

## Italian Parliament converts Growth Decree into law and introduces new tax measures

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### Executive summary

The Italian Parliament converted the Growth Decree<sup>1</sup> into law with Conversion Law n. 58/2019 (the Conversion Law).<sup>2</sup>

The Conversion Law, published in the *Official Gazette* on 29 June 2019 and in force as of 30 June 2019 has confirmed, with some amendments, the main provisions contained in the Growth Decree and also introduced new tax measures. The original rules introduced by the Growth Decree were immediately in force as of 1 May 2019.

The main tax provisions included in the Conversion Law concern the following:

- ▶ Changes to the reduced Corporate Income Tax (CIT) rate regime on qualifying income
- ▶ Introduction of new deadline for filing of CIT and Local Tax (*Imposta Regionale sulle Attività Produttive*, IRAP) returns
- ▶ Changes to the deduction of Municipal Tax on immovable properties for CIT purposes
- ▶ Extension of the tax regime applicable to domestic contribution of control shareholdings to the contribution of (non-control) substantial shareholdings

## Detailed discussion

### Changes to the reduced CIT rate regime on qualifying income

As of fiscal year (FY) 2019, Italian resident companies and Italian permanent establishments of foreign enterprises may benefit under certain circumstances from a reduction of the 24% standard CIT on a portion of taxable income (Qualifying Income). Broadly speaking, the Qualifying Income is equal to the net increased retained earnings (generated as of FY 2018) within the limit of the overall increase of adjusted equity as compared to that of FY 2018.<sup>3</sup>

This provision, introduced by the Growth Decree,<sup>4</sup> has been partially amended by the Conversion Law. In particular, the amendments concern the percentages applied for the reduction of the 24% standard CIT, which now are set out as follows:

- ▶ Reduction by 1.5 percentage points for FY 2019 (*i.e.*, CIT rate set at 22.5%)
- ▶ Reduction by 2.5 percentage points for FY 2020 (*i.e.*, CIT rate set at 21.5%)
- ▶ Reduction by 3 percentage points for FY 2021 (*i.e.*, CIT rate set at 21%)
- ▶ Reduction by 3.5 percentage points for FY 2022 (*i.e.*, CIT rate set at 20.5%)
- ▶ Reduction by 4 percentage points starting from FY 2023 onwards (*i.e.*, CIT rate set at 20%).

The following high-level example shows how the Qualifying Income is computed:

- ▶ Taxable income for FY 2019 is equal to €1,000
- ▶ Statutory retained earnings (generated in 2018) are equal to €200
- ▶ Increase of adjusted equity for FY 2019 is equal to €300 (*i.e.*, €200 net retained earnings generated in 2018 plus €100 of equity injection made by the shareholder in 2019).

In such a case, the Qualifying Income for FY 2019 should be equal to €200 (the lower of the net retained earnings and the increased adjusted equity). As a consequence:

- ▶ €200 out of 1,000 should be taxed at the reduced 22.5% CIT rate set forth by the Growth Decree for FY 2019
- ▶ €800 out of 1,000 should be taxed at the standard 24% CIT rate.

The Conversion Law provides that an implementing Ministerial Decree should be issued within 90 days as of the entry into force of the Conversion Law (*i.e.*, by the end of September 2019).

### Introduction of new deadline for filing of CIT and IRAP returns

The Conversion Law introduces a new deadline for the filing of the CIT and IRAP returns.

As of FY 2018 tax returns, filings are due by the end of the 11th month following the end of the relevant fiscal year (*e.g.*, 30 November for calendar entities).

The old nine-month deadline remains generally applicable to the case of winding up of companies.

### Changes to the deduction of Municipal Tax (MT) on immovable properties for CIT purposes

The Conversion Law provides for a full deduction of the MT on Immovable Property for CIT purposes as of FY 2023.

In particular, according to the amendments to the Growth Decree, the MT is now deductible by the following rates:

- ▶ 50% for FY 2019
- ▶ 60% for FYs 2020 and 2021
- ▶ 70% for FY 2022
- ▶ 100% as of FY 2023

### Extension of the tax regime applicable to the contribution of control shareholdings to the contribution of (non-control) substantial shareholdings

The Conversion Law extends the CIT regime<sup>5</sup> for domestic contributions of control shareholdings to the contribution of non-control but substantial shareholdings.

Such regime provides that if the receiving company ends up holding a control participation in the other Italian company (the Target), the value of the shares received in exchange by the contributor is deemed to be, for the purpose of determining the contributor's taxable gain, equal to the increase in the receiving company's net equity as a result of the contribution.

Pursuant to the Conversion Law, the said tax regime is now also applicable to the contribution of non-control investments (*i.e.*, in the case of a contribution of a participation whereby

the receiving company does not end up with a control participation in the Target), provided that the following conditions are met:

- a. The contributed participation represents a qualified investment (*i.e.*, voting rights higher than 2% or 20%, or an equity stake higher than 5% or 25%, depending on whether they are securities traded on regulated markets or other equity investments).

- b. The participation is contributed to entities wholly owned by the contributor.

Specific rules apply for the contribution of holding companies and to compute the participation exemption for taxable gains at the level of the contributor.

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## Endnotes

1. See EY Global Tax Alert, [Italian Parliament introduces urgent measures for economic growth](#), dated 20 May 2019.
2. Issued on 28 June 2019.
3. Adjusted equity means the accounting equity at the end of a given FY without considering same FY's profits or losses, net of the amount equal to any taxable income already subject to reduced CIT rates (e.g., a company computing the adjusted equity in FY 2020 will have to deduct the amount of any portion of 2019 taxable income that benefitted from the favorable regime).
4. See EY Global Tax Alert, [Italian Parliament introduces urgent measures for economic growth](#), dated 20 May 2019.
5. Article 177 (2) of the Income Tax Code.

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