreston International



www.kreston.com

A global network of independent accounting firms

Setting up your Business in Italy

Issues to consider



Kreston International Limited is a global network of independent accounting firms. Offering reliable and convenient access to efficient and seamless advisory and assurance services through member firms located around the globe, Kreston:

- Is ranked the 13th largest accounting network in the world
- Covers 105 countries
- Has 700 offices
- Has a resource of 21,000 professional and support staff.

Our members are accustomed to working together to deliver cohesive international solutions to ensure clients receive the highest quality of expertise available in their respective countries. Beyond assurance, quality and experience, clients will enjoy the unique synergy that stems from the trusted relationships that Kreston members have created globally and which support the consistent delivery of exceptional international service.

This information is provided for guidance only and is not a substitute for professional advice. Neither Kreston International Limited nor its member firms accept any liability for any loss arising as a result of actions taken or not taken based on the information contained in this document.

The information in this document was prepared as at 10 March 2017.