
CHAMBERS GLOBAL PRACTICE GUIDES

Real Estate 2026

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Italy: Law and Practice

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SI-Studio Inzaghi



ITALY



Law and Practice

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Contents

1. General p.5

- 1.1 Main Sources of Law p.5
- 1.2 Main Market Trends and Deals p.5
- 1.3 Proposals for Reform p.7

2. Sale and Purchase p.7

- 2.1 Categories of Property Rights p.7
- 2.2 Laws Applicable to Transfer of Title p.8
- 2.3 Effecting Lawful and Proper Transfer of Title p.8
- 2.4 Real Estate Due Diligence p.8
- 2.5 Typical Representations and Warranties p.8
- 2.6 Important Areas of Law for Investors p.9
- 2.7 Soil Pollution or Environmental Contamination p.9
- 2.8 Permitted Uses of Real Estate Under Zoning or Planning Law p.9
- 2.9 Condemnation, Expropriation or Compulsory Purchase p.9
- 2.10 Taxes Applicable to a Transaction p.9
- 2.11 Legal Restrictions on Foreign Investors p.11

3. Real Estate Finance p.11

- 3.1 Financing Acquisitions of Commercial Real Estate p.11
- 3.2 Typical Security Created by Commercial Investors p.11
- 3.3 Restrictions on Granting Security Over Real Estate to Foreign Lenders p.11
- 3.4 Taxes or Fees Relating to the Granting and Enforcement of Security p.12
- 3.5 Legal Requirements Before an Entity Can Give Valid Security p.12
- 3.6 Formalities When a Borrower Is in Default p.12
- 3.7 Subordinating Existing Debt to Newly Created Debt p.13
- 3.8 Lenders' Liability Under Environmental Laws p.13
- 3.9 Effects of a Borrower Becoming Insolvent p.13
- 3.10 Taxes on Loans p.13

4. Planning and Zoning p.13

- 4.1 Planning and Zoning Framework p.13
- 4.2 Development Process, Challenges and Enforcement p.14

5. Investment Vehicles p.14

- 5.1 Types of Entities Available to Investors to Hold Real Estate Assets p.14
- 5.2 Main Features and Tax Implications of the Constitution of Each Type of Entity p.15
- 5.3 REITs p.15
- 5.4 Minimum Capital Requirement p.16
- 5.5 Applicable Governance Requirements p.16
- 5.6 Annual Entity Maintenance and Accounting Compliance p.16

6. Commercial Leases p.16

- 6.1 Types of Arrangements Allowing the Use of Real Estate for a Limited Period of Time p.16
- 6.2 Types of Commercial Leases p.16
- 6.3 Regulation of Rents or Lease Terms p.17
- 6.4 Typical Terms of a Lease p.17
- 6.5 Rent Variation p.17
- 6.6 Determination of New Rent p.17
- 6.7 Payment of VAT p.17
- 6.8 Costs Payable by a Tenant at the Start of a Lease p.17
- 6.9 Payment of Maintenance and Repair p.17
- 6.10 Payment of Utilities and Telecommunications p.17
- 6.11 Payment of Property Taxes p.18
- 6.12 Insurance Issues p.18
- 6.13 Restrictions on the Use of Real Estate p.18
- 6.14 Tenant's Ability to Alter and Improve Real Estate p.18
- 6.15 Specific Regulations p.18
- 6.16 Effect of the Tenant's Insolvency p.18
- 6.17 Right to Occupy After Termination or Expiry of a Lease p.18
- 6.18 Right to Assign a Leasehold Interest p.18
- 6.19 Right to Terminate a Lease p.18
- 6.20 Registration Requirements p.19
- 6.21 Forced Eviction p.19
- 6.22 Termination by a Third Party p.19
- 6.23 Remedies/Damages for Breach p.19

7. Construction p.19

- 7.1 Common Structures Used to Price Construction Projects p.19
- 7.2 Assigning Responsibility for the Design and Construction of a Project p.19
- 7.3 Management of Construction Risk p.19
- 7.4 Management of Schedule-Related Risk p.19
- 7.5 Additional Forms of Security to Guarantee a Contractor's Performance p.19
- 7.6 Liens or Encumbrances in the Event of Non-Payment p.19
- 7.7 Requirements Before Use or Inhabitation p.20

8. Tax p.20

- 8.1 VAT and Sales Tax p.20
- 8.2 Mitigation of Tax Liability p.20
- 8.3 Municipal Taxes p.20
- 8.4 Income Tax Withholding for Foreign Investors p.20
- 8.5 Tax Benefits p.21

SI – Studio Inzaghi was established in 2024 as a firm focused on real estate and offers a full range of legal and tax services for the real estate sector. Its professionals are renowned among both Italian and international clients for their expertise in real estate transactions, with particular focus on investment transactions, urban planning leases, real estate alternative investment funds, sale and leaseback, public and private tenders, environmental law and court and

out-of-court real estate disputes. The firm boasts a team of over 25 qualified professionals with extensive knowledge across all asset classes. Its focus on the real estate business affords the firm a comprehensive view of the legal and tax aspects of this sector. They stay ahead of the curve by closely monitoring and adapting to new trends and market developments, such as logistics, residential, student housing, data centres and senior living.

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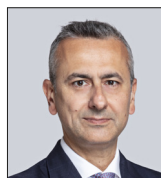


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1. General

1.1 Main Sources of Law

The Italian Civil Code is the main source of real estate law for civil purposes. Commercial leases are governed by Law No 392/1978 (the “Tenancy Law”), while residential leases are governed by Law No 431/1998.

Zoning and planning aspects are primarily regulated by national, regional and municipal laws and regulations. The main national legal and regulatory sources in this regard are the Urban Planning Law No 1150/1942, which governs planning aspects and D.P.R. No 380/2001, regulating construction aspects.

The main sources of real estate finance law are:

- Legislative Decree No 385/1993 of 1 September 1993 (the “TUB”) on banking and lending matters;
- Law No 130/1999 of 30 April 1999 on securitisation transactions;
- Legislative Decree No 170/2004 of 21 May 2004 on financial security agreements; and
- Directive 2011/61/EU on alternative investment fund managers.

In terms of ESG regulations, initiatives that closely involve the real estate market are Regulation (EU) 2019/2088 on sustainability-related disclosure in the financial services sector (the “SFDR Regulation”) and Regulation (EU) 2020/852 of 18 June 2020 (the “EU Taxonomy Regulation”).

The SFDR Regulation aims to increase transparency on social and environmental responsibility in financial markets and to limit so-called greenwashing. It also aims to ensure the product comparability and direct the flow of private capital towards more sustainable investments.

The EU Taxonomy Regulation establishes criteria for determining what is green and sustainable, and what is not, and identifies all economic activities that make a substantial contribution to achieving at least one of the six environmental objectives set by the European Commission.

1.2 Main Market Trends and Deals

The total investment volume in commercial real estate in Italy in 2025 was approximately EUR12.4 billion, a nearly 23% increase from 2024. Notably, the fourth quarter played a pivotal role, generating investments of approximately EUR4.3 billion, which was an increase compared to the preceding quarters of 2025 and the fourth quarter of 2024.

The primary driver of this strong performance was the retail sector. In the fourth quarter, this sector attracted approximately EUR1.1 billion in investments, culminating in an annual total of EUR3.4 billion, marking a new all-time high for the sector in Italy. The factory outlet, high street, and shopping centres segments were particularly active in the fourth quarter and given the strong pipeline of planned deals, they are expected to maintain significant investment volumes in 2026.

The office sector also demonstrated remarkable growth, with total investments reaching EUR1.9 billion nationwide in 2025. Approximately EUR800 million of this was transacted in the fourth quarter alone. Milan and Rome remained the focal points for investment, attracting 70% and 20% of the annual volume, respectively.

The logistics sector attracted approximately just under EUR1 billion in the fourth quarter, bringing the total for the year to approximately EUR2.2 billion, presenting a 31% increase compared to 2024. Market sentiment suggests the start of a downward trend in yields, with prime yields contracting to 5.2%.

The living sector has reasserted itself as a top-tier asset class, recovering to 2022 levels – the strongest year on record for the sector. The final quarter contributed approximately EUR330 million, pushing the full-year total beyond EUR1 billion, a rise of over 70% on 2024. Milan accounted for 66% of residential investment nationally, ahead of Turin, Rome, and Bologna. Growth was largely driven by student housing, where transaction volumes doubled year-on-year, with core transactions accounting for the majority of total value.

Investor demand for technological infrastructure and healthcare assets remained strong, with the alternatives sector registering an investment volume of approximately EUR1.3 billion. Notably, education and data centre assets also saw substantial investment growth.

The hospitality sector, already a key performer in 2024, achieved another significant increase in investment activity, rising by 30% year-on-year to reach approximately EUR2.4 billion in 2025. The luxury hospitality segment remains a priority for investors, particularly in Rome, where an active pipeline of high-end openings continues to drive market momentum.

Generally speaking, the positive momentum that characterised the Italian real estate market in 2024 gained further traction throughout 2025, pushing investment volumes toward levels not seen since the market's peak years.

The combination of declining inflation and lower interest rates in 2025 played a pivotal role in stimulating Italy's real estate market, easing borrowing costs, making mortgages more affordable and boosting property sales.

In the first quarter of 2025 alone, the ECB reduced the deposit rate by a further 25 basis points, bringing it to 2.65%, with market expectations pointing to additional cuts in the months that followed – a notably faster shift toward an accommodative stance than initially anticipated.

At the European level, Italy has carved out a distinctive position, standing alongside other Southern European markets as one of the continent's most compelling real estate destinations. The country's robust market fundamentals and consistent ability to attract both domestic and international capital have proven resilient even amid heightened global uncertainty.

The most significant deals in 2025 included the following.

- In October 2025, Percassi Group, in joint venture with Generali Real Estate, acquired Orio Center – Italy's largest shopping mall – located adjacent to Bergamo's Orio al Serio airport, from Germany's Commerz Real for approximately EUR 470 million. The transaction also included the acquisition of the four-star, 118-room Hotel NH Orio al Serio, which forms part of the broader retail and hospitality complex.
- The Valesco Group completed the majority investment in Casa Moncler, the brand new global headquarters of luxury fashion brand Moncler, developed by Covivio and located in Milan. The transaction, valued at approximately EUR200 million, is the largest in the Italian office sector over the last three years. The Grade A+ campus spans approximately 38,000 square metres and offers a range of amenities, including a gymnasium, restaurants, and a multifunctional auditorium, targeting LEED Platinum and WELL certifications.
- In December 2025, Kryalos SGR completed the sale of the prestigious office building at Via Bassano Porrone 6 in Milan to the family office of a leading private investor. The property extends over

approximately 5,500 square metres – the building hosts one of Italy’s most prestigious financial institutions and holds LEED Platinum, WELL Gold and BREEAM In-Use Excellent certifications. The transaction ranks among the most significant office deals of the year in Europe’s prime segment.

In terms of the new trends in the market, start-ups and venture capital firms are increasingly focused on enhancing the tokenisation of real estate assets. This innovation aims to boost market liquidity and enable greater investment fragmentation. While these technologies are still in the early stages of implementation, they hold significant potential to emerge as a viable alternative investment channel for small to medium-sized projects, accessible to both retail and institutional investors.

Furthermore, Italy continues to play a leading role in European real estate crowdfunding, ranking among the largest markets on the continent. By July 2025, real estate crowdfunding in Italy experienced significant growth, with a total of EUR850 million raised through real estate equity/lending crowdfunding platforms. Additionally, in the real estate equity crowdfunding segment, annual fundraising reached EUR63.8 million in the period July 2024–June 2025, representing a year-on-year increase of 32%.

The conversion of underperforming office stock into residential use has gained traction in Italy, driven by the twin pressures of structurally weak demand for secondary office space and a chronic undersupply of housing in major urban centres. In Rome, competition between office and hospitality uses in prime locations, combined with ongoing conversions to residential and hotel schemes, is further compressing supply and supporting rental growth.

Since 2024, and throughout 2025, the Milan real estate market has been facing a slowdown due to ongoing investigations by the Public Prosecutor’s Office into alleged illegal construction activities linked to several development projects, an issue that continues to affect the market.

1.3 Proposals for Reform

A draft of tax reforms, including changes affecting VAT on real estate transactions, particularly for residential properties, is being introduced in Italy. These changes are driven by Law No 111/2023, which empowers the government to reform the tax system. The VAT reform should broaden the VAT upon option (in lieu of the VAT exemption) in case of lease of residential properties in order to align the VAT regime of residential leases with the VAT regime of leases of commercial properties (for which any landlord can opt for VAT). The amendment aims to eliminate the negative impact of VAT-exempt leases on VAT deductions and to foster investment in residential properties built to rent.

2. Sale and Purchase

2.1 Categories of Property Rights

The categories of property rights that can be acquired are:

- absolute freehold or full ownership (*piena proprietà*): the right to fully enjoy and dispose of the property;
- right to build or surface right (*diritto di superficie*): the surface right is either the right to build on a third party’s property and, subsequently, to purchase the property of the building built, or the right to sell the existing building separately from the land itself;
- beneficial interest (*diritto di usufrutto*): the right to enjoy a third party’s real estate for a specific and limited period of time;
- right of use (*diritto d’uso e di abitazione*): the right to use real estate in order to meet the needs of the person holding the right and those of their immediate family; and
- long lease (*diritto di enfiteusi*): the right to enjoy a property owned by a third party, similar to those granted to a full owner.

Standard Italian transactions refer to the sale and purchase of absolute freehold/full ownership.

2.2 Laws Applicable to Transfer of Title

The Italian Civil Code governs the transfer of title, along with tax, zoning/planning and cadastral regulations.

2.3 Effecting Lawful and Proper Transfer of Title

A deed transferring a real estate asset will be in writing and executed before an Italian notary, who has the duty to authenticate it. Preliminary sale and purchase agreements will take the same form as the final deed and, therefore, must be made in writing.

The parties can freely negotiate the content of the notarial deed, except for the following requirements, which must be included in line with the applicable law:

- the price and means of payment;
- the cadastral data of the real estate asset and declaration of compliance of the cadastral plans filed with the competent Building Cadastre with the actual status of the real estate asset;
- a list of building permits issued to build the real estate asset;
- the rules allocating the risks and benefits of the real estate asset; and
- details of the real estate broker involved (if any) and the relevant fee paid to the broker.

Once executed, the notary files the deed with the Real Estate Register (*Conservatoria dei Registri Immobiliari*) in order to avoid conflicts with third parties and future purchasers.

Due to the fact that the Italian legal system provides the purchaser a certain level of assurance in terms of title to the property, title insurance might not be necessary.

2.4 Real Estate Due Diligence

A potential purchaser should build up a team of legal, tax, commercial and technical advisers.

Areas of investigation include:

- title to property (a 20-year notarial report, including an investigation into third-party rights, registered

prejudicial liens and the seller's title to the property plays a fundamental role);

- leases and contracts relating to the property;
- third-party rights and encumbrances affecting the property;
- zoning/planning permits (including agreements entered into with municipalities authorising the construction of the property);
- litigation; and
- analysis of all technical aspects of the property (eg, plants, fire prevention system and certificate).

Technical and commercial analysis often requires on-site visits.

Many due diligence exercises are divided into a “documental phase”, where the advisers assess the documents in a dedicated virtual data room and a second phase involving site visits if the first phase yields a positive outcome.

2.5 Typical Representations and Warranties

According to statutory law, the seller has to guarantee the:

- title to the property;
- property is free from any third-party rights, except those reported in the deed (if any);
- factual cadastral situation of the property complies with that registered with the relevant cadastre; and
- list of building titles.

Under the Italian Civil Code, the purchaser must notify the seller of any breach of the warranties within eight days of the relevant discovery. A one-year statute of limitations applies from the date the purchaser takes possession of the property. These provisions may lead to the termination of the purchase agreement and to a full refund of the purchase price.

According to current market practice, the parties usually negotiate and include additional representations and warranties and agree to expressly depart from the set of rules included in the Italian Civil Code in relation to warranty defects.

Additional representations and warranties are usually included in sale and purchase agreements, eg, those relevant to the tax regime governing the transaction.

Parties usually include contractual remedies or special indemnities to cure any breach of representations and warranties preventing the termination of a sale and purchase agreement once the transfer of title has been executed.

The representations and warranties generally last for a certain amount of time following the execution of the sale and purchase agreement and the purchaser will not be able to cover claims that arise following the end of the applicable survival period (which usually ranges from six months to two years, although representations and warranties covering the seller's title to the property and tax matters usually remain valid until the statutory terms provided by law have elapsed).

Warranty and indemnity insurance policies providing coverage for losses arising from breaches of representations and warranties are increasingly used, particularly when one of the parties (often a real estate investment fund) is to be liquidated upon completion of the relevant transaction. The policy is usually underwritten by the purchaser and payment of the insurance premium is divided between the parties.

2.6 Important Areas of Law for Investors

Investors should carefully evaluate all tax aspects of the investment. Other areas to be taken into account will vary depending on the type of investment being carried out. For core investments, a detailed evaluation of existing leases will be required. In relation to value-add investments (aiming to increase/create value), planning and zoning aspects should be evaluated in detail. Analysis of tax and planning and zoning aspects should also be conducted if the acquisition involves development projects.

2.7 Soil Pollution or Environmental Contamination

Italy applies the “polluter pays” principle, ie, an owner is only obliged to carry out the relevant remediation works if they are responsible for the pollution or contamination. If the owner does not carry out remediation works, they will not be entitled to carry out con-

struction works and, in the worst-case scenario, the public authorities may carry out the remediation works at the owner's expense. In this case, upon the sale of the area, the public authorities should return to the owner the excess price obtained from the sale, after deducting the costs borne by the public authorities to carry out the remediation works.

2.8 Permitted Uses of Real Estate Under Zoning or Planning Law

The permitted use of an asset is set out in the general town planning scheme of the city. However, in the case of existing buildings, the construction history of each asset should also be taken into account, as it may affect the establishment of a specific use.

A purchaser may ascertain the permitted use under the town planning rules in force by requesting a zoning certificate (*certificato di destinazione urbanistica*), from which it is also possible to discover any urban planning restrictions that apply to the asset.

2.9 Condemnation, Expropriation or Compulsory Purchase

Private ownership might be subject to an expropriation procedure if supervening public interest arises, such as the realisation of public works or works of public interest. In this event, an indemnification will be paid to the owner of the property/land. The indemnification is at the market price of the property/land that is the subject of expropriation.

2.10 Taxes Applicable to a Transaction Non-Residential Property

The sale of a non-residential property by a VAT entity to another VAT entity is VAT exempt, other than in the following cases.

VAT liability will automatically arise if the seller was the developer of a newly constructed property or the entity that carried out renovation works on an existing property, provided that the sale is made within five years of the completion of construction or renovation works (this is known as mandatory VAT).

If VAT liability does not automatically arise, VAT may be payable where the seller exercises the option to apply VAT to the sale and purchase transaction and

the exercise of this option is properly set out in the deed providing for the sale and purchase of the real asset (this is known as the VAT upon option).

In either of these cases, one of the following two mechanisms will apply:

- the ordinary regime in the first case, which provides that the seller must issue an invoice in connection with the sale, charging the VAT; or
- the reverse charge mechanism in the second case (ie, when the seller opts for VAT to apply), which provides that the seller will not charge VAT in the invoice and the purchaser then adds the rate and amount of applicable VAT in the invoice, registers the invoice and the VAT in its input VAT register and its output VAT register. There is therefore no cash out for VAT between the parties to the transaction, and the VAT is offset in the purchaser's hands, provided the purchaser is entitled to the full deduction of VAT on the purchase of goods.

The applicable VAT rate is generally 22%. A reduced rate of 10% applies if the real property underwent material renovation works.

The following transfer taxes will be payable in any sale and purchase of non-residential real assets:

- cadastral tax at 1% of the sale price;
- mortgage tax at 3% of the sale price; and
- registration tax of EUR200.

Mortgage and cadastral taxes can be reduced to an aggregate 2% rate if one of the parties to the transaction is an Italian real estate investment fund (REIF) or if the property is acquired by an Italian listed real estate investment company (*Società di Investimento Immobiliare Quotata* or SIIQ). The tax authority may verify if the sale price is in line with the fair market value within two years.

Generally speaking, VAT can be offset against output VAT and other taxes or recovered through a refund by the tax authority in certain circumstances.

Residential Property

The sale of residential property by a VAT entity to another VAT entity is generally VAT exempt, except where:

- the seller is the developer of a new property or is the company that carried out renovation works on an existing property, provided that the sale is performed within five years from the date of the construction or renovation works being completed; or
- the seller is the developer or the entity that performed the renovation works and the transaction takes place more than five years after the works are completed, if the seller exercises the option to apply VAT. In this case, VAT will be applied under the reverse charge mechanism.

The following taxes apply to sales of residential properties in VAT-exempt sales:

- registration tax at 9% of the sale price (the tax authority may verify if the price is in line with the fair market value within two years);
- cadastral tax of EUR50; and
- mortgage tax of EUR50.

In a sale subject to VAT, the registration tax, mortgage tax and cadastral tax of EUR200 each will be due.

The sale of real property whose VAT was not fully deducted by the seller's VAT entity at the time of purchase is always VAT-exempt by law (and is liable to proportional registration, cadastral, and mortgage taxes).

The purchaser will typically pay the transfer tax and the notary's fees. Brokerage fees typically range from 1% to 3% of the sale price.

If the transfer of the asset results from the acquisition of the entity that owns the asset (ie, a share deal), the transfer transaction is VAT-exempt and a registration tax of EUR200 will be due, regardless of the percentage of ownership in the entity purchased. No stamp duty will be due in connection with the transaction. However, a financial transaction tax or a Tobin Tax will be due on a purchase of any number of shares

representing the corporate capital of a joint stock company (*società per azioni*) but not in the case of quotas in a limited liability company or participation in a real estate alternative investment fund that is an Italian resident company for tax purposes, regardless of whether the purchaser or the seller is an Italian resident person. This financial transaction tax is equal to 0.2% of the sale price.

2.11 Legal Restrictions on Foreign Investors

In principle, there are no restrictions on foreign investors acquiring real estate. However, whether investors are established in countries affected by international sanctions or where rights are limited or restricted will be verified. If it is found that they are, the so-called reciprocity principle or the EU Investment Screening Regulations might apply.

3. Real Estate Finance

3.1 Financing Acquisitions of Commercial Real Estate

Commercial real estate purchases are generally financed through bank loans, although the number of real estate financings granted by non-banking institutions has increased significantly.

In the real estate market, investors can participate in commercial real estate through contractual vehicles such as REIFs or corporate vehicles such as joint-stock companies with variable or fixed capital (SICAVs or SICAFs).

An additional financing scheme is represented by real estate securitisations. Special purpose vehicles (SPVs) meeting certain requirements can securitise proceeds arising from the ownership of real estate and registered movable assets, as well as other rights in rem or personal rights over these assets.

Some provisions have entered into force in Italy, introducing new alternative lending (ie, entities can operate in the Italian market without requiring a banking licence), such as:

- the EU alternative investment funds (EU AIFs), which carry out investment activities in receivables in Italy; and
- the SPV that can grant financing to certain borrowers under conditions provided by Law No 130/1999 of 30 April 1999.

3.2 Typical Security Created by Commercial Investors

Italian real estate finance transactions are assisted by an extensive security package that includes the following:

- mortgage;
- assignment of rental receivables;
- assignment of due diligence report receivables;
- assignment of construction contracts receivables;
- assignment of hedging agreements receivables;
- pledge over the corporate capital of the borrower;
- pledge over the shares of the borrower;
- pledge over the units of the borrower;
- pledge over the borrower's bank accounts;
- assignment of receivables under other contracts or of insurance proceeds;
- loss payee clause in connection with any insurance policy (other than covering third-party risks);
- equity commitment agreement; and
- subordination agreement.

3.3 Restrictions on Granting Security Over Real Estate to Foreign Lenders

There are different restrictions on granting securities in the context of a real estate financing transaction.

- If a company enters into a financing transaction, it needs to receive some corporate benefits.
- The transaction must be considered on its merits and the corporate benefit in granting the security must be assessed in the context of that transaction.
- To ensure that any guarantee or third-party security is valid, the lender needs to identify any concerns regarding corporate benefit and ensure that the situation is properly addressed.
- The fund's units may be pledged in line with Article 2784 of the Italian Civil Code.

- For registered notes, an entry in the issuer's register of unitholders, held by the management company, is necessary.
- A pledge over dematerialised units is also allowed.

Under Article 2358 of the Italian Civil Code, a joint stock company may not, directly or indirectly, obtain loans or provide securities for the purchase or subscription of its shares, unless certain conditions are met.

Limited liability companies are subject to stricter rules, as detailed in **3.5 Legal Requirements Before an Entity Can Give Valid Security**.

3.4 Taxes or Fees Relating to the Granting and Enforcement of Security

Under Presidential Decree No 601/1973 of 29 September 1973 ("Decree No 601/1973"), some loans and related securities granted can be exempt from the ordinary taxation regime.

The borrower can pay a substitute tax, which is an all-inclusive tax at a rate of 0.25% of the principal amount of the loan.

In the cases mentioned in **3.10 Taxes on Loans**, the parties may elect to apply the substitute tax regime to securities.

If the parties do not exercise this option, the security package will be subject to the ordinary taxation regime, including:

- notary fees (in case of notarial securities);
- stamp duty;
- cadastral tax;
- registration tax;
- mortgage tax; and
- governmental duties.

The deed of pledge over quota granted by a third party other than the debtor incurs a registration tax of 0.5%, calculated on the taxable base equal to the amount secured by the pledge.

3.5 Legal Requirements Before an Entity Can Give Valid Security

The granting of security over real estate assets in favour of third parties, within a group of companies, is always subject to the existence of a corporate benefit and to certain restrictions in financial assistance situations.

Corporate benefits should exist and be verified on a case-by-case basis.

In the case of joint stock companies, financial assistance is generally prohibited, but it is possible to provide security over real estate assets subject to compliance with certain steps, formalities and restrictions (see **3.3 Restrictions on Granting Security Over Real Estate to Foreign Lenders**).

Limited liability companies are subject to stricter rules. In particular, Article 2474 of the Italian Civil Code regulates transactions on their quotas, preventing companies from making transactions to purchase their quotas or provide securities for their purchase or subscription.

3.6 Formalities When a Borrower Is in Default

In the event of a borrower default, the acceleration of the loan and the enforceability of the securities are governed by the provisions of the Italian Civil Code and Legislative Decree No 170/2004 of 21 May 2004 (as the case may be), as well as the facility agreement and the security documents.

The lender will notify the borrower that a default event has occurred.

The lender may:

- withdraw from the facility agreement;
- accelerate the payment obligations of the borrower; and/or
- terminate the facility agreement.

Upon withdrawal, acceleration of the payment obligations or termination, all outstanding amounts will be immediately due and payable (save for any grace period permitted by law).

The lender may be entitled to enforce the relevant securities.

In Italy, restrictions introduced during the COVID-19 pandemic that limited creditors' ability to execute foreclosures or realise collateral on real estate have been removed. In addition, the market for the sale of non-performing notes is active in Italy, where specialised players purchase and manage these loans, thereby improving liquidity and supporting the industry's recovery.

3.7 Subordinating Existing Debt to Newly Created Debt

Banks and companies' shareholders (or funds' unitholders) can enter into a subordination agreement, establishing one debt as ranking behind another in priority for collecting repayment from a borrower. A second-in-line creditor collects only when the priority creditor has been fully paid.

When a lender accepts a subordination agreement, it acknowledges that another party's claim or interest will take precedence over its own in the insolvency, winding-up or liquidation of the borrower.

3.8 Lenders' Liability Under Environmental Laws

Lenders are not legally liable for environmental issues affecting borrowers.

3.9 Effects of a Borrower Becoming Insolvent

Legislative Decree No 14/2019 of 12 January 2019 (the "Insolvency Law") regulates the borrower's crisis and insolvency situations.

The asset and financial imbalance of mutual funds and liquidation in cases of insolvency, in particular, is regulated by Article 57 (6-bis) and Article 57 (6-bis.1) of Legislative Decree No 58/1998 of 24 February 1998 (the "TUF").

Article 57 (6-bis) of the TUF provides that if the assets are insufficient to satisfy the fund's obligations and there is no reasonable prospect that this situation can be overcome, the creditors or the management company can request the fund's judicial liquidation.

In order to protect the holders of financial instruments issued in securitisation transactions, Article 4 of Law No 130/1999 of 30 April 1999 expressly excludes payments made by the assigned debtors in favour of the assignee company from the application of the bankruptcy claw-back action, pursuant to the Insolvency Law. The borrower's insolvency is one of the situations giving rise to a default event and could lead to the acceleration of the loan.

3.10 Taxes on Loans

Under Decree No 601/1973, some loans can be exempt from taxes otherwise applicable to the loan agreement and the security package (ie, registration tax, stamp duty, mortgage and cadastral taxes and taxes on government concessions).

The parties may expressly exercise the option to apply the substitute tax regime (0.25% of the principal amount of the loan) instead of the ordinary taxation under the facility agreement.

The substitute tax applies upon option to:

- transactions related to medium and long-term financing (carried out for more than 18 months by banks);
- financing transactions, which last for more than 18 months and are set up by securitisation SPVs, EU insurance companies and EU undertakings for collective investment in transferable securities or UCITSs; and
- securities of any kind, by anyone and at any time given in connection with financing transactions structured as issues of bonds or bond-like securities.

4. Planning and Zoning

4.1 Planning and Zoning Framework

Land use, development, and construction in Italy are governed by a multi-level regulatory framework that combines national, regional and municipal legislation.

At the national level, the main reference is Presidential Decree No 380/2001, which regulates building procedures, construction titles and enforcement measures.

Zoning and spatial planning are primarily implemented at the municipal level through local planning instruments (such as the municipal master plan), which regulate land use, development parameters and urban planning standards. Municipal planning instruments must comply with regional legislation and higher-ranking territorial plans, including regional and provincial planning frameworks.

Regional authorities typically supervise the adoption of municipal planning instruments and may require amendments to ensure consistency with the applicable regional planning framework.

The design, appearance and construction methods of buildings are mainly regulated by national legislation and technical standards, while additional requirements may be set out in municipal building regulations.

Municipalities are the primary authorities responsible for administering planning and building controls, including issuing building permits and supervising construction works. Where specific constraints apply (for example, landscape, cultural heritage, environmental or hydrogeological restrictions), additional approvals may be required from the competent authorities.

4.2 Development Process, Challenges and Enforcement

Development rights are obtained through the relevant building title, depending on the nature of the works. The main procedures are the building permit (*Permesso di Costruire*) issued by the municipality and simplified procedures based on Certified Notices of Commencement of Works (SCIA) for less significant interventions.

In some cases, the applicable planning instruments require the prior approval of implementation plans or the execution of planning agreements with the municipality, regulating aspects such as urbanisation works, public infrastructure and the transfer of land for public use.

Third parties with a legitimate interest – such as neighbouring property owners – may challenge planning decisions or building titles before the Regional

Administrative Courts (TAR). Judgments may be further appealed before the Council of State.

Municipalities are responsible for enforcing planning and building regulations. Where unlawful works are carried out, the authorities may order the suspension of works, the demolition of illegal structures or the restoration of the lawful status of the property. Administrative sanctions may apply and (in certain circumstances) unlawful construction may also result in criminal liability under Italian planning and building legislation. In specific cases provided by law, developers may apply for post-factum regularisation procedures for building irregularities.

5. Investment Vehicles

5.1 Types of Entities Available to Investors to Hold Real Estate Assets

Real estate investments in Italy are mainly carried out through one or more of the following investment vehicles or a combination of them.

Companies

Real estate companies are SPVs carrying out the purchase/sale, management, leasing and building of real estate assets and they are generally formed as limited liability companies (*società a responsabilità limitata* or S.R.L.) or joint stock companies (*società per azioni* or S.P.A.) and are usually not listed on an exchange (although there are a few exceptions).

REIFs

REIFs are undertakings for collective investments and alternative investment funds (AIFs) pursuant to the Directive 2011/61/EU (the “AIFMD Directive”).

REIFs must be managed by authorised Italian managers (SGR) or alternatively by EU managers (AIFM) under the freedom to provide services regime (management passport) or by establishing an Italian branch.

REIFs must invest at least two-thirds of their assets into real estate assets (including rights in rem on these assets, equity interests in real estate companies and units of other REIFs). The remaining third may be invested in listed or non-listed financial instruments.

REIFs may not directly own business activities, which are deferred to affiliates indirectly owned by the REIF.

SIIQs

The SIIQ regime has been adopted to introduce an investment vehicle in Italy that is similar to the REITs existing in other jurisdictions. If certain requirements are met, income from leasing real estate assets is exempt from income tax.

Real Estate SICAFs

A real estate SICAF, like a REIF, is an undertaking for collective investments and an AIF. Unlike the REIF, the real estate SICAF is incorporated under Italian law as a joint-stock company with fixed corporate capital.

Law No 21/2024 introduced measures aimed at simplifying the regulation of real estate SICAFs. Under the new rules, a real estate SICAF reserved to qualified investors and externally managed by a regulated management company (ie, AIFM) is no longer subject to authorisation by the Bank of Italy.

Real Estate Securitisation Vehicle

The real estate securitisation scheme was introduced in Italy in 2019. It means that a securitisation vehicle may purchase real estate assets and benefit from the tax and regulatory regime applicable to the vehicles for the securitisation of receivables.

From an income tax perspective, the securitisation vehicle does not own the profits of its activity and, consequently, is not subject to income taxes. The proceeds of its activity must be used to reimburse the securitisation notes.

5.2 Main Features and Tax Implications of the Constitution of Each Type of Entity

Limited liability companies have a corporate capital divided into quotas with no face value.

Joint-stock companies have corporate capital divided into shares of the same face value.

Limited liability companies and joint stock companies are subject to ordinary corporate income tax of 24% (ie, IRES) and regional tax on productive activities of approximately 3.9% (ie, IRAP). Special rules are pro-

vided for the tax deduction of certain interest expenses. From 1 January 2024, there are no tax incentives for equity injections.

Capital gains from the sale of participation in these companies may benefit from the participation exemption regime (with an effective tax rate of 1.2%) if certain requirements are met.

The new property-rich companies rule introduced in 2023 should be considered in cross-border investment structures, with reference to the capital gains on the disposal of the participation (exit phase).

REIFs and real estate SICAFs are exempt from IRES and IRAP. IRAP may apply to real estate SICAFs, but not to the proceeds from the real estate activity.

Investors in REIFs and real estate SICAFs may benefit from a withholding tax exemption on profits distributed by the REIF/real estate SICAF if certain requirements are met. For example, in the case of foreign pension funds or foreign investment funds having certain features (both in the case of direct or indirect investment into REIFs and real estate SICAFs). Foreign investors may also benefit from a tax exemption on capital gains from the sale of participation in REIFs and real estate SICAFs.

The real estate securitisation vehicle is not subject to IRES or IRAP on the profits realised during the securitisation transaction, as it does not own the profits for tax purposes. This is because the profits must be used to repay the notes issued by the vehicle to finance the property acquisition.

Non-resident noteholders may benefit from an exemption from withholding tax on proceeds paid under the notes.

5.3 REITs

REITs have been implemented in the Italian jurisdiction pursuant to Law No 296/2006 (as subsequently amended).

Liquidity and diversification are among the main features of these instruments. The tax regime for SIIQs provides an advantage for direct tax purposes, con-

sisting of the exemption of business income from leasing activities from IRES of 24% and regional tax on business activities of approximately 3.9%. However, taxation occurs at the investor level, with the SIIQ obligated to make periodic distributions. On the other hand, income from activities other than real estate remains subject to ordinary income taxation for the SIIQ.

The option for this regime can also be exercised by unlisted joint stock companies that are primarily engaged in real estate leasing activities and in which a SIIQ owns a certain percentage of participation in profits and voting rights (ie, more than 50%).

For foreign investors, this regime is available through the establishment of a branch in Italy, which may opt for the SIIQ regime if certain requirements are met.

There are currently only a few SIIQs in Italy and the number has actually decreased in recent years.

5.4 Minimum Capital Requirement

The minimum capital required is EUR10,000 (or EUR1 under certain conditions) for limited liability companies and EUR50,000 for joint stock companies.

The minimum share capital for SGRs, as set by the Bank of Italy, is EUR1 million, even though SGRs with reduced capital (not lower than EUR50,000) are allowed under certain circumstances.

The minimum share capital for real estate SICAFs is also EUR1 million and the minimum capital is reduced to EUR500,000 for real estate SICAFs reserved for professional investors. For real estate SICAFs entirely managed by external managers, the minimum capital is EUR50,000.

5.5 Applicable Governance Requirements

A limited liability company is characterised by greater flexibility and quotaholders have wider autonomy in shaping the company according to their needs through the provision of different rules within the by-laws, while a joint stock company is governed by a large number of mandatory provisions.

See 5.1 **Types of Entities Available to Investors to Hold Real Estate Assets** regarding the governance principles that apply to REIFs, SIIQs and real estate SICAFs.

5.6 Annual Entity Maintenance and Accounting Compliance

The annual entity maintenance and accounting compliance costs depend on the number of activities to be carried out. On average, costs range from EUR10,000 to EUR20,000 for both types of company. Auditors' costs will be added.

6. Commercial Leases

6.1 Types of Arrangements Allowing the Use of Real Estate for a Limited Period of Time

Italian law recognises:

- property leases; and
- business leases.

Property Leases

A property lease concerns non-residential properties (eg, office, retail and hotel) and residential properties. Property leases are mainly regulated by the Italian Civil Code, Law No 392/1978 (for non-residential properties) and Law No 431/1998 (for residential properties).

The Tenancy Law on non-residential properties was amended on 11 November 2014, allowing the parties to freely negotiate the terms and conditions of a lease if the lease provides for an annual rent exceeding EUR250,000 and the building lacks historical value (so-called large leases).

Business Leases

A business lease covers a “going concern” or a business (*ramo d'azienda* or *azienda*) that might include a property. In this case, the lease is governed solely by certain provisions of the Italian Civil Code, so the parties are granted freedom to negotiate the terms and conditions of the lease.

6.2 Types of Commercial Leases

The Tenancy Law regulates leases concerning offices, retail properties and hotels.

6.3 Regulation of Rents or Lease Terms

The parties are free to determine rent amounts. Italian law sets a minimum term for leases (see 6.4 **Typical Terms of a Lease**) and the parties can freely fix the term in longer-term leases.

6.4 Typical Terms of a Lease

The Tenancy Law provides for fixed minimum terms of six years for non-residential leases of office/retail properties and nine years for hotel properties. Temporary leases can be entered into on the basis of certain objective reasons. In longer-term leases, the parties can agree on a different term. The Italian Civil Code provides for a maximum lease term of 30 years.

The lease automatically renews upon the expiry of the initial period, unless either party gives notice not to renew at least 12 months prior to the expiry term or 18 months prior to the expiry term in the case of hotels.

A residential lease has a fixed/minimum term of four years. Upon the expiry of the initial term, the lease automatically renews for another four years, unless the parties agree otherwise.

The Italian Civil Code distinguishes between ordinary and extraordinary maintenance works and tenants are generally only responsible for ordinary maintenance. However, parties can deviate from this principle.

The frequency of rent payments can be freely agreed upon between the parties.

6.5 Rent Variation

Parties are free to determine the rent, but once it is fixed, it is subject only to an annual review based on 75% of the Italian National Institute of Statistics (ISTAT) consumer price index or 100% depending on the duration of the lease. Since November 2014, parties to longer-term leases can freely negotiate and determine a mechanism for reviewing and updating the rent. However, current market practice still provides for the rent to be updated on the basis of the ISTAT consumer price index.

Turnover rents, stepped rents, and free rent periods are also permitted, subject to certain limitations set out in case law.

6.6 Determination of New Rent

See 6.5 **Rent Variation**.

6.7 Payment of VAT

Residential Leases

The general rule is that residential leases are VAT-exempt. Landlords can opt for the VAT regime to be applied at a 10% rate exclusively in the following cases:

- leases executed by companies that built the leased building and companies that have performed, including through contractors, the renovation works referred to in Article 3 (1)(c), (d) and (f) of Presidential Decree No 380/2001; and
- leases of social housing (as defined by law) carried out by other companies.

The tax reform currently in progress should extend the VAT option to any landlord who qualifies as a VAT entity, irrespective of these requirements (as in the case of non-residential leases, see below).

Non-Residential Leases

The general rule is that these leases are VAT exempt. However, any landlord can opt to have VAT applied (at a 22% rate). The VAT option must be clearly stated in the agreement.

6.8 Costs Payable by a Tenant at the Start of a Lease

In Italy, no costs should be paid by the tenant other than rent and any ancillary charges, unless fit-out works are to be carried out within the property. If this is the case, the parties will define which works are for the benefit of the tenant and which are for the benefit of the landlord.

6.9 Payment of Maintenance and Repair

Maintenance costs for common parts of the property in Italy are borne by the landlord and reimbursed by tenants on a pro rata basis.

6.10 Payment of Utilities and Telecommunications

Tenants pay utilities and telecommunication costs in Italy.

6.11 Payment of Property Taxes

A local property tax (IMU) is imposed on the ownership of the property and calculated on the value of the property as determined under Italian tax provisions. Registration tax is imposed on the lease agreement and calculated on the rent.

The IMU will be borne by the landlord according to the tax law.

However, landlords and tenants may enter into a triple-net lease agreement under which the rent due from the tenant is calculated based on the IMU payable by the landlord. This provision is valid among the parties to the lease agreement, but not before the tax authority.

Landlords and tenants are jointly and severally liable before the tax authority for the registration tax on the lease agreement. Where payment is not made, the tax authority may request that both parties to pay the full amount, irrespective of the lease agreement's clauses regarding splitting the registration tax. Payment by the landlord or tenant settles the tax liability of the other party.

According to market practice, in commercial leases, as a rule, the parties each agree to pay 50% of the registration tax and to do so annually.

6.12 Insurance Issues

Real estate must be used in line with zoning and planning provisions in Italy. Lease agreements expressly state what the property is to be used for and the tenant is not allowed to change the intended use. If they do, the lease will be terminated.

6.13 Restrictions on the Use of Real Estate

In Italy, the tenant is usually allowed to alter/improve the property, subject to the landlord's consent. Upon the expiry of the lease agreement, the landlord may require the tenant to remove all alterations and improvements, or may decide to acquire them free of charge.

6.14 Tenant's Ability to Alter and Improve Real Estate

Law No 392/1978 regulates commercial leases (eg, office, retail and hotel), while Law No 431/1998 regulates residential leases. The Italian Civil Code applies to all leases.

6.15 Specific Regulations

Landlords are not allowed to terminate lease agreements in the event of a tenant's insolvency. A specific procedure set up by the court-appointed receiver will take place instead.

6.16 Effect of the Tenant's Insolvency

Tenants in Italy usually provide a cash deposit of up to three months' rent to landlords to secure the latter against the tenant's failure to meet their obligations. Bank guarantees/insurance policies can cover higher amounts. Corporate guarantees are even delivered by the tenant.

6.17 Right to Occupy After Termination or Expiry of a Lease

Under Italian law, upon the expiry date, the tenant will need to vacate the property. Failure to do so may result in holdover indemnities being paid to the landlord for a specified period. Upon the expiry of this grace period (if agreed), the landlord may seek a court injunction and the restoration of damages.

6.18 Right to Assign a Leasehold Interest

In line with current market practice, a tenant may be allowed to assign the lease, subject to the landlord's consent. Exceptions might apply to intra-group assignments. A sublease term must not exceed the lease term.

These provisions can be freely determined by the parties and are subject to negotiations.

Italian tenancy law provides that, if a tenant transfers the business along with the lease, the landlord may oppose the transfer only for justified reasons. Longer-term leases can deviate from this provision.

6.19 Right to Terminate a Lease

Leases include a specific termination clause listing all events pursuant to which a landlord can demand

termination. In any case, a tenant's failure to fulfil its obligations may allow the landlord to terminate the lease.

A tenant has the right (according to the final paragraph of Article 27 of Law No 392/1978) to withdraw from the lease agreement at any time on the basis of "serious grounds" (*gravi motivi*) with six months' prior notice. This provision can only be derogated from by the parties in longer-term leases.

6.20 Registration Requirements

All leases have to be registered with the tax authority and an annual registration fee equal to 1% of the passing rent must be paid. The registration fee is usually paid equally by the landlord and the tenant.

Certain leases with an initial term of more than nine years should be executed before a notary and registered in the Land Register so that they can be accessed by all third parties.

6.21 Forced Eviction

Under Italian law, if the tenant does not comply with the obligations under the lease, the landlord can terminate the lease and seek the tenant's eviction. This is a court process, and the duration varies depending on the court.

6.22 Termination by a Third Party

In Italy, a lease can only be terminated by a third party in cases of compulsory procedure and an indemnity is payable.

6.23 Remedies/Damages for Breach

In the event of a breach by the tenant and termination of the lease, landlords may retain the cash deposit (which, except for longer-term leases, cannot exceed three monthly instalments of rent) and/or enforce the guarantee.

In addition, landlords may seek further damages (eg, loss of profits and reputational damages) to be ascertained before a court and/or provide for specific penalties in the lease agreement.

7. Construction

7.1 Common Structures Used to Price Construction Projects

The most common structures are:

- a guaranteed maximum price to be determined based on an open book approach, except for variations;
- a price determined on the basis of separate prices for certain works and the overall final price is determined upon the completion of works; or
- a cost-plus fee basis, where the price is determined on an open-book basis plus a pre-agreed fee.

7.2 Assigning Responsibility for the Design and Construction of a Project

Landlords in Italy can enter into separate agreements for design and construction. The relevant liabilities will remain with the appointed contractor, except in the case of any necessary variations.

7.3 Management of Construction Risk

It is market practice to impose penalties on the contractor for delays. Regarding the project's feasibility, the construction agreement typically includes appropriate representations and warranties. Contractors are also required to deliver performance bonds.

7.4 Management of Schedule-Related Risk

Construction agreements usually provide for penalties to be paid in case of delay.

7.5 Additional Forms of Security to Guarantee a Contractor's Performance

Contractors are required to deliver a performance bond and, upon completion of the works, to give a warranty bond and a ten-year insurance policy (*decennale postuma*) covering material defects of the building.

7.6 Liens or Encumbrances in the Event of Non-Payment

In the event of a landlord's default, contractors/designers may be able to encumber the property and enforce a sale to recover their outstanding debts. This would imply a judicial proceeding.

7.7 Requirements Before Use or Inhabitation

Italian law requires buildings to be fit for use before they can be inhabited. According to the regulations currently in force, fitness for use is self-declared by the developer through a certified technical assessment using a specific form, which confirms that the works comply with the submitted project and the regulations on hygiene, health and safety, plants and systems and fire prevention.

8. Tax

8.1 VAT and Sales Tax

See 2.10 Taxes Applicable to a Transaction.

8.2 Mitigation of Tax Liability

Where non-residential real assets are purchased by REIF or SIIQ, the applicable cadastral tax and mortgage tax are halved to 0.5% and 1.5%, respectively.

The contribution of multiple real assets, mainly leased, performed by a VAT-registered entity to a REIF or SIIQ is not subject to VAT and is subject to negligible transfer taxes of EUR200 each.

8.3 Municipal Taxes

An owner of real property is generally liable for the payment of the IMU. The taxable basis equals the cadastral income (including a 5% increase) multiplied by a figure depending on the type of property.

The local municipality approves the rates, which range from 0% to 1.14% annually.

The user of a property is also subject to the waste removal tax (*tassa sui rifiuti* or TARI).

8.4 Income Tax Withholding for Foreign Investors

An investor may derive lease income from owned real property, either directly or through dividends or distributions from a corporate vehicle or fund. Tax on rental income may vary substantially, depending on the structure of the investment.

Where the property is held by an Italian corporate vehicle, if the real estate is leased to tenants, any

rental income generated is subject to IRES at a rate of 24% and to IRAP at the ordinary rate of 3.9% (or more, depending on the relevant region).

The taxable income of a real estate company for IRES purposes is the net revenue after the deduction of costs, as shown in the annual profit and loss account. Roughly all costs relating to the activities of a company can be deducted, including depreciation (excluding land) and interest (as long as this exceeds interest receivable), up to an amount equal to 30% of earnings before interest, taxes, depreciation and amortisation (EBITDA) in each fiscal year. Interest due on loans used to purchase real estate properties for “letting” that are secured by mortgages over the same properties is fully deductible.

The taxable income of a real estate company in relation to the leasing of residential real properties for IRES purposes is represented by the rent minus maintenance expenses and interest up to these limits. No other costs are deductible.

Interest is not deductible for IRAP purposes.

The taxation of dividends distributed to shareholders depends on the nature of the shareholder, as outlined below.

- Dividends distributed to a non-resident individual are generally subject to a withholding tax of 26%. Withholding tax rates can be reduced by any double tax treaty signed by Italy with the country of residence of the foreign investor.
- Dividends distributed to a company that is resident in the EU or EEA and subject to income tax therein are liable to a 1.2% withholding tax (to avoid discrimination with dividends received by Italian resident companies). Exemption from Italian withholding tax under the Parent-Subsidiary Directive may apply.
- Dividends distributed to a non-EU/EEA resident company are subject to withholding tax at the rate provided under the applicable double tax treaty. Under recent case law, dividends distributed to a non-EU/EEA resident company may be subject to a 1.2% withholding tax rate (as in the case of an EU-resident company), which may be lower than

the applicable tax treaty rate. Dividends paid by an Italian resident company to foreign undertakings for collective investments (UCIs) are exempt from withholding tax if the following conditions are met (EU UCIs):

- (a) UCIs are established in the EU or EEA; and
- (b) UCIs are compliant with Directive 2009/65/EC (UCITS) or are alternative investment funds managed by managers subject to regulatory supervision in the country where they are established, pursuant to the AIFMD Directive.

In the case of direct investment performed by a foreign company (without a permanent establishment in Italy, noting that ownership of Italian real estate does not automatically give rise to a permanent establishment in Italy), the income derived from letting property is subject to IRES, which is payable at a rate of 24%. 95% of the gross income derived from letting is taxable and no depreciation or other costs can be deducted.

Italian REIFs are not subject to IRES or IRAP and foreign investors may benefit from a withholding tax exemption if certain requirements are met.

Tax on capital gains from the sale of real estate may vary depending on the structure of the investments.

Profits on the sale of a property realised by an Italian corporate vehicle are subject to IRES and IRAP at the aggregate rate of 27.9%, regardless of how much time has lapsed since acquisition. The profit is the difference between the agreed purchase price and the property's net tax value at the time of sale. In some cases, it is possible to spread the liability for tax on capital gains over a period of five years.

Upon the sale of participation in an Italian vehicle, the capital gain is subject to Italian income tax at a rate of 26%.

Capital gains from the sale of real estate owned directly by a foreign investor without a permanent establishment in Italy are not subject to IRES if the property is sold more than five years after its acquisition. If the sale occurs within five years, IRES applies at a rate of 24%. Taxable income is the difference between the price agreed for the sale of the property and its acquisition cost.

Starting from 1 January 2023, Italy introduced a so-called property-rich companies rule, in line with the OECD Model Tax Convention, which regards capital gains realised by foreign investors from the direct or indirect sale of a participation in an Italian vehicle owning certain real estate assets. These gains may be subject to Italian income tax, including in the case of the sale of participations in a foreign vehicle owning a participation in an Italian real estate company.

A financial transactions tax or Tobin Tax is payable at a rate of 0.2% on the agreed price by the purchaser of shares in an Italian resident joint stock company, even if the purchaser and the seller are not Italian residents.

8.5 Tax Benefits

Italian REIFs benefit from a favourable tax regime compared to unregulated real estate companies, including exemptions from income taxes on real estate proceeds and reduced transfer taxes; furthermore, regulated foreign investors may qualify for a tax exemption on proceeds derived from their participation in a REIF if certain requirements are satisfied.

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