

**COUNTRY TAX LAW STUDY
FOR
ITALY**

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PART I

GENERAL SURVEY OF APPLICABLE TAXES

A. VALUE ADDED TAX (VAT)

1. DESIGNATION

Value Added Tax (VAT) (“*Imposta sul Valore Aggiunto*” or “*IVA*”), is mainly governed by Presidential Decree No. 633 of 26 October 1972, as subsequently amended (“D.P.R. 633/72”). Further provisions are contained in Decree Law no. 331 of 30 August 1993 (“D.L. 331/93”) (converted into Law No. 427/1993), which specifically governs VAT on intra-Community acquisitions of goods.

A specific VAT legislation is also contained in certain EU Directives. Council Directive 2006/112/EC of 28 November 2006 codifies the provisions governing the introduction of the common system of VAT in the European Union. Said Directive is aimed at harmonizing the domestic VAT legislations of the EU member States. Arrangements for the refund of VAT are provided for by Eighth Council Directive 79/1072/EEC of 6 December 1979 and Thirteenth Council Directive 86/560/EEC of 17 November 1986.

2. DESCRIPTION

- a. VAT is an indirect tax, or, in other words, a general tax on consumption applied to commercial activities involving the production and distribution of goods and the supply of services. It is levied at each stage in the production and distribution process. Although VAT ultimately bears on individual consumption of goods or services, liability for VAT is on the supplier of goods or services. VAT is a percentage tax levied on the price each firm charges for the goods or services it supplies. A system of tax credits is used to place the ultimate and real burden of the tax on the final consumer and to relieve the intermediaries of any final tax cost. Under such system, taxable persons (see § 5 below) are allowed to deduct from the VAT amount they collect from the sale of their goods or services the VAT amount they have already paid to their suppliers. In the end, VAT is borne by the final consumer in the form of a percentage addition to the final price of the goods or services. The final price is the total of the value added at each stage of production and distribution. If the taxable person collects more VAT than the one already paid to its suppliers, it shall pay the difference to the tax office. If, instead, the taxable person pays more VAT than the one collected from its clients, it is entitled to a tax credit or refund.

- b. Under Italian law, the scope of VAT includes the supplies of goods or services for consideration carried out within the territory of Italy by a taxable person acting as such as well as the importation of goods (Art. 1 of D.P.R. 633/72). Said transactions give rise to a number of obligations upon the taxable person who carried them out, such as the obligation to issue an invoice, to pay VAT, to file periodical tax return, etc..

Certain transactions are expressly excluded from the scope of VAT as they are not regarded as transfer of goods or services (i.e.: transfers of money and pecuniary credits; of going concerns, including autonomous branches thereof; of land with restrictions on construction; of assets as a result of company mergers or transformations; sales of post stamps and stamp duties; of any kind of food pastes, bread and similar items; sales of milk; transfers of concessions, licenses, and the like relating to copyrights; loans of bonds and related services; etc.).

These transactions, which are “out of the scope of VAT” (in Italian: “*escluse*” or “*fuori campo IVA*”) and do not give rise to any obligation upon the supplier, must not be confused with the “exempt” transactions (in Italian “*esenti*”) and with the “zero rated” transactions (in Italian “*non imponibili*”) (see § 10 below).

3. TAXABLE BASE AND TAX RATE

The tax is applied to the consideration received by the supplier of goods or services under the contract. The standard tax rate is 20 % (Art. 16 of D.P.R. 633/72), which applies to the supply of most goods and services. However, reduced rates are applied to the supply of medicines, natural gas and electricity for domestic use, private telephone service, and most processed foods (10 %) as well as to the supply of agricultural products, some foodstuffs and books (4%).

4. TAXING AUTHORITY

VAT is a national tax administered by the Ministry of Finance (MOF) through local tax offices.

5. LEGAL INCIDENCE OF THE TAX

While the real burden of the tax is placed on the final consumer, the subject legally liable for the payment of VAT to the tax office is any person or entity carrying out an economic activity, i.e.: any activity of producers, traders or persons supplying services, including mining and agricultural activities and activities of the professions.

6. TYPES OF CONTRACTS TO WHICH VAT IS APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

VAT is in principle applicable to all contracts for the supply of goods or services, including contracts for construction. Certain supplies of goods or services are however expressly excluded from the scope of VAT (see § 2.b above).

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractors and subcontractors are, in principle, taxable persons, provided that they carry out an economic activity as defined above. The applicability of VAT to the prime contract, subcontract or purchase order is an issue that must be evaluated case by case, considering the actual nature of the contract or order and whether it falls under the scope of VAT or enjoys any exemption.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

Salaries and wages are not subject to VAT. Contractor and subcontractor personnel are not exempt from payment of VAT for personal purchases at commissaries and exchanges located within the U.S. bases. However, contractor personnel who are accorded civilian personnel status as technical representatives pursuant to the Shell Agreement and other bilateral agreements may purchase tax-free items at commissaries and exchanges to the same extent as members of the civilian component.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

To fall within the scope of VAT, supplies of goods and services shall be carried out within the territory of Italy. In particular, supplies of goods are considered to be carried out within the territory of Italy if they have as objects goods physically located in Italy. Supplies of services are considered to be carried out within the territory of Italy when they are rendered by subjects domiciled in Italy or by subjects resident in Italy and not domiciled abroad or, finally, by permanent establishments in Italy of subjects domiciled or resident abroad.

10. SIGNIFICANT EXEMPTIONS

As mentioned, unlike transactions which are “out of the scope of VAT”, “exempt” transactions and “zero rated” transactions fall within the scope of VAT, thus giving

rise to a number of obligations upon the supplier, while no VAT is due on the consideration paid.

Pursuant to Art. 10 of D.P.R. 633/72, “exempt” transactions are the following: property rental; post and telegraph services; tax collection services; transfers of shares; financing and credit transactions; insurance services; brokerage services related within certain exempt services; urban public transport; garbage disposal; most medical services; funeral services; education; child and retirement care; libraries; museums; zoos; picture galleries; employee aid and welfare services; guard services; commercial farm rentals; games of chance.

“Exempt” transactions allow the supplier to partially deduct the VAT already paid on purchases.

Pursuant to Artt. 8, 8-*bis* and 9 of D.P.R. 633/72 “zero rated” transactions are the following: exports of goods from the territory of Italy to the territory of a non-EU country; certain transactions relating to international transport or treated as exports; supplies of services by intermediaries when they take part to transactions relating to exports; certain transactions relating to international trade.

“Zero rated” transactions allow the supplier to entirely deduct the VAT already paid on purchases.

11. METHOD OF COLLECTION

If the taxable person collects more VAT than the one already paid to its suppliers, it shall pay the difference to the tax office. The payment is made mainly on a monthly or quarterly basis; minor tax-payers may opt to pay VAT on a yearly basis.

12. BURDEN OF TAX ON U.S. GOVERNMENT IN ABSENCE OF RELIEF

Each year in Italy, the U.S. Forces contract for substantial purchases of goods and services that would normally be subject to the tax. Without the provisions containing tax benefits, it is clear that VAT would have a significant effect on U.S. Forces expenditures in Italy, particularly upon the provision of utilities.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

- a. Pursuant to Artt. 72, par. 3, no. 2) and 68, par. 1, let. c) of D.P.R. 633/72, supply of goods or services and importations made to military commands of NATO member States, to international military headquarters and to ancillary bodies installed in accordance with the North Atlantic Treaty are regarded as “zero rated” transactions and, therefore, no VAT is due on the consideration paid for them.

Art. 66, par. 2, of D.L. 331/93 clarified that Art. 72, par. 2, no. 2) applies also to the

supplies of water and power and to the supplies of goods and services related to housing, carried out to military commands and headquarters, provided that they are necessary for the performance of the institutional purposes of the latter. Art. 72, par. 3, no. 2) also applies in case the supplies of water and power and the supplies of goods and services related to housing are provided to private quarters or dwellings of members of the force or civilian component, as long as the command certifies that it supports the relevant cost. This is normally achieved by having the utility contracts registered in the name of the Command (usually Services/MWR) rather than with the individual service member.

The invoice issued by the supplier who carried out the above transactions must contain a notation that the transaction is “zero rated” (“*non imponibile*”), citing the relevant provision (Art. 72, par. 3, no. 2 of D.P.R. 633/72). An authorized officer of the base contracting office must sign the statement and apply an official seal or stamp. The annotated statement, invoice, and check must be returned to the vendor. Vendors also require that the buyer complete a form mandated by European Union regulations. The vendor presents the completed form to the customs authorities in order to recoup VAT.

- b.** Pursuant to Art. 72, par. 3, no. 1) and 68, par. 1, let. C) of D.P.R. 633/72, supplies of goods and services to or importations by foreign embassies and consulates in Italy and their representatives are “zero rated”, provided that the relevant consideration exceeds €258,23 and that such embassies, consulates and representatives belong to countries which grant the same tax benefit to Italian embassies, consulates and representatives located on their territory. This provision applies to personal purchases by U.S. diplomatic personnel.
- c.** Pursuant to Art. 9, par.1, no. 9) of D.P.R. 633/72, works performed on property, temporarily imported into Italy by non-resident persons, are “zero rated” transactions. Motor vehicles licensed by U.S. Forces in Italy (AFI and "cover" plated) are considered temporarily imported for tax and customs duty purposes. Accordingly, U.S. Forces do not have to pay VAT on repair works (parts and labor) made on AFI and cover-plated vehicles.
- d.** Pursuant to Art. 7, par. 4, let. f) of D.P.R. 633/72, legal services rendered to persons domiciled and resident outside the European Union are not regarded as being carried out in the territory of Italy and are therefore excluded from the scope of VAT. Therefore the legal services rendered by Italian lawyers to the Department of Justice of the U.S. Government are transactions “out of the scope of VAT” and no VAT is therefore due. The relevant invoice shall indicate that the transaction is “out of the scope of VAT pursuant to Art. 7, par.4, let. f) of D.P.R. 633/72”.

B. CUSTOMS DUTIES

1. DESIGNATION

Customs Duties (“*Dazi Doganali*”) are mainly governed by the Council Regulation (EEC) No. 2913/92 of 12 October 1992 establishing the Community Customs Code (“Reg. 2913/92”) and by the Commission Regulation (EEC) No. 2454/93 of 2 July 1993 laying down provisions for the implementation of such Code (“Reg. 2454/93”). Besides EU regulation, the Italian main provisions governing Customs Duties are contained in Legislative Decree No. 43 of January 23, 1973 (“Lgs. D. 43/73”) as amended and in Legislative Decree No. 374 of November 8, 1990 (“Lgs. D. 374/90”). In case of any discrepancy between Italian and EU legislation, the latter prevails.

2. DESCRIPTION

Customs duties are taxes on imports. Even if they are administered by each Member State, they constitute EU’s own resources.

As a general rule, while the trade between EU Member States is essentially duty-free, Customs duties are applicable to foreign-made goods imported into the European Union, depending upon their Country of origin.

When receiving non-EU goods, each Member State has to apply the rates provided for by the TARIC (Integrated Tariff of the European Communities) with reference to the type of product in which such goods can be included.

3. TAXABLE BASE AND TAX RATE

The taxable base is the assessable value of the imported goods when reaching the Customs. Such value includes the amount indicated in the invoice for the purchase of goods and of all the purchase-related costs already incurred (such as transportation costs, insurance costs, etc. See Art. 32 of Reg. 2913/92, Part V).

The tax rates identified by the TARIC with reference to types of goods range from 0 to 40 percent.

4. TAXING AUTHORITY

Customs duties are administered by the Customs Authority under the cognizance of the Ministry of Finance.

5. LEGAL INCIDENCE OF THE TAX

The importer is liable for:

- i) bringing the imported goods to a Customs Office;
- ii) presenting the imported goods to the Customs Authority;
- iii) submitting a customs declaration (see. Art. 64 of Reg. 2913/92, Part V). Such declaration must contain the declaration of custom destination of the goods (in accordance with Art. 55 of Lgs. D. 43/1973, Part V) and all the documents concerning the goods requested by the Customs Office. To this purpose, an official form shall be used;
- iv) paying the Customs duties. Such duties are determined on the basis of the information given in the customs declaration. The Customs Authority is entitled to verify the correspondence of the goods with the indications contained in the customs declaration and, if necessary, contest and correct them.

6. TYPE OF CONTRACT TO WHICH DUTIES ARE APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

Customs duties apply to all foreign-made goods imported into Italy. The applicable rate depends upon the Country of origin of the goods.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractors and subcontractors are subject to Customs duties if they import goods from outside the EU.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

The provisions related to Customs duties apply to the personnel of Government's Contractor or subcontractor, who do not enjoy any exemption provided for by the NATO SOFA Agreement. The only exception is for those personnel designated as technical representatives under the bilateral agreements between U.S. and Italy.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

None.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

Exemption from the payment of the duties are provided for goods temporarily imported for processing and subsequently exported and for goods directed to other EU Countries and transiting through Italy.

11. METHOD OF COLLECTION

Liquidation of the tax due is required before the goods may be cleared through Italian customs at the port of entry. The Customs Authority, upon proper guaranty, can authorize: i) the importer who normally carries out clearance operation to make periodical payments within deadlines agreed with the “*Ricevitore*” (the person who is in charge for collecting the payment); ii) the occasional importer to defer the payment of a maximum of 30 days.

12. BURDEN OF TAX ON U.S. GOVERNMENT IN ABSENCE OF RELIEF

U.S. Forces in Italy import substantial quantities of goods from the United States and elsewhere. In the absence of relief from Customs duties, there would clearly be a significant economic burden on the U.S. Government.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

- a. Article XI of the NATO SOFA provides a complete exemption from Customs duties, and few problems have occurred with direct military imports or withdrawal from bonded warehouses. AE Form 302, executed by an authorized officer stating the goods are being imported for the exclusive use of U.S. Forces, accomplishes the release of the goods. No relief procedure exists for goods imported on a non duty-free basis and later sold to the U.S. Government. Problems also occur when goods are shipped by or from a vendor located outside of Italy to a vendor or contractor for the U.S. Forces; avoid such purchases where practical.
- b. Services charges imposed by customs inspectors for the ministerial acts of inspecting and clearing customs shipments are defined and set by regulations of the MOF and customs sub-departments; distinguish these charges from duties and taxes and pay them.

C. STATE AND PORT FEES FOR LOADING AND UNLOADING OF GOODS TRANSPORTED BY SEA

1. DESIGNATION

Fees for loading and unloading of goods transported by sea (“*Tassa di Sbarco e Imbarco sulle Merci Trasportate per Via Marittima*”) are divided into the following two categories:

- State fees (in Italian “*Tasse erariali*”), governed by Law Decree no. 47 of 28 February 1974;
- Port fees (in Italian: “*Tasse portuali*”), governed by Law Decree No. 82 of 9 February 1963, as subsequently amended (L.D. 82/63) and by Law no. 355 of 5 May 1976 (“L. 355/76”).

2. DESCRIPTION

- a.** State fees are due for the goods loaded and unloaded in all Italian ports, roadsteads, and beaches. They are called “State fees” because, originally, they were aimed at raising revenues for government income. However, Art. 1, par. 982, of Law no. 296/2006 provided that, starting from 2007, the amount of these fees has to be destined to each port authority.
- b.** Port fees are due, in accordance with L.D. 82/63, for the goods loaded, unloaded and in transit in the ports of Genoa, Venice, Naples, Livorno, Civitavecchia, Trieste, Savona, Brindisi, Palermo, Ancona, Cagliari, La Spezia and Messina. The relevant amounts are destined to port authorities and to the companies rendering loading and unloading services in the mentioned ports.

3. TAX RATE

The tax rate varies depending on the nature of the goods loaded or unloaded and on the port involved. It is established by a Decree of the President of the Republic.

4. TAXING AUTHORITY AND METHOD OF COLLECTION

Both State and Port fees are ascertained and collected by Customs offices, on the basis of the documents accompanying the goods.

5. LEGAL INCIDENCE OF TAX

State and Port fees are payable by the subject that carries out an operation of loading or unloading of goods. They are usually collected from the captain of the ship as the carrier's legal representative, with the right of reimbursement from the sender or the consignee of the goods.

6. TYPE OF CONTRACT TO WHICH FEES ARE APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

State and Port fees apply to all goods loaded or unloaded as described in paragraph 1 above, except for those exempted (see § 10 below).

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractors and subcontractors are subject to State and Port fees on their imported goods.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

U.S. Government contractor or subcontractor personnel are subject to State and Port fees on their imported goods.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

Not applicable.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

Post parcels, ships' provisions, personal baggage, and goods consigned to Vatican City and to representatives of foreign governments are exempt from State and Port fees.

11. BURDEN OF THE TAX ON U.S. GOVERNMENT IN ABSENCE OF RELIEF

U.S. Forces import into Italy large quantities of goods that would be subject to these fees in the absence of tax relief.

12. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

Article XI, paragraph 4, of the NATO SOFA grants free-of-duty importations to U.S. Forces. The following paragraph 12 defines duty as "*customs duty and all other duties and taxes payable on importation or exportation, as the case may be, except dues and taxes which are not more than charges for services rendered.*" On 5 June 1968, the Ministry of Merchant Marine (MOMA), in a letter to the MOF, stated that material imported through a seaport to NATO Forces in Italy was exempt from fees for loading and unloading, which could not be considered payment for services rendered. The ruling was based on a broad interpretation of the law granting exemption for goods destined to foreign governments entitled to duty-free privileges; it does not apply to goods transported by air. However, in practice, goods consigned to and exported by U.S. Forces have been consistently exempted from State and Port fees for loading and unloading of goods.

D. VEHICLE TAX

1. DESIGNATION

The Vehicle Tax (“*tassa automobilistica*” or “*bollo auto*”), originally provided for by Law Decree No. 39 of 5 February 1953, is now governed by Art. 17 of Law no. 449 of December 27, 1997 and by a number of Ministerial Decrees. Provisions on the Vehicle Tax are generally contained also in the yearly Budget Law. Further provisions may be dictated by Regional Laws.

2. DESCRIPTION

The Vehicle Tax is due, on a yearly basis, for the possess of motor vehicles, including mopeds, registered in Italy.

3. TAX RATE

Tax rates (so called “tariffs”) varies depending on the engine’s maximum power (in KW) and the vehicles’ attitude to pollute.

4. TAXING AUTHORITY

The Vehicle Tax is administered on a Regional level (for those Regions having an Ordinary Statute) and on a national level (for the other Regions).

5. LEGAL INCIDENCE OF TAX

The vehicle owner is liable for payment.

6. TYPE OF CONTRACT TO WHICH THE TAX IS APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

N/A.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractor/subcontractor-owned vehicles are subject to the Vehicle tax.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

Contractor and subcontractor personnel are subject to this tax. The only exception is for those personnel designated as technical representatives under the bilateral agreements between U.S. and Italy.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

Vehicles licensed abroad and temporarily imported by non-Italian resident are exempt from the vehicle tax for the first year.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

None

11. METHOD OF COLLECTION

The owner pays the applicable tax at the post office, local branches of the Automobile Club of Italy, or authorized tobacconist shops.

12. BURDEN OF TAX ON U.S. GOVERNMENT IN ABSENCE OF RELIEF

In the absence of relief, the U.S. Government would be liable for the tax on all official vehicles it operates on the public roads of Italy and registered in Italy.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

NATO SOFA, article XI, paragraph 2(c) expressly provides that: “*Service vehicles of a force or civilian component shall be exempt from any tax payable in respect to the use of vehicles on the roads*”.

Non-tactical service vehicles receive special AFI official license plates. Bilateral implementing agreements authorize each member of the force or civilian component to register and license three privately owned vehicles with AFI plates. The primary vehicle (AFI white plate) is exempt from payment of the Vehicle Tax. Engine size determines the monthly petroleum ration. The second and third vehicles (AFI black plate) are subject to all applicable taxes and receive no petroleum ration. This has been confirmed by the Ministry of Finance in the Circular Letter no. 177/1999.

E. REGISTRATION TAX

1. DESIGNATION

Registration Tax ("*Imposta di Registro*", hereinafter: "*IR*") is provided for by Decree of the President of the Republic No. 131 of 26 April 1986, as subsequently amended.

2. DESCRIPTION

- a.** The IR is a fixed or variable tax levied on certain legal documents and instruments upon their registration with the local tax office ("*Agenzia delle Entrate*"). The registration may be carried out either by filing a hard copy of the instrument with the tax office, which records it in appropriate registers, returning the original to the party who requested for the registration, or through electronic means. For certain instruments (e.g.: sales of real estate executed before a Notary Public) the registration through electronic means is mandatory.

Registration certifies the existence and the date of documents and assures their preservation (Art. 18). The failure to register when required does not invalidate documents but limits their legal effectiveness before State agencies in certain cases. Unregistered instruments are admissible in proceedings before Courts and State agencies, but they are automatically forwarded to the tax office for registration and the parties must pay the tax and the penalties (Art. 65).

- b.** Certain types of instruments shall be registered within a fixed deadline, i.e.: within 20 days (30 days for instruments to be registered through electronic means) of the date of the instrument, if executed in Italy, or within 60 days of the date of the instrument, if executed abroad (Artt. 5 and 13). Some examples of the instruments to be registered within a fixed deadline include: transfers of real property, real estate leases, real property mortgages, and instruments transferring ownership of motor vehicles (Tariff, Part I).
- c.** Other instruments have to be registered only "in case of use." The "case of use" occurs when the instrument is filed with the chanceries of Courts or before any State administrative office (Art. 6). Examples of such instruments include: contracts for the supply of goods or services already subject to the value added tax (VAT), autonomous labor contracts, and not-legalized receipts and releases (Tariff, Part II).

3. TAX RATE

- a. The taxable base in case of transfers of real property is given by the value of the transferred good, while, in case of barter, the taxable base corresponds to the higher value of the goods exchanged. (Art.43)
- b. While in certain cases the tax amount due is variable and is calculated by applying a determined tax rate to the value of the instrument, in other cases such amount is fixed.

The tax rates provided for some of the instruments subject to registration within 20 days of their execution (Tariff, Part I) are the following:

- (1) Real property deeds: 8%
 - (2) Real estate leases: 2% of the total rental fee due for the entire duration of the contract
 - (3) Mortgages, assignments of credit: 0.50%
- c. The fixed tax amounts or tax rates for instruments subject to registration only “in case of use” (Tariff, Part 2) are the following:
 - (1) Instruments concerning transactions subject to VAT: €168,00 (Art. 1);
 - (2) Real estate leases whose duration does not exceed 30 days in a year: €168,00 (Art. 2-bis).
 - (3) Not-legalized receipts and releases: 0.50% (Art. 5).
 - (4) Checking and savings account books: €168,00 (Art. 9).
 - (5) Autonomous labor contracts not subject to VAT: €168,00 (Art. 10).

4. TAXING AUTHORITY

The IR is a national tax, administered by the Ministry of Finance.

5. LEGAL INCIDENCE OF THE TAX

The parties executing any instrument to be registered within a fixed deadline are jointly and severally liable for the payment of the tax. As for documents to be registered only ‘in case of use,’ the tax is payable only by the person requesting for the registration (Art. 54).

6. TYPE OF CONTRACT TO WHICH THE TAX IS APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

The IR is applicable to contracts for supplies, services, labor and construction “in case of use”, as defined above. The IR is applicable to all transfers of real property and leases.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

There is no distinction in the applicability of the tax to prime contracts or subcontracts and to purchase orders issued by the prime contractor or subcontractor.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

Salaries and wages and the paycheck instrument itself are not subject to registration.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

All instruments made within Italy must comply with IR law. All instruments executed abroad (including those of Italian consuls) that transfer real property or lease real estate located in Italy are subject to IR (Art. 2).

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

The following documents are exempt from the registration tax:

- a. Legislative laws and instruments
- b. Instruments concerning the application, payment and collection of taxes
- c. Insurance contracts
- d. Stock shares
- e. Promissory notes, checks, endorsements

11. METHOD OF COLLECTION

The tax is generally paid with any concessionaire of the collection service or with any bank or post office, using a proper form called “*F23 form*”. If the instrument has to be registered through electronic means, the payment is made electronically as well.

12. BURDEN OF TAX ON U.S. GOVERNMENT IN ABSENCE OF RELIEF

Contracts subject to VAT are not required to be registered except in case of use before courts and State agencies (Art. 5). U.S. Government contracts for goods and services would be subject to VAT except for the tax benefit granted by Art. 72 of D.P.R. 633/72. Thus, such contracts are required to be registered only in case of use, as in a lawsuit. In practice, contracting officers and real estate contracting officers do not routinely register U.S. Government contracts. In contracts for goods and services, clauses are inserted to ensure that their cost is net of such tax. In the event that registration is required, the tax is applied at a fixed rate (€ 168,00). In real estate leases, the U.S. Government ordinarily agrees that the responsibility for registration remains with the lessor. But, if a registered lease is presented, the U.S. Government may pay a portion of the IR (the rate is 2 percent of the yearly rental, usually divided 50/50 between the lessor and the lessee. However, if the contract is with a “public administration,” the private party pays the entire 2 percent). Therefore, as a practical matter, there is no significant IR burden on the U.S. Government for these contracts.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

No relief. The failure to provide IR tax relief is currently of small consequence, because, as explained above, there is no significant burden on the U.S. Government.

F. TAX ON AUTOMOBILE INSURANCE PREMIUMS

1. DESIGNATION

Tax on Automobile Insurance Premiums (“*Imposta sui premi assicurativi*”), provided for by Law No. 1216 of 29 October 196, as recently amended by Legislative Decree no. 209/2005.

2. DESCRIPTION

This tax is an indirect tax charged on automobile insurance premiums. The tax is included in the insurance premiums paid to insurance companies that provide for liability coverage for the length of the insurance contract. The insurance companies issuing such policies must be either licensed to do business in Italy or operate under the European Union “freedom to provide services” scheme.

3. TAX RATE

The tax rate is 12.5 % of the entire premium.

4. TAXING AUTHORITY

The tax on automobile insurance premiums is a national tax administered by the Ministry of Finance.

5. LEGAL INCIDENCE OF THE TAX

The tax is payable by automobile insurance policy holders.

6. TYPE OF CONTRACT TO WHICH THE TAX IS APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

The tax concerns automobile insurance policies only.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractor/subcontractor owned vehicles are required to be covered by an automobile insurance in compliance with Italian law and the relevant premiums are subject to the tax.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

Contractor and subcontractor personnel are subject to the tax. However, contractor personnel who are accorded civilian personnel status as technical representatives pursuant to the Shell Agreement and other bilateral agreements may be exempt from payment of the tax to the same extent as members of the civilian component. Pursuant to a MOF ruling described in paragraph 13 below, such members are exempt from the tax imposed on insurance coverage for vehicles registered with an Allied Forces Italy (AFI) white plate.

9. VARIATION OF APPLICABILITY OF THE TAX DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

None.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

Official U.S. Government vehicles (tactical vehicles and government vehicles registered with an “AFI Official” plate) are not required to have insurance coverage. Thus, they are not subject to the tax on automobile insurance premiums.

11. METHOD OF COLLECTION

Automobile insurance policy holders pay the tax as a portion of their automobile insurance premium. The insurance companies collect such tax on behalf of the State and then pay it to the Ministry of Finance on a monthly basis.

12. BURDEN OF TAX ON U.S. GOVERNMENT IN ABSENCE OF RELIEF

In the absence of relief, U.S. military and civilian personnel would be subject to the tax on all automobile insurance premiums for their privately-owned vehicles.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

Until October 1999, AFI-registered vehicles were able to operate in Italy being covered only by third-party insurance policies issued abroad (“green card” or “touring” policies). These policies were exempt from insurance taxes.

Since October 1999, the Italian insurance regulatory agency, ISVAP, has required U.S. Forces personnel to obtain insurance from companies licensed to do business in Italy or operating under the European Union “freedom to provide services” scheme. These policies include a tax of 12.5 % imposed on the total premium as well as a contribution for emergency treatment of 10.5 % imposed on the third-party liability coverage. In June 2001, MOF favorably responded to a USSSO request and granted relief from the 12.5 % premium tax for white-plated vehicles¹.

¹ A 1968 exchange of diplomatic notes and subsequent Ministry of Finance circular letters established the Allied Forces Italy (AFI) POV registration system. Under this system, members of the force or civilian component are permitted to register up to 3 POV's with AFI plates. The first POV is registered with a white plate and is exempt from customs duties, value-added (IVA) taxes, the Italian road tax, and now, the insurance premium tax. It is also allocated tax-free POL rations. The second and third POV's are registered with a black plate. These vehicles are exempt from customs duties and VAT, but are not exempt from the Vehicle Tax and are not allocated tax-free POL rations.

G. STAMP TAX

1. DESIGNATION

Stamp tax (also known as “stamp duty”) (“*Imposta di Bollo*”) is provided for by Decree of the President of the Republic No. 642 of 26 October 1972 (including Attachment A, containing the Tariff, Part I and Part II, and Attachment B, containing the Table), as subsequently amended (“D.P.R. 642/1972”).

2. DESCRIPTION

a. The stamp tax is an indirect tax levied on the issuance of certain instruments (e.g.: deeds, documents and books of account) having a civil, administrative, or judicial nature. Tariff, Part I, lists instruments that are taxed “from the beginning” (i.e.: since their issuance”), if they are executed in Italy. Tariff, Part II lists instruments which are taxed “in case of use,” which occurs when the deed, document, or book of account is filed with the tax office (“*Agenzia delle Entrate*”) for registration. Instruments listed in the Table attached to D.P.R. 642/72, instruments declared exempt by special laws, legislative documents, and administrative deeds not expressly mentioned in the Tariff are not taxed.

b. Instruments taxed “from the beginning”:

- (1) Instruments executed before a Notary Public or legalized or received by the latter
- (2) Private deeds containing agreements, statements, descriptions, etc.
- (3) Appeals, claims and petitions to State agencies
- (4) Promissory notes, personal checks, bank money orders
- (5) Receipts, bills, and invoices, provided that the relevant amount exceeds € 77,47 and is not subject to VAT
- (6) Accounting books, provided that they are mandatory according to the Civil Code
- (7) Deeds pertaining to companies
- (8) Court deeds; etc.

c. Instruments taxed “in case of use”:

- (1) Transportation documents
- (2) Checks and promissory notes issued abroad
- (3) Any document for which the tax is not due "from the beginning”
- (4) Any document for which there is no exemption; etc.

d. Instruments exempt from the tax:

- (1) Documents related to criminal proceedings
- (2) Documents pertaining to the assessment and collection of taxes (taxpayer's appeals excepted)
- (3) Invoices and other documents regarding payment of transactions subject to VAT
- (4) Court documents related to labor cases
- (5) Passports, identification cards, and similar documents
- (6) Labor and employment contracts (individual or collective)
- (7) Receipt of wages, pensions, allowances, awards and any other disbursement related to subordinate employment
- (8) Customs documents

3. TAX RATE

The tax is generally due in a fixed amount. The Tariff establishes the applicable fixed amount for every instrument. The standard fixed amount for official papers and documents is € 14,62. For some instruments, the tax is due in a variable amount, proportional to their value.

4. TAXING AUTHORITY

The stamp tax is a national tax administered by the Ministry of Finance.

5. LEGAL INCIDENCE OF THE TAX

a. The following are jointly and severally liable for the payment of the tax and any penalty thereof:

- (1) All the parties that execute, receive, accept, negotiate, make reference to, or use as an attachment an instrument which is not in compliance with the provisions on stamp tax.
- (2) All parties making use of an instrument not subject to the stamp tax "from the beginning", without fixing the stamp to the instrument.

b. D.P.R. 642/72 provides for the nullity and voidness of any agreement violating the provisions of the law itself, including any covenant imposing the stamp tax and related penalties upon the breaching party or upon the party that caused the need to use an irregular instrument.

- c. In the relationships with the Public Administration, the stamp tax, if due, is paid by the private party, despite any contrary agreement.

6. TYPE OF CONTRACTS TO WHICH THE TAX IS APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

A case-by-case review of the Tariff and the Table attached to D.P.R. 642/72 is required in order to determine if a certain contract is subject to stamp tax and the relevant amount.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

When the tax is applicable, there is no distinction regarding prime contracts and subcontracts.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

Contractor and subcontractor personnel are subject to the tax.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

The tax applies to instruments executed in the Italian territory. Certain instruments introduced into Italy from abroad are subject to stamp tax (see the Tariff to determine if the tax is due, when, and in what measure).

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

The following are the most important exemptions affecting the U.S. Forces:

- a. Customs documents
- b. Instruments dealing with labor contracts and related court actions
- c. Instruments related with tax assessment and collection
- d. Receipts, bills and invoices for amounts exceeding €77,47
- e. Receipts for payment of condominium fees, regardless of the amount involved

11. METHOD OF COLLECTION

- a.** The stamp tax is paid in accordance with the guidelines set out in the Tariff. There are three types of payments:
- (1)** Ordinary payment, which consists in using stamped paper (“*carta bollata*”). The amount of the tax is indicated on the paper. If the stamp tax to be paid is higher than the amount indicated on the paper, stamps can be fixed to the paper to pay the difference;
 - (2)** Extraordinary payment, which consists in fixing to the document in question paper stamps (“*marche da bollo*”), rubber-stamping or an impressed seal;
 - (3)** Virtual payment, consisting in making the payment to the tax office (“*Agenzia delle Entrate*”) or other authorized offices or to a postal account. In such cases the receipt of payment must be attached to the instrument it refers to.
- b.** Both stamped paper and stamps are sold at tobacco stores and other authorized sale points. For instruments subject to the tax “from the beginning,” the fixing of paper stamps, rubber stamping, or stamp seal must precede the execution of the act or document, or the entry in the accounting book. Paper stamps must be canceled in one of the following ways: punching; signing it by either party; putting the date of execution on the stamp; or affixing a seal on the paper and the stamp.

12. BURDEN OF THE TAX ON U.S. GOVERNMENT IN ABSENCE OF RELIEF

- a.** Art. 6 of the Table attached to D.P.R. 642/72 provides for an exemption from the tax in favor of receipts, bills, invoices and other documents regarding payments of transactions subject to VAT. According to commentaries to the D.P.R. 642/72, the following documents do not enjoy the tax exemption under Art. 6 above:
- (1)** Documents regarding transactions which are out of the scope of VAT (“*operazioni fuori campo IVA*”);
 - (2)** Documents regarding “zero rated” transactions (so called “*operazioni non imponibili*”) unless the exemption from the stamp tax is established by another article of the Table;
 - (3)** Documents regarding VAT exempt transactions (“*operazioni esenti*”), unless the exemption from the stamp tax is established by another article of the Table.
- b.** Art. 72 of D.P.R. 633/72 (VAT Code) provides that the supply of goods and performance of services to military commands of member States, international military headquarters and instrumentalities thereof located in Italy pursuant to the

North Atlantic Treaty in the performance of their institutional functions are not subject to the VAT because they must be considered similar to the so called “zero rated” transactions pursuant to Artt. 8, 8-*bis*, and 9 of the VAT code (“*operazioni non imponibili*”). Technically, receipts, bills and invoices for an amount exceeding € 77,47 issued to U.S./NATO Commands are not exempt from the stamp tax because the related transactions are not subject to VAT. While in practice the U.S. Forces do not generally pay the tax in these circumstances, occasionally commands have paid the tax because the Italian Authorities refused to receive an instrument lacking the stamp.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

Members of the civilian component and dependents of members of the force and civilian component are required to obtain a sojourn permit within 8 days of their arrival in Italy. Generally speaking, the application for such permit must be on stamped paper. Some Italian Police Authorities (“*Ufficio Stranieri*” at the “*Questura*”) have required that the above U.S. individuals have their application for sojourn permit on stamped paper. However, Article III of the Memorandum of Understanding (MOU) of 20 October 1954 relating to the Application in Italy with regard to U.S. Forces of the Bilateral Infrastructure Agreement (BIA) provides that the Italian Authorities will issue to civilian personnel and dependents a residence permit without payment of fees. USSSO efforts to resolve this issue were finally successful. On 22 December 1992, the Italian Ministry of Interior (letter 559/443/1000894/J7/29/5/1 Div.) concurred with USSSO’s position that, based on the 20 October 1954 MOU, sojourn permits for members of the civilian component and dependents of the civilian component and members of U.S. Forces must not be subject to the stamp tax. Besides the applications for sojourn permits, the GOI grants no specific relief from this tax.

H. REFUSE COLLECTION TAX

1. DESIGNATION

- a. Garbage Collection Tax (“*Tassa per lo Smaltimento dei Rifiuti Solidi Urbani Interni*” or “*TARSU*”), set forth by Legislative Decree No. 507 of 15 November 1993, as subsequently amended (“L.D. 507/1993”). This tax will be abolished and replaced by the Tariff set forth by Legislative Decree no. 152/2006 as soon as the relevant implementing decrees are enacted. For the year 2008 the Garbage Collection Tax will remain in force.
- b. Special Tax for Storing Solid Refuse in Dumps (“*Tributo speciale per il deposito in discarica dei rifiuti solidi*”), set forth by article 3, paragraphs 24-41 of Law No. 549 of 28 December 1995.
- c. The Provincial Tax for the Exercise of Environmental Functions, provided for by Law no. 504/1992. This tax had been abrogated by Art. 264 of Legislative Decree No.152/2006, the abrogation was subsequently cancelled by Art. 2, paragraph 44, of Legislative Decree no. 4 of January 16, 2008.

2. DESCRIPTION

- a. Municipalities set the garbage collection tax to be paid for the collection, transport and disposition of internal urban solid garbage. Each municipal administration establishes garbage service by an exclusive municipal regulation (“*regime di privativa*”) defining the extent and the method of the service within the municipal boundaries. The tax is based on the occupation or possession of premises and outdoor areas used for any purpose (excluding ancillary areas attached to houses, other than “green areas”), located in the municipality where the service has been instituted and is effective, or in any case where the service is rendered in a continuous manner
- b. On 1 January 1996, a special national tax, calculated based on the amount of refuse delivered to a dump, was established to encourage reduced refuse production, improved recycling, and production of energy from refuse.
- c. On 1 January 1993, a yearly provincial tax, calculated on the same surface area of the municipal garbage tax, was established to help provincial administrations pay for managing refuse disposal.

3. TAX RATE

a. **Municipal Garbage Tax:**

- (1) The municipal garbage collection tax shall be calculated based on two elements: (a) the ordinary average quantity and quality (for unit of taxable surface) of refuses that can be produced in premises and areas depending on the use to which they are destined and b) the cost of disposal.

In municipalities with less than 35,000 inhabitants, the tax calculation may be based upon the quality and quantity of refuses actually produced.

- (2) The tariffs are determined by each municipality for each category or sub-category of refuses.
- (3) The tax is paid annually, based on the surface of the premises or areas served and the designated use of such surface, and total revenues cannot exceed the cost of the disposal service.

b. Special Tax: By 31 July each year, the Regions establish, within national minimum and maximum limits (0,0010 /kg to 0,0258 €/kg), the tax rate for each category of refuse. If Regions do not establish the rate by 31 July, the previous year's rates remain unchanged. The tax is calculated by multiplying the quantity of refuse taken to a dump (reflected by mandatory refuse disposal records) by the applicable tax rate, and applying a corrective coefficient which takes into consideration the quality of the refuses.

c. Provincial Tax: In October of each year, the provincial administration establishes the provincial tax rate for the coming calendar year in an amount ranging from 1 percent to 5 percent of the applicable garbage collection tax. If the provincial administration does not determine the rate in October, the previous year's rate remains unchanged.

4. TAXING AUTHORITY

- a. The garbage collection tax is a municipal tax. The tariffs are set by 31 October of each year and become effective the next calendar year. If the municipal administration does not establish the tariffs within the prescribed term, the previous year's tariffs remain in force. Municipal administrations have assessment powers, including the power to verify the data reported in the taxpayer's returns or to find information regarding taxpayers who did not file any return. These powers include also the possibility to inspect areas and premises to determine their surface and use. In areas and premises covered by immunity and

military secrecy, the inspections are substituted by a statement rendered by the person responsible for the entity occupying the premises or areas.

- b.** The special tax is a regional tax. Regions are the ultimate beneficiaries of the revenues, except for 10%, which is assigned to Provinces. The revenues must be used by Regions for environmental programs (recycling, production of energy with refuse, cleaning of polluted areas, creation of protected areas, and funding of regional agencies for environmental protection).
- c.** The provincial tax is assessed and collected by municipal administrations that retain 0.30 percent of the revenues and transfer the remaining amounts to the province administration.

5. LEGAL INCIDENCE OF THE TAX

- a.** The garbage collection tax is due from those who occupy or possess premises or areas subject to the tax. All family members or those who use premises or areas subject to the tax are jointly and severally liable for the payment.
- b.** The special tax is due by the owner/manager of the plant where refuses receive final treatment. He is obligated to pass the legal incidence of the tax upon the individual conveying the refuses to the disposal plant. However, the financial burden for the tax is passed on the producer of the refuses.
- c.** The provincial tax is due by the same individuals subject to the payment of the garbage collection tax.

6. TYPE OF CONTRACT TO WHICH THE TAX IS APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

U.S. Government contractors and subcontractors are subject to the tax.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractors and subcontractors are subject to the tax.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

Contractor and subcontractor personnel are subject to the tax.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

The garbage collection tax applies to premises and areas within the jurisdiction of each municipality. The province tax applies to premises and areas within the jurisdiction of each province.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

a. Garbage Collection Tax:

(1) Reductions:

The tax may be reduced up to one third (1/3) for: houses with a unique occupant; houses subject to seasonal, limited or discontinuous use if that fact is reported in the taxpayer's statement or any variation thereof; premises other than houses and areas subject to seasonal or non continuous (but recurring) use, resulting from the license or authorization by competent authorities.

(2) Exclusions:

- (a) Outside appurtenances and accessory areas (other than green areas) attached to houses.
- (b) Premises and areas that cannot produce refuse because they are unusable, if that fact is reported in the taxpayer's statement and confirmed by the municipality.
- (c) Areas not required to use the municipal service because of law, regulation, administrative orders (e.g., related to health, environment, or civil protection) or international agreements regarding entities of foreign States.
- (d) Common areas of condominiums.

(3) Areas subject to the tax by municipal decision: Municipal administrations may assess the tax on outside areas, exceeding 200 square meters, used as green areas. The tax is calculated based on 25 percent of the real surface area exceeding 200 square meters.

(4) Special reductions: Municipal administrations may establish, by regulation, special conditions and exemptions from the tax.

b. There are no exemptions or exclusions from the regional tax. Residual refuse produced by a selection and recycling plant is taxed at the reduced rate of 20 percent.

c. There are no exemptions, exclusions, or reductions from the provincial tax.

11. METHOD OF COLLECTION

- a.** The garbage collection tax is due from the first day of the next bimonthly period following the date on which the service begins. When premises or areas are no longer occupied or possessed, the taxpayer is entitled to a refund effective from the first day of the next bimonthly period following the date on which the taxpayer reports the termination of occupation or possession, as confirmed by municipal authorities. The individual subject to the tax must file a statement with the municipal authorities no later than the 20th of the month of January immediately following the beginning of occupation or possession of premises or areas subject to the tax. This statement is valid for the subsequent years if the conditions for the application of the tax remain unchanged. Otherwise, variations must be reported to the municipal authorities, so that the tax assessment can be changed accordingly. The statement is signed and filed by one of the individuals jointly liable for the payment or by the legal or contractual representative of the entity subject to the tax. The tax, any additional or accessory charges and any penalty connected to violations of the law are included in tax rolls. The tax is collected in four bimonthly installments. Based on serious reasons and if there are taxes in arrears to be paid, the taxpayer can be authorized by the mayor to break his payment into eight installments. Legal interests must be paid in case of late payments. Refunds are provided in case of errors, duplications or overcharges based on procedures described by the law in detail. Surtaxes and penalties are imposed in case of lack of or incomplete statement or variation. The tax bill is issued and collected by a delegated tax collector, normally a bank.
- b.** The special tax is paid by the owner/manager of the dump within the end of the month following the quarter in which the refuse was deposited into the dump. Regional laws regulate methods of payment of the tax and filing of the tax return. These laws regulate also assessment, collection, refunds and appeals.
- c.** The provincial tax is assessed and included in the tax rolls by the municipalities together with the garbage collection tax. The provincial tax also has the same assessment, collection, and penalty rules as the garbage collection tax. The municipal administration is entitled to a commission in the measure of 0.30 percent of the amounts collected. The law does not establish a minimum or a maximum amount for the commission.

12. BURDEN OF THE TAX ON THE U.S. GOVERNMENT IN ABSENCE OF RELIEF

- a.** In absence of relief, the U.S. Government would be liable to pay the tax on all premises and areas that are subject to the tax. When U.S. installations contract

with private companies for trash removal, and thus receive no service from the municipality, the tax burden imposed would be substantial. This burden would have the nature of a tax rather than of a service charge. The problem is even more complicated for premises or areas located outside military installations because these places are rented from private owners. In theory, if these places produce urban refuse and are located within the municipal boundaries served by the collection, it would be mandatory to use the municipal service. In such case, if the tax charged is not commensurate with the refuse collected, the burden would have the nature of a tax rather than of a service charge. On the other hand, if the tax charged is commensurate with the refuse collected, the burden would be reasonable.

- b.** The special tax may cause an increase in the bills paid by the U.S. Government for disposal of refuse through a dump. However, the amount of the tax may not appear on the bill presented to the U.S. Government. It has been recommended in the past that bases obtain an itemized bill, so that the amount of the tax paid by the contractor disposing the refuse for the U.S. Government to the dump owner/manager can be clearly identified.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

- a.** Areas under U.S. Government control are not excluded from the tax. However, in most cases, the garbage tax can be considered a fee for a service rendered. Even in case of exclusive service by the municipality, or, furthermore, in case the service is not rendered, the nature of the collection does not change. The legislation provides some remedies in case the service is not rendered, but it is and it remains a fee, not a tax.
- b.** If services are not used or if the tax charged for the services exceeds the value of service, tax bills received from the tax collector should be immediately appealed to competent Italian authorities.
- c.** If services are used and the tax reflects the value, the tax must be paid like any other service received. Therefore, a case by case analysis should be made to determine if the tax corresponds to the refuse produced and the service received.
- d.** Under Italian law, areas and premises covered by immunity and military secrecy are not subject to municipal inspections aimed at assessing the tax. Instead, the person responsible for the entity occupying the premises or areas makes a substitute statement to the municipal authority. Therefore, U.S. authorities should

oppose any attempt by municipal authorities to inspect classified areas and higher command immediately.

- e. The above analysis also applies to the provincial tax.
- f. The calculation of the special tax is based on the real quantity of refuse taken to the dump. If refuse originating from the U.S. Forces is not mixed with the refuse originating from other entities, the tax is assessed in relation to the quantity and quality of refuse produced, hence, a charge for services rendered, which should be paid.
- g. There have been occasions in which U.S. bases in Italy received a number of tax instruments (notices of assessment, requests for payment, etc.) whereby certain municipalities have claimed garbage collection tax. The position of the U.S. Forces has been not to appeal said instruments in Court, but rather to send a letter to the municipalities involved explaining that tax matters should be settled through negotiations between the United States of America and Italy, in accordance with Art. XVI of the NATO-SOFA and the “Direttiva del Presidente del Consiglio dei Ministri” of March 19, 2004 and that, for this purpose, such matters shall be referred to the Ministry of Foreign Affairs, through the “Diplomatic Claims and Treaty Office”. Subordinately, such letter has clarified that, should the municipalities intend, in any case, to directly sue the Government, the relevant instruments cannot be addressed to the US bases, which do not possess a legal personality independent from that of the Government. Those claims, if any, shall be served on the Government in accordance with The Hague Convention of 1965 on the Service Abroad of Judicial and Extra-Judicial Documents in Civil and Commercial Matters. The result achieved by sending such letters was, as far as we know, that none of the municipalities went ahead with the enforcement proceedings to collect the alleged debt.

I. TELEVISION TAX

1. DESIGNATION

The radio and television subscription tax (“*Canone di Abbonamento alle Radioaudizioni*”) is provided for by Royal Decree No. 246 of 21 February 1938, converted into Law No. 880 of 4 June 1938, as subsequently amended (“R.D. 246/38”).

2. DESCRIPTION

- a.** Any person in Italy who possesses a television set that receives, or can receive with modifications, electronic television signals broadcast in Italy shall pay the subscription tax.
- b.** In theory, the tax is a service subscription fee to augment the operating budget of Radio Audizioni Italiane (RAI, the Italian public broadcasting company). The tax is charged for the mere possession of the equipment, independently on whether you actually receive RAI broadcasting.

3. TAX RATE

The tax is paid on a yearly basis. The tax for 2008 amounts to €106,00.

4. TAXING AUTHORITY

The television tax is a national tax.

5. LEGAL INCIDENCE OF THE TAX

All owners of televisions.

6. TYPE OF CONTRACT TO WHICH THE TAX IS APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

Not relevant.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

Not relevant.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

U.S. Government contractor personnel who are accorded civilian personnel status as technical representatives pursuant to the Shell Agreement and other bilateral agreements are eligible for an exemption to the same extent as civilian component members as discussed in paragraph 13 below.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

No distinction.

10. SIGNIFICANT EXEMPTIONS

Any television set on U.S. installations (including barracks/billets) is exempt from the tax under Art. 18 of R.D. 246/38, which exempts military hospitals, soldiers' homes ("*casa del soldato*"), servicemen's clubs, and devices employed for military use.

11. METHOD OF COLLECTION

Responsible for the collection of the tax is the Ministry of Communication, which has delegated the function to RAI. For residential television, billing of the subscription tax is usually sent by mail to the household. The tax is payable by postal money order, with the receipt as proof of payment.

12. BURDEN OF THE TAX ON THE U.S. GOVERNMENT IN ABSENCE OF RELIEF

In the absence of the relief provisions of law, the U.S. Government would be liable for the payment of the tax for all military and private televisions which receive or are able to receive Italian broadcasting.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

- a. While the U.S. Government asserted that the tax is a property tax for which exemption is due under the NATO SOFA (Art. X, paragraph 1), the Italian Supreme Court (*Corte di Cassazione*) ruled that the tax is a service fee for the public benefit and use of nationally regulated airwaves. In 1969, the U.S. Government conceded the issue and instructed U.S. personnel to pay the tax.

- b.** However, the U.S. Forces obtaining a ruling from MOF that military radios and televisions and other devices located on military installations are exempt under Art. 18 of the basic law. Afterwards, on 29 April 1993, MOF ruled that members of the force and civilian component under the NATO SOFA are exempt from the television tax. It is important to note, however, that the basis of this ruling is that U.S. televisions (NTSC) are unable to receive the Italian broadcasting signal (PAL). Thus, members of the force and civilian component who have televisions able to receive the PAL signal are subject to the tax.

J. TAXES ON PETROLEUM, OIL, AND LUBRICANT (POL) PRODUCTS

1. DESIGNATION

- a.** VAT applies to every type of POL. See the Vat discussion in Section A above.
- b.** Excise Duty (*Accisa*), provided for by Legislative Decree No. 504 of 26 October 1995 (L.D. 504/1995), recently amended by Legislative Decree no. 26/2007. The latter decree has extended the excise duties, once limited to mineral oils, to all energy products, including electricity (for electricity, see Section K below)

2. DESCRIPTION

The excise duty is an indirect tax on production or consumption applied to energy products (including POL and electricity) as well as to alcohol and alcoholic beverages (it is also referred to as “*consumption tax*” or “*fabrication tax*”). Generally, the tax obligation arises when one of such products is manufactured or imported into Italy, and the excise duty becomes payable when the product is put into consumption into the territory of Italy.

3. TAX RATE

The tax rates for POL products are subject to periodic changes due to fluctuations in the price of oil. The current tax rates are the following:

Gasoline (with or without lead) €564 per 1000 liters + 20% VAT

Diesel fuel (gasolio) €423 per 1000 liters +20% VAT

Heating oil (cherosene) €337,49064 per 1000 liters +20% VAT

4. TAXING AUTHORITY

Excise duties and value added tax (VAT) on POL products are national taxes.

5. LEGAL INCIDENCE OF THE TAX

The producer, importer, or utility provider is liable for payment, but he usually passes the tax burden upon the final consumer.

6. TYPE OF CONTRACT TO WHICH THE TAX IS APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

The tax applies to contracts for the supply of POL and natural/propane gas.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractors and subcontractors are subject to the tax.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

U.S. Government contractor personnel who are accorded civilian personnel status as technical representatives pursuant to the Shell Agreement and other bilateral agreements may purchase tax-free POL coupons as discussed in paragraph 13 below.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

None.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

a. See VAT discussion in section A, above.

b. Excise duties: Article XI, para. 4, of the NATO SOFA provides that “A force may import free of duty the equipment for the force and reasonable quantities of provisions, supplies and other goods for the exclusive use of the force and, in cases where such use is permitted by the receiving State, its civilian component and dependents, while para. 11 establishes that “the receiving state will arrange for delivery of fuel, oil, and lubricants for use in service vehicles, aircraft, and vessels free of all duties and taxes”; annexes to the BIA specifically cover tax relief procedures for petroleum products.

c. Art. 17 of L.D. 504/1995, as amended by Law no.244/2007, exempts from excise duties all the products destined to the armed forces of any contracting party to the North Atlantic Treaty, excluding the Italian armed forces, for the allowed uses.

11. METHOD OF COLLECTION

The tax is generally paid by the producer on a monthly basis. The payment can be made at any bank or post office, using the proper form.

12. BURDEN OF TAX ON U. S. GOVERNMENT IN ABSENCE OF RELIEF

The U.S. Forces in Italy purchase and consume substantial quantities of POL products. In the absence of relief, the various taxes upon POL products would amount to an extremely significant tax burden.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

a. See VAT discussion in section A, above.

b. In order to enjoy the excise duty exemption provided for by the NATO-SOFA and by L.D. 504/95, two different procedures are provided for: i) one for the supplies of oil products directly dispatched by the producer to deposits located within the U.S. bases or to private houses of U.S. members of the armed force or U.S. civilian components and ii) another one for the oil products purchased by authorized personnel from petrol stations located within the territory of Italy, by using proper coupons.

Procedure i)

Before delivery, the Naval Support Activity Naples Tax Free Administration Officer shall request for a tax exemption for a determined quality and quantity of POL from the Ministry of Finance (MOF). MOF in turn authorizes the producer to furnish the requested POL to U.S. Forces free of excise duties.

Procedure ii)

The U.S. Government shall request the MOF to approve a ceiling ("plafond") for the estimated amount of POL required for a specified period. The MOF authorizes a producer to issue tax-free coupons to U.S. Forces up to the limit of the ceiling. U.S. Forces members may purchase private use "P" coupons for AFI white-plated privately-owned vehicles, up to a maximum of 400 liters per automobile (200 liters for motorcycles) per month, depending on the engine horsepower. Official use "G" coupons may be issued to personnel traveling on official business in Italy for use in official, rental, or privately-owned vehicles. Coupons are exchanged for POL at petrol stations. At the end of the period, the U.S. Government reports to the MOF the amount of POL actually used.

The above procedures are described in detail in the Circular letter of the Customs Office No. 5 of February 19, 2002.

K. TAXES ON ELECTRICITY

1. DESIGNATION

- a. Value added tax (VAT) applies to every unit of electricity. See the VAT discussion in section A, above.
- b. Excise duty, also referred to as Consumption Tax ("*Imposta di Consumo*"): further to the entry into force of Legislative Decree no. 26/2007, the excise duty on electricity is now governed by Legislative Decree no. 504/1995 (the application of the latter decree was before limited to mineral oils).
- c. Additional tax to the excise duty ("*Addizionale Erariale all'accisa*"), provided for by Art. 6 of Law Decree No. 51 of 28 November 1988, as amended by Legislative Decree no. 26/2007.

2. DESCRIPTION

- a. See VAT discussion in section A, above.
- b. The Consumption Tax is a tax on the use of electricity.
- c. Additional taxes, that have to be paid to Provinces and Municipalities, are levied on the consumption of electricity, in addition to the State Excise Duty.

3. TAX RATES

a. VAT

VAT rate: 10 %

b. Excise duty

- electricity supplied to private houses: €0.004700 per each Kwh
- electricity supplied to premises other than private houses: €0.00310 per each Kwh

c. Additional taxes

- electricity supplied to private houses (except for second houses) : € 18.59 per 1000 Kwh (for the first 150 Kwh), to be paid to municipalities;

- electricity supplied to second houses: € 20.40 per 1000 Kwh, to be paid to municipalities;
- electricity supplied to any place other than private houses: €9.30 per 1000 Kwh, to be paid to provinces

4. TAXING AUTHORITY

- a. VAT and excise duty are national taxes.
- b. Additional taxes are supplemental taxes administered by the Ministry of Finance, but the relevant revenues are destined to the budgets of municipalities and provinces.

5. LEGAL INCIDENCE OF THE TAX

The subjects liable for the payment of the tax are those factories which produce electricity to be sold or for their own uses; such subjects then pass the tax burden upon the final consumers.

6. TYPE OF CONTRACT TO WHICH APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

The tax applies to contracts for the supply of electricity.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractors and subcontractors are subject to the tax.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

Contractor and subcontractor personnel are subject to the tax.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

None.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

- a. Electricity provided to military commands present in Italy pursuant to the NATO Treaty is exempt from VAT. See Section A, above.
- b. Art. 6 of Law no. 32/1973 provides that: “*the electricity supplied within the territory of Italy, by national companies to the military commands of NATO member States, to international military general headquarters and to ancillary bodies, stationed in Italy in accordance with the North Atlantic Treaty, is exempt from the Consumption Tax* ” Art. 66, paragraph 21, of Legislative Decree no. 331/1993 provides that the electricity supplied to the commands, headquarters and bodies indicated in Art. 6 of Law no. 32/1973 shall be exempt also from any additional tax to the consumption tax. These exemptions apply also to electricity generated by the commands or bodies.
- c. Electricity supplied to U.S. Government owned, consigned, or leased property (including living quarters of members of the force and civilian component) is also exempt from excise duties and relevant additional taxes provided that the U.S. Government contracts for electricity directly with the utility provider. Under the express and implied exemptions of D.L. 331/93, command-sponsored exemption programs obtain exemptions for members of the force and civilian component by having the individual contracts registered with the command (usually Services/MWR) instead of the individual.

11. METHOD OF COLLECTION

The tax is paid by the utility provider and recovered from the final consumer.

12. BURDEN OF TAX ON U. S. GOVERNMENT IN ABSENCE OF RELIEF

In the absence of relief, the various taxes upon electricity would amount to an extremely significant tax burden.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

- a. See VAT discussion in Section A, above.
- b. Excise duty. U.S. Government entities will be exempt from the state consumption tax if the contract for electricity is made directly between the U.S. Government and the utility provider.

- c. **Additional Taxes.** Command-initiated utility tax exemption programs obtain exemption from payment of the additional tax by personnel employed by U.S. Government entities by having individual contracts registered in the name of the command (usually Services/MWR) instead of the individual member.

L. TAXES ON NATURAL (METHANE) AND PROPANE (LPG) GAS

1. DESIGNATION

- a.** Value added tax (VAT) applies to every unit of gas. See VAT discussion in Section A, above.
- b.** Excise Duty (“*Accisa*”), Legislative Decree No. 504 of 26 October 1995, recently amended by Legislative Decree no. 26/2007.
- c.** Regional additional tax (“*Addizionale Regionale all'Imposta di Consumo*”), Law No. 158 of 14 June 1990 and Legislative Decree No. 398 of 21 December 1990.
- d.** Substituting tax (“*Imposta sostitutiva dell'addizionale*”), Law No. 158 of 14 June 1990 and Legislative Decree No. 398 of 21 December 1990.

2. DESCRIPTION

- a.** See VAT discussion in section A, above.
- b.** The Excise duty is an indirect tax on production or consumption. Generally, this duty originates when a product subject to the tax is manufactured or imported into Italy, and the tax is owed when the product is put into consumption in Italy.
- c.** The regional additional tax and the substituting tax are imposed upon methane gas used as heating oil in the so-called “Ordinary Statute” Regions (i.e.: all Italian Regions except for Friuli-Venezia Giulia; Trentino-Alto Adige; Valle d’Aosta; Sicilia and Sardinia). The substituting tax is due only by consumers exempt from the regional additional tax.

3. TAX RATES

a. VAT

VAT rate: 10%

b. Excise duty

- Natural gas for residential uses: from €0.044 to €0.186 per cube meter
- Natural gas for industrial uses: €0.012498 per cube meter
- GPL used for heating: €189.94458 per 1000 Kg

- c. **Regional additional tax and substituting tax:** tax rates are established by each Region

4. TAXING AUTHORITY

- a. VAT and excise duty are national taxes.
- b. Regional additional tax and substituting tax are administered by Regions.

5. LEGAL INCIDENCE OF THE TAX

The producer, importer, or utility provider is liable for payment, but passes all incidence of the tax on to the consumer.

6. TYPE OF CONTRACT TO WHICH APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

The tax applies to contracts for the supply of natural/propane gas.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractors and subcontractors are subject to the tax.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

U.S. Government contractor and subcontractor personnel are subject to the tax.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

None.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

Gas provided to military commands present in Italy pursuant to the North Atlantic Treaty is exempt from excise duty, additional taxes, and VAT.

11. METHOD OF COLLECTION

The tax is paid by the utility provider and recovered from the consumer.

12. BURDEN OF TAX ON U. S. GOVERNMENT IN ABSENCE OF RELIEF

In the absence of relief, the various taxes upon natural and propane gas would amount to an extremely significant tax burden.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

- a. Paragraph 21, chapter II, section III, Art. 66 of D.L. 331/93 provides that the supply of water and energy (in any form), and the transfer of housing related goods and services necessary to implement institutional functions of the armed forces stationed in Italy pursuant to the North Atlantic Treaty, are exempt from VAT under paragraph 3(2), article 72, D.P.R. 633/72. The exemption applies even though the supplies are provided directly to employees of these commands as long as the latter support the relevant economic burden. However, utility providers and regional tax officers denied VAT exemption for U.S. Government leased or consigned housing located out of the installation. As long as the utility contract is with the U.S. Government, the VAT exemption is allowed.
- b. Consequently, U.S. commands have initiated utility tax exemption programs in which individual contracts are registered with the command (usually Services/MWR) instead of the individual member.
- c. Excise tax. Art. 17 of Legislative Decree no. 504/195 exempts the armed forces of any contracting party to the North Atlantic Treaty, national forces within NATO, and diplomatic or consular missions from payment of the excise duties.

M. TAXES ON THE USE OF AIRPORTS OPEN TO CIVILIAN AIR TRAFFIC AND FREIGHT TAX

1. DESIGNATION

a. Legislation on the Taxes for the Use of Airports Open to Civilian Air Traffic (*“Diritti per l’uso degli Aerodromi Aperti al Traffico Aereo Civile”*):

(1) Law No. 324 of 5 May 1976, as subsequently amended (L. 324/76).

(2) Article 10, paragraph 10, of Law No. 537 of 24 December 1993, recently amended by Art. 11-*decies* of Law Decree No. 203/2005 (converted into Law No. 248/2005), establishes the criteria for determining the tax rate. Tax rates are revised and adjusted almost yearly by Ministerial Decrees.

b. Regional tax on aircraft sound emissions (*“Imposta regionale sulle emissioni sonore degli aeromobili”*), provided for by Artt. 90 ff. of Law No. 342 of 21 November 2000 (“L. 342/2000”).

c. State fee on the loading and unloading of goods transported by air (*“Tassa Erariale di Sbarco e Imbarco sulle Merci Trasportate per Via Aerea”*). Law Decree No. 47 of 28 February 1974, converted into Law No. 117 of 16 April 1974. Provisions on exemptions contained in Law No. 82 of 9 February 1963 are incorporated into L.D. 47/1974 by reference.

d. Criteria for assessment, collection and payment of the above taxes are set forth by Presidential Decree No. 1085 of 15 November 1982.

2. DESCRIPTION

a. According to L. 324/76, private aircraft and passenger traffic in Italian airports open to civilian air traffic are subject to the payment of the following taxes:

(1) Landing, taking off, and parking (stopping or sheltering) fees for aircrafts;

(2) Embarkation fees for passengers.

b. L. 342/2000 introduced a regional tax on aircraft sound emissions. The relevant revenues are aimed at collecting funds destined to sound de-pollution.

- c. According to L.D. 47/1974, all goods loaded or unloaded in airports performing commercial activity are subject to the payment of a State tax.

3. TAX RATE

a. Landing and taking-off fees:

Rate computed on the maximum take-off weight reflected by the aircraft airworthiness certificate:

Type of Flight	Per ton or fraction thereof of the first 25 tons	Per each subsequent ton or fraction thereof
Intra EU Flights	€0,71 to €2,02	€1,07 to €2,55
Extra EU flights	€1,94 to €2,15	€2,42 to €2,69

b. Parking fees:

The sheltering or stopping fee is applied to aircrafts of any type. The tax rate is determined in an amount ranging from €0,04 to 0,07 (depending on the airport), per each ton (or fraction of ton) of the aircraft maximum weight upon landing and per each hour (or fraction of hour) over the first two hours, which are exempt.

c. Embarkation fees for passengers:

Extra EU flights	Intra EU flights
€6,60 to €8,25 (depending on the airport) for each passenger	€1,91 to €7,70 (depending on the airport) for each passenger

Embarkation fees are not due for children under 2 years and are reduced by half for children up to twelve years.

d. Regional tax on aircraft sound emissions:

<p>- Turbojet powered aircraft - Propeller driven aircraft without noise certification</p>	<p>- Turbojet powered aircraft certified to the Convention of Chicago Annex XVI, Chapter 2, of 7 Dec 1944</p>	<p>- Turbojet powered aircraft certified to the Convention of Chicago Annex XVI, Chapter 3 of 7 Dec 1944 - Propeller driven aircraft with noise certificate</p>
<p>- €0.25 (per ton or fraction thereof of the first 25 tons) - €0.33 (per each subsequent ton or fraction thereof)</p>	<p>- €0.19 (per ton or fraction thereof of the first 25 tons) - €0.24 (per each subsequent ton or fraction thereof)</p>	<p>- €0.06 (per ton or fraction thereof of the first 25 tons) - €0.08 (per each subsequent ton or fraction thereof)</p>

Regions may increase the above tax rates by 15% in case the taking-off and landing occur during the hours of major use.

- e. The criteria to determine the amount of loading and unloading fees vary from airport to airport and are determined by a Decree of the President of the Republic.

4. **TAXING AUTHORITY**

While the tax on aircraft sound emissions is administered on a regional level, the other taxes mentioned above are all national.

5. **LEGAL INCIDENCE OF THE TAX**

- a. The landing, taking-off and parking fees are payable by the operator when the aircraft performs a commercial activity, and by the pilot in the other cases.
- b. The embarkation fees are payable directly by the carrier, who recovers them from passengers. The owner of the aircraft is jointly liable for the payment of the tax.
- c. The regional tax on aircraft sound emission is payable by the aircraft operator.
- d. The loading and unloading fees are payable by the carrier, who can recover them from the sender or the addressee. The owner of the aircraft is jointly liable for the payment of the fee.

6. TYPE OF CONTRACT TO WHICH TAXES ARE APPLICABLE (SERVICES, SUPPLIES, OR CONSTRUCTION)

Any contract for the use of airports open to civilian traffic is subject to the tax.

7. APPLICABILITY TO PRIME CONTRACTS, SUBCONTRACTS, AND PURCHASE ORDERS ISSUED BY THE PRIME CONTRACTOR OR SUBCONTRACTOR

U.S. Government contractors and subcontractors are subject to the tax.

8. APPLICABILITY TO CONTRACTOR OR SUBCONTRACTOR PERSONNEL

U.S. Government contractor and subcontractor personnel are subject to the tax.

9. VARIATION OF APPLICABILITY DEPENDING UPON DOMICILE OF CONTRACTOR OR CONTRACTOR PERSONNEL

Not applicable.

10. SIGNIFICANT EXEMPTIONS OR DEDUCTIONS

Italian law grants the following exemptions and exclusions:

Landing/taking- off fees:	- Aircraft of Foreign States not performing commercial activity upon the condition of reciprocity
Regional Tax on aircraft sound emissions	- State flights; sanitary and emergency flights
Parking fees:	- Aircraft of Foreign States not performing commercial activity upon the condition of reciprocity; - No fee is charged if the parking does not exceed two hours - Airline companies are not charged when the parking occurs in the company fitting out area.

Embarkation fees:	<ul style="list-style-type: none"> - Aircraft crews - Children under 2 years of age - In-transit passengers without transshipment, and in-transit passengers with transshipment, provided that they do not pass through immigration - Passengers who must interrupt the travel due to force majeure reasons - CCI personnel traveling on official business - Holders of diplomatic passports
Loading and unloading fees:	<ul style="list-style-type: none"> - In-transit freight - Parcel post - Personal baggage - Goods addressed to the Vatican City - Goods addressed to representatives of foreign governments accorded duty-free privileges

11. METHOD OF COLLECTION

- a. In state-operated airports, the airport management office assesses and collects landing, taking-off, embarkation, parking, loading and unloading fees from the operator/carrier. The airport management office may delegate the competent Customs Office to collect the loading and unloading taxes. The payment of the tax normally follows the assessment. Exceptionally, a delayed payment can be authorized. In such case, the payment must be made within the end of the month in which the tax is assessed.
- b. In airports that, under special laws, are entirely operated by concessionaire entities or companies, the tax is assessed and collected by the entity/company, which keeps the proceeds for the purpose of managing the airport and its structures.
- c. In airports in which the State has given to concessionaire entities or companies the management of the passenger terminal or of the freight terminal, the international passenger embarkation fee and the loading and unloading fee is assessed and collected by the concessionaire.

12. BURDEN OF TAX ON U. S. GOVERNMENT IN ABSENCE OF RELIEF

- a. Passenger embarkation fees: U.S. military personnel departing from Italy are subject to the tax. When traveling under orders, they are entitled to reimbursement of this tax. Therefore, the U.S. Government bears the economic burden.

- b.** Loading and unloading fee: U.S. Forces send and receive small quantities of commercial air freight through civilian airports and, in absence of relief, the U.S. Government would bear the economic burden.

13. TAX RELIEF AVAILABLE TO U.S. GOVERNMENT AND RELATED PROCEDURES

- a.** Landing, taking-off and parking fees: The classified Bilateral Infrastructure Agreement and the classified Air Technical Agreement (30 June 1954) provide for relief of charges for aircraft landing, taking-off, parking, and handling. There is no distinction between military and civilian airports. Thus, the relief applies to U.S. Forces aircraft using any type of Italian airports in connection with their NATO functions.
- b.** Passenger embarkation fees: No relief is available. The ruling cited below also noted that passengers' fees constitute a payment for services rendered.
- c.** Loading and unloading fees: The Minister of Transportation and Civil Aviation issued a letter to the Minister of Finance, dated 2 July 1968, ruling that the fee on freight consigned to U.S. Forces is a charge for services rendered and, therefore, is not exempted by Article XI of the NATO SOFA. It is important to note, however, that in practice this fee is rarely collected.

PART II

COUNTRY TAX CHART – ITALY

<u>Name</u>	<u>Description</u>	<u>Law</u>	<u>Rate</u>	<u>Applicability to U.S. Forces</u>
Value Added Tax	Indirect tax on goods and services	D.P.R. 633/72	20% on most goods and services	“Zero-rated” (D.P.R. 633/72, Artt. 68 and 72)
Customs Duties	Duty applied to imported goods	D.Lgs. 43/73	Up to 40%	Exempt (NATO SOFA, art. XI)
State and Port Fees	Fee charged for loading and unloading of goods transported by sea and air	L.D. 82/63 L.D. 47/74	Variable depending on the nature of goods and ports involved	Exempt (NATO SOFA, art. XI)
Vehicle Tax	Annual tax on motor vehicles	L. 449/97	Variable depending on the engine’s maximum power (in KW) and the vehicles’ attitude to pollute.	Exempt (NATO SOFA, art. XI)
Registration Tax	Tax on the filing of certain legal instruments (e.g.: real property deeds)	D.P.R. 131/86	Variable	Not Exempt
Tax on Automobile Insurance Premiums	Indirect tax imposed on automobile insurance premiums	Law 1216/61	12.5% on total premium	AFI white-plated vehicles exempt (MOF ruling)
Stamp Tax	Indirect tax on civil, administrative, or judicial instruments	D.P.R. 642/72	Normally €14.62 per instrument	Not Exempt except for sojourn (residence) permits
Refuse Collection Tax	Tax on collection, transport, and disposal of garbage; imposed on a municipal level	D.Lgs. 507/93	Variable depending on the category of refuse	Not Exempt (considered a fee for service)

Television Tax	Subscription tax supporting public broadcasting (RAI)	Law 880/38	€106,00 for 2008	Exempt for NTSC TV's incapable of receiving Italian TV signal (MOF ruling)
POL Taxes	Excise duties on production/consumption of POL products (VAT is also imposed)	D.Lgs. 504/95	From €337 to €564 per 1000 liters depending on fuel type Standard VAT rate is 20%	Exempt
Electricity Taxes	Excise duty and additional taxes (VAT is also imposed)	D.Lgs. 504/95 and L.D. 51/1988	Variable per Kwh VAT rate: 10 %	Exempt (Art. 66 D.lgs. 331/93)
Methane and Propane Gas Taxes	Excise and Additional taxes imposed at regional levels (VAT is also imposed)	D.Lgs. 504/95; Law 158/90; Law 398/90	Variable depending on type of use (e.g., residential) Vat rate: 10%	Exempt (Art. 66 D.lgs. 331/93)
Airport and Freight Tax	Airport landing, taking-off, parking and sound emissions taxes; passenger embarkation fees; loaded/un loaded freight taxes	Law 324/76; Law 537/93; Law 165/90; D.P.R. 434/93; Law 117/74	Variable, generally based on weight of aircraft	Exempt from airport fees per BIA; not exempt from embarkation fees; not exempt from freight taxes (considered fee for service)

PART III

ADEQUACY OF CURRENT RELIEF MEASURES AND RECOMMENDATIONS

As is clear from the discussions in Part I and from the table in Part II, the U.S. Forces in Italy enjoy significant relief from taxes in Italy. The NATO SOFA in particular has provided an effective means of relief from POL taxes, Port Fees, Vehicle Circulation Taxes and Customs Duties, and the current relief measures for these taxes are adequate.

One initiative being explored by CNRE Office of General Counsel is there is a basis for seeking an exemption from the vehicle circulation tax imposed on AFI black-plated vehicles. There has been past discussion as to whether Italian legislation changed the nature of the tax from a service fee for the use of the roads to a tax on personal property. Paragraph 6, article XI of the NATO SOFA indicates that members of the force and civilian component are not automatically exempted from taxes payable in respect of the use of the roads by private vehicles. However, paragraph 5, article XI of the NATO SOFA exempts “personal effects and furniture” brought to Italy by members of the force and civilian component from duty and taxes. The manner by which the circulation and related automobile taxes are computed (fiscal horsepower) bears no resemblance to their proportionate use of the road. Consequently, this is another area where we may be able to reduce the burden of Italian taxes on members of the force and civilian component.

PART IV

**RELEVANT PROVISIONS OF SELECTED
INTERNATIONAL AGREEMENTS AND DOMESTIC
IMPLEMENTING INSTRUMENTS**

A. NATO Status of Forces Agreement (Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces, June 19, 1951, 4 U.S.T. 1792, 199 U.N.T.S. 67).

ARTICLE IX

8. Neither a force, nor a civilian component, nor the members thereof, nor their dependents, shall by reason of this Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the receiving State.

ARTICLE X

1. Where the legal incidence of any form of taxation in the receiving State depends upon residence or domicile, periods during which a member of a force or civilian component is in the territory of that State by reason solely of his being a member of such force or civilian component shall not be considered as periods of residence therein, or as creating a change of residence or domicile, for the purposes of such taxation. Members of a force or civilian component shall be exempt from taxation in the receiving State on the salary and emoluments paid to them as such members by the sending State or on any tangible movable property the presence of which in the receiving State is due solely to their temporary presence there.
2. Nothing in this Article shall prevent taxation of a member of a force or civilian component with respect to any profitable enterprise, other than his employment as such member, in which he may engage in the receiving State, and except as regards his salary and emoluments and the tangible movable property referred to in paragraph 1, nothing in this Article shall prevent taxation to which, even if regarded as having his residence or domicile outside the territory of the receiving State, such a member is liable under the law of that State.

ARTICLE XI

2. (a) The temporary importation and the re-exportation of service vehicles of a force or civilian component under their own power shall be authorized free of duty on presentation of a triptych in the form shown in the Appendix to this Agreement.
(b) The temporary importation of such vehicles not under their own power shall be governed by paragraph 4 of this Article and the re-exportation thereof by paragraph 8.
(c) Service vehicles of a force or civilian component shall be exempt from any tax payable in respect to the use of vehicles on the roads.
4. A force may import free of duty the equipment for the force and reasonable quantities of provisions, supplies and other goods for the exclusive use of the force and, in cases where such use is permitted by the receiving State, its civilian component and dependents. This duty-free importation shall be subject to the deposit, at the customs office for the place of entry, together with such customs documents as shall be agreed, of a certificate in a form agreed between the receiving State and the sending State signed by a person authorized by the sending State for that purpose. The designation of the person authorized to sign the certificates as well as specimens of the signatures and stamps to be used, shall be sent to the customs administration of the receiving State.
5. A member of a force or civilian component may, at the time of his first arrival to take up service in the receiving State or at the time of the first arrival of any dependent to join him, import his personal effects and furniture free of duty for the term of such service.
6. Members of a force or civilian component may import temporarily free of duty their private motor vehicles for the personal use of themselves and their dependents. There is no obligation under this Article to grant exemption from taxes payable in respect to the use of roads by private vehicles.
7. Imports made by the authorities of a force other than for the exclusive use of that force and its civilian component, and imports, other than those dealt with in paragraphs 5 and 6 of this Article, effected by members of a force or civilian component are not, by reason of this Article, entitled to any exemption from duty or other conditions.
8. Goods which have been imported duty-free under paragraphs 2(b), 4, 5, or 7 above .
(a) May be re-exported freely

11. Special arrangements shall be made by the receiving State so that fuel, oil and lubricants for use in service vehicles, aircraft and vessels of a force or civilian component, may be delivered free of all duties and taxes.
12. In paragraphs 1-10 of this Article . . . “duty” means customs duties and all other duties and taxes payable on importation or exportation, as the case may be, except dues and taxes which are no more than charges for services rendered; “importation” includes withdrawal from customs warehouse or continuous customs custody, provided that the goods concerned have not been grown, produced or manufactured in the receiving State.
13. The provisions of this Article shall apply to the goods concerned not only when they are imported into or exported from the receiving State, but also when they are in transit through the territory of a Contracting Party, and for this purpose, the expression “receiving State” in this Article shall be regarded as including any Contracting Party through whose territory the goods are passing in transit.

ARTICLE XVI

All differences between the Contracting Parties relating to the interpretation or application of this Agreement shall be settled by negotiation between them without recourse to any outside jurisdiction. Except where express provision is made to the contrary in this Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council.

B. The Bilateral Infrastructure Agreement (BIA) (Agreement Between the Parties Regarding Bilateral Infrastructure in Implementation of the North Atlantic Treaty, Oct. 20, 1954). The actual text of this agreement remains classified.

C. The Shell Agreement (Memorandum of Understanding Between the Ministry of Defense of The Republic of Italy and the Department of Defense of The United States of America Concerning Use of Installations/Infrastructure By U.S. Forces in Italy, Feb. 2, 1995, TIAS 12317, 1995 U.S.T. Lexis 150).

ANNEX A, ARTICLE XIII. Customs and Taxation Matters

1. United States exemption from taxes and customs duties shall be regulated as provided in the NATO SOFA and the BIA, as applicable, relevant legislation, and

other tax relief agreements on tax exemption between the governments.

2. When the installation is the point of entry into the national territory, transient or residing military/civilian personnel, not covered by the NATO SOFA, will fall under the normal customs regulations applying to foreigners. If the transit/arrival installation is the first stop in the national territory, the US Commander will provide the list of these personnel to the local customs. Authorities if available, or to the Italian Commander, in accordance with procedures specified in Annex

C. Directive of the Prime Minister, March 19, 2004.

Re: Determination of the criteria related to the action to be taken by Public Administrations in case of disputes pertaining to the application of the Convention (NATO-SOFA) among the Member States of the North Atlantic Treaty on the Status of their Armed Forces.

[Official Gazette May 17th, 2004, No. 114, General Series]

THE PRIME MINISTER

Considered Art. 10, 11 and 95, par. 1, of the Constitution;

Considered Law No. 400/1988, regulating the governmental activity and the organization of the Prime Minister Office, as subsequently amended;

Whereas, in particular, Art. 5, par. 2, of the aforementioned Law No. 400/1988, grants to the Prime Minister the power to issue directives connected to his own responsibility on matters of general Government policy, in order to coordinate and promote the activity of Ministers in relation to actions concerning the Government general policy;

Whereas the Legislative Decree No. 303 of July 30,1999, as subsequently amended, contains rules on the organization of the Prime Minister Office in force of Art. 11 of Law No. 59 of March 15,1997;

Whereas Law No. 1335 of November 30,1955, ratifies and implements the Convention among the Member States of the North Atlantic Treaty on the Status of their Armed Forces, signed in London on June 19, 1951;

Whereas, in particular, Art. XVI of the aforementioned Convention establishes that any

dispute among the Contracting Parties concerning the interpretation or the application of the Convention itself shall be settled through negotiations among them without recourse to external judges;

Considered Art. 808 of the Civil Procedure Code;

Whereas Art. 1, par. 2, of the Legislative Decree No. 165/2001, as subsequently amended, contains general rules on the employment agreements with Public Administrations

Considered the opinion No. 3615/02 rendered by the first section of the Counsel of State in the meeting of April 2, 2003;

Considered the importance of certain juridical issues raised by the US Government on disputes involving Italian Administrations which, in several cases, summoned the USA before national judges for matters falling within the scope of the NATO-SOFA, governing the Status of the Armed Forces of one of the Member States of the North Atlantic Treaty, as well as of the civilian personnel assigned to them and of their relatives who are present on the territory of another Member State;

Considered that the US Government deems that the judges before whom Italian Administrations summoned it have no jurisdiction in force of Art. XVI of the NATO-SOFA, according to which any dispute among the Contracting Parties, concerning the interpretation or the application of the Convention, shall be settled on the basis of agreements among the interested parties and, therefore, through diplomatic channels “without recourse to external judges”.

Considered that the NATO-SOFA was ratified by Law No. 1355/1955 and that, therefore, the derogation to the domestic jurisdiction provided therein is formally and substantially supported under the domestic law as well, in force of the principles contained in Artt. 10 and 11 of the Constitution; that the wording of the provision contained in Art. XVI of the Convention, as deemed by the Counsel of State as well, fully expresses its perceptive contents and clarifies the scope of the derogation which includes any dispute pertaining to the interpretation or application of the Convention itself;

Considered advisable to issue general instructions for the Administrations so that, in case of disputes, the negotiations with the other party can be started, through the competent Ministry of Foreign Affairs, according to the provision contained in Art. XVI of the NATO-SOFA, avoiding the recourse to domestic judges.

ISSUES the following directive:

The following directive is addressed to all the State Central Administrations and to the other Administrations, as defined and determined in Art. 1, par. 2, of Law No. 165/01², and determines the criteria of the administrative actions to be taken in case of controversies concerning disputes which may be referred to the Parties to the NATO-SOFA, signed in London on June 19, 1955 and ratified in Italy by Law No. 1335/1955, that specifically concerns the interpretation or application of the Convention itself.

Domestic jurisdiction shall not cover the controversies concerning disputes which may be referred to the Contracting Parties as subjects of the relationship, pertaining to organic correlations between them, and which affect problems of interpretation or application of the Convention with reference to specific provisions of the latter;

Such controversies are reserved to bilateral negotiations according to principles similar to those which may be inferred from the inclusion, in any agreement, of the arbitration clause set forth in Art. 808 of the Civil Procedure Code;

When applying the NATO-SOFA, the Contracting Party who wishes to claim the observance of the jurisdictional derogation, shall formally invoke the Convention providing for such derogation and therefore, shall start, in a specific way, the procedure to settle the relevant controversy, generically set forth by the aforementioned Art. XVI.

In case any dispute concerning the application or the interpretation of the NATO-SOFA shall arise with reference to all the subjects governed thereby, Public Administrations are required to submit the resolution of them to the Ministry of Foreign Affairs, through the “Diplomatic Claims and Treaties Office”, so that it may start the necessary negotiations provided for by the Convention and by the relevant aforementioned ratifying Law.

² **Art. 1, par. 2, of Law No. 165/01** provides that: “<<Public Administrations>> means all the State Administrations, including institutes and school of any kind and level and the educative institutions, the State companies and administrations with an autonomous organization, the Regions, the Provinces, the Municipalities, the Mountain Communities, and their consortiums and associations, universities, the popular housing autonomous institutions, the Chambers of Commerce, industry, craftsmanship and agriculture and their associations, all the national, regional and local public not economic entities, the administrations, companies and entities of the national health service, the Agency for the representation of the Public Administrations and the Agencies set forth by Legislative Decree No. 300/99.”. The agencies provided for by the Legislative Decree No. 300/99 are the following: Agency Industries Defence, Agency for Legislations and Technical Controls, Agency for Intellectual Property, Agency for Environment Protection and Technical Services, Agency for Land Transportation and for Infrastructures, Tax Agencies, Agency for Professional Training and Education.

PART V

TRANSLATION OF SALIENT FEATURES OF TAX LAWS

A. VALUE ADDED TAX

PRESIDENTIAL DECREE no. 633 of 26 October 1972, as amended:

ARTICLE 1 - TAXABLE TRANSACTIONS

Value added tax shall be levied to the supply of goods and services effected within the territory of the State in the course of business or in the practice of a trade or profession; it shall also be levied to importations, regardless of whoever effects them.

ARTICLE 2 - SUPPLY OF GOODS

Supplies of goods shall mean any transaction for consideration involving the transfer of ownership or the creation or transfer of any enjoyment right *in rem* on goods of any kind.

The following transactions shall also constitute supplies of goods:

1. Sales with reservation of title;
2. Leases with ownership transfer clause binding upon both parties;
3. Transfers from principal to agent or from agent to principal of goods sold or purchased in fulfillment of contracts under which a commission is payable;
4. The supply, free of charge, of goods, produced or traded in the normal course of business of an enterprise (...);
5. The utilization of goods by an entrepreneur for personal or family use or for purposes other than those of his business, whether or not as a result of the cessation of that activity (...);
6. Assignments made by any type of company to its members for any reason, as well as similar assignments by other private or public bodies, including consortia and associations or other organizations without legal personality.

The following transactions do not constitute supplies of goods:

- a. transfers of money or monetary credits;
- b. transfers of going concerns or branches of going concerns (...);
- c. transfers of non-building lands in accordance with the provisions in force. (...);
- d. supplies of properly labeled free samples of small value;
- e. *(abrogated)*;
- f. transfers of goods as a result of mergers, demergers or transformations of companies and of similar transactions brought about by other entities;
- g. *(abrogated)*;
- h. *(abrogated)*;
- i. supplies of stamps, insurance stamps and the like;
- l. transfers of any kind of food paste; supplies of bread, sea biscuit and other products of ordinary grocery, without sugar, honey, eggs, fats, cheese or fruit; transfers of fresh milk, neither concentrated nor sweet, destined to food consumption, to be sold at retail, pasteurized or subjected to other treatments provided by the sanitary law. (...)

ARTICLE 3 - SUPPLY OF SERVICES

Supply of services means the supply of services for consideration under any work, transport, agency, forwarding, commission, intermediary or safe custody contract, and resulting in general from any obligation to perform or refrain from performing an act, or to tolerate an act or situation, whatever the source.

The following shall also constitute the supply of services, if effected for consideration:

1. the assignment of goods by lease, rent, hire or the like;
2. transfer, granting, licensing and the like of copyrights, industrial inventions, models, designs, processes, formula and the like and of trademarks and emblems as well as similar rights or goods;
3. loans in money and securities not representing goods, including discount of credits, bills of exchange or cheques. The depositing of money with banks and financial institutions or with government departments shall not constitute a loan, whether or not current account treatment is granted;
4. supplies of foodstuffs and beverages;
5. any kind of transfer of contracts. (...)

The following do not constitute supplies of services:

- a. transfer, granting, licensing and the like of copyrights effected by authors and their heirs or legatees, except for those relating to the works referred to in Art. 2 (No. 5 and 6) of Law No. 633 of 22 April 1941, and to the works of all kinds used by traders for the purposes of commercial advertising;
- b. debenture loans;
- c. transfers of contracts referred to in subparagraphs a), b), and c) of the third paragraph of Art. 2;
- d. transfers and contributions referred to in subparagraphs e) and f) of the third paragraph of Art. 2;
- e. agency and intermediary services, relating to copyrights except for those concerning the works referred to in subparagraph a) and services relating to the protection of copyrights of all kinds, including the services rendered by intermediaries in the collection of proceeds;
- f. agency and intermediary services relating to debenture loans; (...)
- h. the services of commission agents relating to the transfers referred to the subparagraph 3 of the second paragraph of Art.2 and those of the agents referred to in paragraph 3 of this article. (...)

ARTICLE 7 - TERRITORIAL SCOPE OF THE TAX

Pursuant to this Decree:

“State” or “territory of the State” shall mean the territory of the Republic of Italy, except for the municipalities of Livigno and Campione d’Italia, and the Italian waters of Lugano Lake; (...).

Supplies of goods shall be deemed to be effected within the territory of the State if they pertain to immovable property or movable goods, national, European or placed under temporary importation arrangements, which are located in the territory of the same State (...).

Services shall be deemed to be supplied within the territory of the State when they are rendered by persons domiciled within the territory of the State itself or by persons resident therein who have not established their domicile abroad, and when they are rendered by permanent establishments in Italy of persons domiciled and resident abroad; they shall not be deemed to be supplied within the State when they are rendered by permanent establishments located abroad of persons domiciled or resident

in Italy. In the case of persons other than individuals, for the purpose of this article, the domicile shall be deemed to be the registered office of business and the residence the actual place of business.

Save as provided for by the second and third paragraph above:

- a. supplies of services connected with immovable property, including valuations, agency services of estate agents and services relating to the preparation and coordination of the construction work, are considered to be carried out in the territory of the State when the immovable property is located therein;
- b. supplies of services, including valuations, relating to tangible movable property and supplies of cultural, scientific, artistic, educational, sporting, entertaining and similar services, as well as loading and unloading, handling and similar operations ancillary to the carriage of goods shall be deemed to be effected within the territory of the State when they are physically carried out therein;
- c. transport services shall be deemed to be supplied within the territory of the State proportionally to the distance covered therein;
- d. services deriving from contracts of lease, including leasing, hire and the like of tangible movable goods other than means of transportation, supplies of services referred to in paragraph 2 of Art. 3, advertising services, technical or legal advisory services, including personnel training, telecommunication services, radio and television broadcasting services, electronically supplied services, data processing and supplying services and the like, banking, financial and insurance transactions and services relating to supply of staff, the provision of access to, and of transport or transmission trough, natural gas and electricity distribution systems and the provision of other services directly linked thereto, as well as intermediary services relating to the above-mentioned services or transactions and those relating to the obligation not to exercise them, as well as the assignment of contracts related to the services of sport professions shall be deemed to be effected within the territory of the State when they are rendered to persons domiciled in the territory itself or to persons resident therein who do not have established their domicile abroad and when they are supplied to permanent establishments in Italy of persons domiciled or resident abroad, unless they are used outside the European Economic Community;
- e. services referred to in subparagraph d) above rendered to persons domiciled or resident in other Member States of the European Economic Community shall be deemed to be effected in the territory of the State when the person to whom they are rendered is not a taxable person in the State where he is domiciled or resident;

- f. services referred to in subparagraph d), excluding telecommunication services, electronically supplied services rendered to non taxable persons resident out of the E.E.C, technical or legal advisory services, including personnel training, data processing and supplying services, the provision of access to, and of transport or transmission trough, natural gas and electricity distribution systems and the provision of other services directly linked thereto, rendered to persons domiciled and resident out of the E.E.C, as well as the services deriving from contracts of lease, including leasing, hire and similar contracts, of means of transport rendered by persons domiciled or resident out of the EEC or in the excluded territories pursuant to the first paragraph, lett. a), or by permanent establishments in said territories, shall be deemed to be effected in the territory of the State when they are used in Italy or in another Member State of the Community. (...)

Exportations, transactions treated as exports and international services or services relating to international trade provided for by Artt. 8, 8-*bis* and 9, shall not be deemed to be effected within the territory of the State.

ARTICLE 8 - EXPORTATIONS

The following shall constitute exportations:

- a. supplies, whether or not through agents, of goods transported or dispatched outside the Community by or on behalf of the vendor or of the agent, and also on behalf of their vendors or agents. Goods can be subject on behalf of the purchaser, by the vendor itself or by third parties, to working, transformation, assembly or adaptation to other goods. The exportation must result from a customs document or form a stamp fixed by the Customs Office to a copy of the invoice or to a copy of the document that accompanies goods issued in accordance with Art. 2 of D.D. No. 627 of 6 October 1978 (...); if carried out by mail, the exportation must be evidenced in accordance with the decree issued by the Ministry of Finance in agreement with the Minister of Posts and Telecommunications;
- b. supplies of goods transported or dispatched outside the Community within 90 days of their delivery, by the purchaser or on his behalf, except for goods destined to the equipping or provisioning of pleasure boats, vessels, private aircrafts or any other means of transport for private use and except for the goods to be transported in personal luggage outside the Community; the exportation must be evidenced by a signature of the Customs Office or Post Office put on a copy of the invoice;
- c. supplies, whether or not through agents, of goods other than buildings and building areas and supplies of services rendered to persons who, having carried out exportations or intra-EU transactions, exercise their right to purchase, whether or not through agents, or imports goods without paying VAT.

The transactions referred to in subparagraph c) shall be effected without paying VAT to the persons referred to in subparagraph a), if resident, and to the persons carrying out the supplies referred to in subparagraph b) of the precedent paragraph upon their written declaration and on their responsibility, limited to the total amount of the considerations for the supplies, referred to under the same subparagraphs, carried out by themselves during the preceding calendar year. The purchasers and agents may use the entire above-mentioned amount to purchase goods that are exported in their original condition within six months of their delivery, and, limited to the difference between said amount and the amount of the supplies of goods carried out to them in the same year pursuant to subparagraph a), to purchase other goods or services.

(...)

ARTICLE 8 bis - TRANSACTIONS TREATED AS EXPORTATIONS

The following shall be treated as exportations:

- a. supplies of ships to be used for commercial or fishery activities or for sea rescue or assistance operations, and also demolition operations, excluding the pleasure craft referred to in Law No. 50 of February 11, 1971;
- b. supplies of ships and aircrafts, including satellites, to government agencies, whether legal persons or not;
- c. supplies of aircrafts to airlines primarily engaged in international transports;
- d. supplies of propulsion machinery and their components as well as spare parts of such machinery and of ships and aircrafts referred to in the previous subparagraphs, supplies of goods to be used as on-board equipment and supplies destined to their fueling and provisioning, including supplies of food and beverage on board and excluding provisioning for the ships used for inshore fishing;
- e. supplies of services, including the use of dry docks, relating to the construction, handling, repair, modification, transformation, assembly, outfitting, furnishing, leasing and chartering of the ships and aircraft referred to in subparagraphs a), b), and c), of propulsion machinery and their components and spare parts and ship equipment, as well as supplies of services concerning the demolition of ships referred to in paragraph a) and b).

The provisions of the last paragraph of Art.7 and of the second and third paragraph of Art. 8 shall apply, with reference to the full amount of the considerations due for the transactions referred to in the previous paragraph, also to supplies of goods, other than building and building areas, and of services rendered by persons who carry them out in the operation of their own businesses.

ARTICLE 9 - INTERNATIONAL SERVICES OR SERVICES CONNECTED WITH INTERNATIONAL TRADE

The following shall constitute international services or services connected to international trades:

(...)

9. The treatments referred to in article 176 of D.P.R. No. 43 of 23 January 1963, performed on goods coming from abroad not yet definitively imported, as well as on domestic or nationalized or Community goods destined to be exported by or on behalf of the supplier or of the customer who is not resident in the territory of the State.

ARTICLE 10 - VAT EXEMPT TRANSACTIONS

The following shall be VAT exempt:

1. supplies of services concerning the granting and the negotiation of credit, the management of credit by the persons granting it and financing transactions; the undertaking of financial commitments, the granting of credit guarantees or any other security and the management of credit guarantees by the persons granting the credit; delays of payment, transactions, including negotiations, concerning deposit and current accounts, payments, transfers, credits and cheques and other negotiable instruments, but excluding debt collection, the management of common investment funds and pension funds (...), delays of payment and similar managements (...);
2. Insurance, reinsurance and life annuity transactions;
3. Transactions concerning foreign currency used as legal tender and debts in foreign currency, with the exception of collectors' items (...);
4. Transactions in shares, debentures or other securities not establishing title to goods and interests in companies excluding management and safekeeping of the securities (...);
5. Transactions concerning the collection of taxes, including those concerning payments of taxes made on behalf of taxpayers, in accordance with specific laws, by banks and similar institutions;
6. Transactions relating to the operation of the State prize drawing ("*Lotto*"), the national lotteries and of the games of skill and contests reserved to the State and to the bodies referred to in Legislative Decree No. 496 of 14 April 1948, and

the operation of totalizers and of the betting referred to in Law No. 315 of 24 March 1942, including transactions involved in and connected with the collection of the stakes;

7. Betting at competitions, races, games, contests and competitive events of all kinds, other than those referred to in subparagraph 6), and the transactions concerning the operation of authorized gaming and the operation of authorized local drawings;
 8. lease and rent contracts, and relevant assignments, terminations and extensions, having as object agricultural lands and going concerns, areas other than parking areas, for which no building destination is set forth, and buildings, including their accessories, supplies and any other movable goods permanently destined to serve the leased or rented real estate properties, excluding the leases of houses executed, in compliance with the housing plans, by the enterprises which constructed them or implemented the works set forth by Art. 31, par. 1, lett. c), d) and e) of Law no. 457197, within four years of the date of completion of the construction or of the work and provided that the contract duration exceeds four years, as well as the leases of instrumental buildings that, due to their characteristics, cannot be differently used without radical transformations by the subjects mentioned in Art. 8-ter let. B) and c) or for which the lessor expressly opted in the contract for the taxation. (...)
 9. Agency, mediation and intermediary services relating to the transactions referred to in subparagraphs 1 to 7 as well as those relating to gold and foreign currencies, including deposits in bank accounts, made in relation to transactions carried out by the Bank of Italy and the Italian Exchange Control Office pursuant to article 4, last paragraph, of this decree.
 10. Supplies of gold in ingots, pigs, bars, nuggets and granules (...);
 11. The supplies referred to in article 2 (4) to public bodies, recognized associations or foundations with the sole purpose of welfare, charity, education, instruction, study or scientific research and to ONLUS;
 12. The supplies referred to in article 2 (4) to victims of natural disasters or catastrophes declared as such in accordance with Law No. 996 of 8 December 1970 or Law No. 225 of 24 February 1992.
 13. Urban passenger transport services (...);
 14. Transportation of ill or injured persons by ambulances, carried out by authorized enterprises and by ONLUS;
 15. Services relating to the postal services;
 17. (*Abrogated*);
- (...)

19. Hospitalization and treatment services rendered by hospitals, private clinics and authorized nursing homes and by mutual assistance associations with legal personality, including the supply of medicines, medical remedies and board, and treatments provided by spas;
20. Educational services for children and young people and teaching services of any kind, including services for occupational training, adjournment, professional requalification and conversion, supplied by recognized institutions or schools, public administrations and ONLUS, including services connected to housing, lodging, the supply of books and teaching materials, whether or not supplied by annexed institutes, colleges or boarding schools as well as private lessons on school and university subjects given by teachers;
21. Services typical of children homes, orphanages, nurseries, retirement homes for old people and the like, seaside, mountain and country camps, youth hostels and hotels provided for by Law No. 326 of 21 March 1958, including the supply of board, clothing and medicines, medical treatments and other ancillary services;
22. Services typical of libraries, discos and the like, and those relating to the access to museums, art galleries, collections, monuments, villas, palaces, parks, botanical and zoological gardens and the like;
23. Welfare and assistance services for employees;
24. Supplies of human organs, blood and milk and blood plasma;
27. Services rendered by mortuaries;

ARTICLE 13 - TAXABLE BASE

The taxable base for the supply of goods and services is constituted by the aggregate amount of the considerations due to the supplier under the contracts, including burdens and expenses pertaining to the performance of the contract and the debts or other burdens due to third parties and assigned to the purchaser or the principal, increased by the supplements directly connected to the considerations due by other persons.

For the purposes of the previous paragraph, considerations are composed of:

- a. as for the supplies of goods or services deriving from a public deed, the indemnity, anyhow called;
- b. as for the transfers of goods from the principal to the agent or from the agent to the principal, as referred to in Art. 2(3), the sale price agreed upon by the agent (less commission) and the purchase price agreed upon by the agent (plus commission), respectively; as for the supplies of services to or by agents without power of attorney, referred to in the third paragraph of Art. 3, the price of the supply

- of the service agreed upon by the agent (less commission), and the price of the purchase of the service received from the agent (plus commission), respectively;
- c. as for the supplies referred to in Art. 2, par. 2, no. (4), (5), and (6) and the supplies of goods and services carried out to extinguish previous obligations, and for those mentioned in Art. 3, third par., first sentence, the standard value of goods and services; as for the assignments referred to in the third paragraph of Art. 3, second sentence, the expenses incurred by the purchaser of the services;
 - d. as for the barter transactions mentioned in Art. 11, the standard value of the goods and services involved in each such transaction;
 - e. as for the supplies of goods imported under temporary importation arrangements, the consideration for the supply less the value assessed by the Customs Office upon the temporary importation. (...)

ARTICLE 16 - TAX RATE

The tax rate is determined in the amount of 20% of the taxable base of the transaction.

The rate shall be reduced to 10% for transactions relating to the goods and services listed in the attached Table A, save as provided for by Art. 34, and increased to 38 % for those relating to the goods listed in the attached Table B.

For the supplies of services under contract for work or services or similar contracts relating to the production of goods and for the supplies of services under a leasing or hiring contract, the tax shall be applied at the same rate that would be applied to the supply of the goods produced, leased or hired.

ARTICLE 17 - TAXABLE PERSONS

The tax shall be payable by subjects who carries out taxable supplies of goods and services; they shall pay to the Treasury the aggregate tax amounts due for all the transactions carried out, net of the deduction provided for by Art. 19, in accordance with the conditions and terms provided for under Title Two.

The rights and obligations deriving from the VAT provisions, in relation to transactions carried out in the territory of the State by or to non-resident persons may be exercised or fulfilled, in the ordinary ways, directly by the same persons, if registered pursuant to Art. 35-ter or through a fiscal representative resident within the territory of the State and appointed in accordance with DPR no. 441/1997. The fiscal representative shall be jointly and severally liable with his principal for the obligations deriving from the VAT

provisions. The appointment of the fiscal representative shall be notified to the other contracting party before carrying out the transaction (...)

The obligations pertaining to the supplies of goods and services carried out within the territory of the State by non-resident subjects who are not directly registered pursuant to Art. 35-ter and who have not appointed a fiscal representative pursuant to the previous paragraph, shall be fulfilled by the purchasers or principals, resident in the territory of the State, who purchase goods or use services in the practice of a business or a profession. (...)

ARTICLE 18 - RECOVERY

The subject who carries out taxable supplies of goods or services must charge the relevant tax, acting by way of recovery, to the purchaser or customer.

As for the transactions for which the issue of an invoice is not required, the price or consideration is deemed to include the tax. If the invoice is issued upon request of the client, the price or consideration must be reduced by the percentage mentioned in paragraph four of Art. 27.

Recovery is not required in case of the transfers listed in subparagraphs 4 and 5 of Art. 2 and of the supplies of services listed in paragraph three, first sentence, of Art. 3.

Any agreement violating the above provisions is null and void.

(...)

TITLE TWO Obligations of Taxpayers

ARTICLE 21 - INVOICING OF TRANSACTIONS

For each taxable transaction, the supplier shall issue an invoice, also in the form of a bill, account, note of professional charges and the like or, without prejudice to his liability, shall ensure that such invoice is issued by the purchaser or the customer or, on his behalf, by a third party. (...) The invoice is deemed to be issued upon its delivery or mail to the other party or upon its transmission through electronic means.

The invoice shall bear the date and a progressive number per calendar year and shall indicate the following:

- a) firm's name, company's name, residence or domicile of the subjects who carried out the transactions of the fiscal representative as well as the location of the permanent establishment of non-resident subjects and the supplier's VAT number. If the parties are not firms, companies or entities, their names and surnames shall be indicated in lieu of the firm's name and company's name;
- b) nature, quality and quantity of the goods and services involved in the transaction;
- c) considerations and other data necessary to determine the taxable base, including the standard value of the goods supplied by way of discount, premium or reduction as referred to in Art. 15, paragraph 2;
- d) standard value of the other goods supplied by way of discount, premium or reduction;
- e) tax rate, tax amount and taxable base, rounding up to the cents of Euro. (...)

If the transaction or transactions to which the invoice relates involve/s goods or services taxable at different rates, the elements and data referred to in subparagraphs b), c) and e) shall be separately indicated depending on the applicable tax rate. (...)

The invoice shall be issued upon the carrying out of the transactions as per Art. 6. The invoice shall be issued made in two hard copies and one copy shall be delivered or mailed to the other party. As for the supplies of goods whose delivery or dispatch results from a transport document or from any other document able to identify the subjects of the transaction and having the characteristics set forth by DPR no. 472/1996, the invoice shall be issued within the 15th day of the month following the one of delivery or dispatch and shall indicate the date and number of the same documents. In such case, a unique invoice may be issued to cover all the transactions carried out the same parties during a calendar month. (...).

In the cases indicated in the third paragraph of Art. 17, the purchaser of the goods shall

issue a unique copy of the invoice or, without prejudice to his liability, ensure that such invoice is issued on his behalf by a third party.

The invoice shall also be issued for the supplies of goods in transit or deposited in places controlled by Customs Offices, which are out of the scope of VAT pursuant to Art. 7, par. 2, as well as for the zero rate transactions pursuant to Artt. 8, 8 *bis* and 9 and 38-*quarter* and for the exempt transactions referred to in Art. 10, except for those listed under no. 6 (...). In these cases, the invoice, instead of indicating the tax amount, shall indicate that the transaction is respectively “out of the scope”, “zero rate” or “exempt” (...) and shall cite the relevant provision.

If an invoice is issued for non-existing transactions or if it indicates the consideration or tax due in a amount higher than the actual one, the tax is due for the entire amount indicated or to the indications of the invoice.

The costs supported to issue invoices and for the subsequent fulfillments may not be charged to any title.

ARTICLE 27 - MONTHLY LIQUIDATIONS AND PAYMENTS

If the calculation results in a difference in favor of the taxpayer, the relevant amount is deducted in the following month.

For retailers and the other taxpayers referred to in Art. 22, the amount to be paid under the second paragraph, or to be carried forward to the following month under the third paragraph, shall be determined on the basis of the aggregate amount of tax relating to the considerations received for the taxable transactions recorded in the previous month in accordance with Art. 24, decreased by 3.85 percent for the transactions taxable at 4 percent, by 9.10 percent for the transactions taxable at 9.10 percent; by 13.80 percent for the transactions taxable at 16 percent; by 16.65 percent for transactions taxable at 20 percent. In all cases of amounts including taxable base and tax, the taxable portion may be obtained, as an alternative to the decreases by the above percentages, by dividing these amounts by 104 when the tax rate is 4 percent, by 110 when the tax rate is 10 percent, by 116 when the tax rate is 16 percent, by 120 when the tax rate is 20 percent, and multiplying the quotient by 100 and rounding the result down or up to the nearest unit.

ARTICLE 30 - PAYMENT OF THE BALANCE AND REFUND OF THE CREDIT

If the annual return shows that the amount to be deducted pursuant to Art. 28 paragraph 3, increased by the monthly payments, exceeds the amount of tax due for the taxable

transactions referred to in Art. 28(1), the tax payer is entitled to deduct the exceeding amount in the following year or apply for the refund in the cases indicated in the following paragraph and in any case upon termination of the activity (...).

ARTICLE. 67 - IMPORTATIONS

The following transactions, having as object goods introduced in the territory of the State, whose origin Countries or territories are not included in the territory of the Community and that have not been already introduced in free circulation in another Community member States, or goods coming from territories to be regarded as excluded from the Community pursuant to Art. 7.1.b), constitute importations:

- a) entries in free circulation, with suspension of the payment of the tax, provided that the goods are destined go ahead into Community member State; (...)
- c) the transactions of placement under temporary importations, having as object goods destined to be re-exported, so that, in accordance with the Community provisions, they do not enjoy the total exemption from import duties. (...)

ARTICLE 72 - INTERNATIONAL TREATIES AND AGREEMENTS

Tax benefits granted by international treaties and agreements in respect of turnover taxes shall apply to value added tax.

To all purposes of this decree, supplies of goods and services not subject to the tax pursuant to the first paragraph are regarded as zero rate transactions Pursuant to Art. 8, 8-*bis* and 9.

The provisions of the previous paragraphs shall apply also to the supply of goods and services to:

1. diplomatic and consular missions and representatives, including technical-administrative staff, of States which reciprocally grant similar benefits to Italian diplomatic and consular missions and representatives;
2. military commands of member States, international military headquarters and subsidiary bodies set up under the North Atlantic Treaty, in performance of their institutional functions, and to the Defense Department when acting on behalf of the organization instituted under the above-mentioned treaty;
3. the European Communities in the exercise of their own institutional functions, whether or not supplied to businesses or corporations for the implementation of research or association contracts executed with said Communities;

4. the United Nations Organization and its specialized agencies in the performance of its institutional functions;
5. the European University Institute and the Varese European School in the performance of their institutional functions.

The provisions of the previous paragraph shall apply to the bodies listed in sub-paragraphs 1, 3, 4, and 5 when the amount of the supplies of goods or services exceeds €258.23; for the bodies indicated in subparagraph 1) , however, the provisions do not apply to the transactions whose beneficiary results to be another subject, even though the relevant burden lies upon the entities and the subjects referred to above. The above limit of € 258.23 does not apply to the supplies of goods subject to excise duties; for such goods the non applicability of Vat operates upon the same conditions and within the same limits as the exemption from excise duties.

B. CUSTOMS DUTIES

PRESIDENTIAL DECREE No. 43 of 23 January 1973

ARTICLE 34 - CUSTOMS RIGHTS AND BORDER RIGHTS

Customs rights are all those rights that customs must collect in force of a law referring to customs operations.

Among customs rights, the following are border rights:

Import and export duties, the levies and other taxes upon imports and exports foreseen by EEC regulations and the relative rules of application and moreover, for what concerns imported goods, monopoly rights, border surtaxes, and every other tax or consumption surtax in favor of the State.

ARTICLE 36 - BASIS OF CUSTOMS DUTIES

For goods subject to border rights, the basis of customs duties for foreign goods consists in their destined consumption within the customs territory and for national or nationalized goods in their destined consumption outside of the such territory.

"Destined for consumption within the customs territory" means foreign goods declared for ultimate importation; "destined for consumption outside the said territory" are national or nationalized goods declared for ultimate exportation; the obligation for custom duties arises on the date placed in the declaration in the presence of the importer, by the official in charge of receipt in customs.

(omitted)

ARTICLE 38 - PERSONS SUBJECT TO CUSTOMS DUTIES. RIGHT OF WITHHOLDING

The owner of the goods, under the provisions of Art 56, jointly with the persons for whom the goods have been imported or exported, is obliged to pay the tax.

With the purpose to guaranty the payment of the tax the State, besides the privileges contemplated in this law, has the right to withhold goods subject to the said tax.

The withholding right may be exercised also in satisfaction of any other amount due to the State relative to the goods that are the subject of customs operations.

ARTICLE 55 - CUSTOMS DESTINATION OF GOODS

Customs destination of goods is that destination which, in accordance with the statement contemplated in article 56, is given to the said goods in the manner and in the form permitted by this codified law.

Customs destinations are as follows:

1. For foreign goods:
 - a. Ultimate importation
 - b. Temporary importation and successive re-exportation
 - c. Shipment from one customs to another
 - d. Transit
 - e. Deposit

2. For national and nationalized goods pursuant to article 134:
 - a. Ultimate exportation
 - b. Temporary exportation and successive re-importation
 - c. Coastal trade
 - d. Circulation

ARTICLE 56 - CUSTOMS DECLARATION

Every customs operation must be preceded by a declaration to be made as provided for in Art. 64 of the Council Regulation (EEC) No. 2913/92 of 12 October 1992.

ARTICLE 60 - EXEMPTION FROM CUSTOMS INSPECTION

Envelopes of letters and of papers described in “travel papers” carried by postal agents are exempt from inspection and customs regulations.

Diplomatic correspondence carried by authorized messengers are also exempt, provided they are contained in officially sealed pouches.

COUNCIL REGULATION (EEC) No. 2913/92 of 12 October 1992 establishing the Community Customs Code

ARTICLE 32

1. In determining the customs value under Article 29, there shall be added to the price actually paid or payable for the imported goods:
 - (a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
 - (i) commissions and brokerage, except buying commissions,
 - (ii) the cost of containers which are treated as being one, for customs purposes, with the goods in question,
 - (iii) the cost of packing, whether for labor or materials;
 - (b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:
 - (i) materials, components, parts and similar items incorporated in the imported goods,
 - (ii) tools, dies, moulds and similar items used in the production of the imported goods,
 - (iii) materials consumed in the production of the imported goods,
 - (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Community and necessary for the production of the imported goods;
 - (c) royalties and license fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;
 - (d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;
 - (e)
 - (i) the cost of transport and insurance of the imported goods, and
 - (ii) loading and handling charges associated with the transport of the imported goods

to the place of introduction into the customs territory of the Community.

2. Additions to the price actually paid or payable shall be made under this Article only on the basis of objective and quantifiable data.
3. No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.
4. In this Chapter, the term 'buying commissions' means fees paid by an importer to his agent for the service of representing him in the purchase of the goods being valued.
5. Notwithstanding paragraph 1 (c):
 - (a) charges for the right to reproduce the imported goods in the Community shall not be added to the price actually paid or payable for the imported goods in determining the customs value; and
 - (b) payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to the Community of the goods.

ARTICLE 64

1. Subject to Article 5, a customs declaration may be made by any person who is able to present the goods in question or to have them presented to the competent customs authority, together with all the documents which are required to be produced for the application of the rules governing the customs procedure in respect of which the goods were declared.
2. However,
 - (a) where acceptance of a customs declaration imposes particular obligations on a specific person, the declaration must be made by that person or on his behalf;
 - (b) the declarant must be established in the Community.

However, the condition regarding establishment in the Community shall not apply to persons who:

- make a declaration for transit or temporary importation;
- declare goods on an occasional basis, provided that the customs authorities consider this to be justified;

3. Paragraph 2 (b) shall not preclude the application by the Member States of bilateral agreements concluded with third countries, or customary practices having similar effect, under which nationals of such countries may make customs declarations in the territory of the Member States in question, subject to reciprocity.

C. PORT FEES FOR LAODING AND UNLOADING OF GOODS TRANSPORTED BY SEA

LAW DECREE No. 82 of 9 February 1963

ARTICLE 40

The following are exempt from the payment of the Port Fees set forth in the previous articles (Art. 33-36):

- a. Parcel post, ships' provisions, small personal baggage.
- b. Material transported on board to be used as ballast provided that they are not goods or material used for repairs within the harbor, and all objects of any kind that are unloaded to be repaired and then re-loaded.
- c. Coal, diesel oil and all other fuels to be used on board in the quantity necessary to make the trip.
- d. The pit-coal coming from abroad and in direct transit abroad when its quantity reaches at least 100,000 tons per year.
- e. Drums, tanks and empty containers in general, when they are to be used or were already used to load or unload a cargo in a port of the State.
- f. Materials relative to maritime signaling.
- g. Upon conditions of reciprocity, goods addressed to representatives of foreign governments accredited in the State provided that they result to come from abroad and are directly addressed to the same representatives.
- h. Goods consigned to Vatican City.
- i. Goods donated, for social assistance, to the State or to organizations, institutes and agencies that are recognized by the State and pursue such purpose.

Pursuant to Art. 3 of L.D. no.47/74 the above exemptions apply also to State Fees.

D. REGISTRATION TAX

PRESIDENTIAL DECREE No. 131 of 26 April 1986

ARTICLE 2 - INSTRUMENTS SUBJECT TO REGISTRATION

The instruments mentioned below are subject to registration in compliance with the following articles:

1. The instruments listed in the tariff if made in writing in the territory of the State.
2. The verbal contracts set forth in Art. 3, par. 1.
3. The operations of foreign companies and businesses set forth in Art. 4.
4. The instruments executed abroad, including those of Italian consuls, which involve the transfer of property or the creation or transfer of other rights *in rem*, including guarantee rights, on real property located in the territory of the State, and contracts of lease or rent of such property.

ARTICLE 5 - REGISTRATION WITHIN A FIXED DEADLINE AND REGISTRATION IN CASE OF USE

The instruments indicated in the first part of the Tariff shall be registered within a fixed deadline while those indicated in the second part are subject to registration in case of use.

ARTICLE 6 - "CASE OF USE"

The "Case of Use" occurs when an instrument is filed, in order to be entered into the records, with Court chanceries in the performance of administrative activities or with State administrative offices or with the offices of the public territorial agencies and the respective supervisory bodies, unless the filing is made to fulfill an obligation of said Administrations, offices or agencies or is mandatory by law or regulation

ARTICLE 9 - COMPETENT OFFICE

The Tax Office located in the district of the public official who is required to request for registration in accordance with article 10 (b) or (c) is competent to register public instruments, legalized private instruments, and instruments of judicial bodies. The registration of any other instrument can be executed by any tax office.

ARTICLE 10 - INDIVIDUALS REQUIRED TO REQUEST FOR REGISTRATION

Registration must be requested:

a) By the contracting parties for non-legalized private instruments, for verbal contracts, and for public and private instruments executed abroad. (...)

ARTICLE 13 - DEADLINES TO REQUEST FOR REGISTRATION

The registration of instruments that are subject to registration within a fixed deadline must be requested within 20 days of the date of the instrument if made in Italy, save as provided for by Art. 17, par. 3-*bis*; within 60 days if made abroad.

ARTICLE 16 - EXECUTION OF REGISTRATION

Save as provided for by Art. 17, the registration is executed upon payment of the amount liquidated by the tax office and dated as of the day on which it has been requested.

The tax office can defer the liquidation of the tax up to 3 days; the deferment is not allowed if it delays or prevents the adoption of a measure or the filing of an instrument within a deadline.

The registration consists in entering the instrument or the report or the relevant request in a proper register, indicating the sequential annual number, the date of registration, the name of the requestor, the date and the nature of the instrument, the relevant parties and the total of the sums collected (...).

The office shall mention, at the bottom or at the margin of the originals and the copies of the instrument or report the date of registration and attach thereto the receipt of the sum collected or states that the registration was made on debt; the effected registration shall be also mentioned on any enclosed instruments (...).

ARTICLE 18 - EFFECTS OF REGISTRATION

Registration, as set forth by Art. 16, certifies the existence of the instruments and their date towards third parties, in compliance with Art. 2704 of the Civil Code.

The Tax Office shall keep the original and the copies retained according to Art. 16 and the models provided for by Art. 17 and, after 10 years, sends them to the archives of the Notary Public, except for verbal contracts and models, which are destroyed.

Upon request of the contracting parties, their assignees or the persons in whose interest the registration was made, the Tax Office shall release a copy of the private instruments, the reports, and the instruments executed abroad of which it is still in possession as well as of the notations and requests for registration of any public or private instrument. Copies shall be released to other persons only upon authorization of the competent judge. (...).

ARTICLE 40 - INSTRUMENTS CONCERNING TRANSACTIONS SUBJECT TO VALUE ADDED TAX.

The tax is applied in a fixed amount to the supplies of goods and services subject to value added tax.

Supplies of goods and services set forth by Art. 7 and by the sixth paragraph of article 21 of Presidential Decree No. 633 of 26 October 1972 (VAT law) are also considered subject to value added tax, except for the exempt transactions provided for in Art. 10, nos. 8, 8-bis and 27-*bis*, of the same decree.

ARTICLE 43 - TAXABLE BASE

The taxable base, save as provided in the following articles, shall be computed as follows:

- a). With reference to contracts for consideration that transfer or constitute rights *in rem*, the taxable base is given by the value of the good or of the right (...)
- d). With reference to the assignment of a contract, the taxable base is given by the agreed consideration or by the value of the services to be still rendered.

ARTICLE 57 - SUBJECTS LIABLE FOR PAYMENT

Apart from the public officials who have prepared, received or legalized the instrument and from the subjects in whose interest registration was requested, the contracting parties and the parties in litigation . . . are jointly and severally liable for the payment of the tax. (...)
For the instruments subject to registration “in case of use” and for the instruments voluntarily registered, only the party requesting registration is liable for payment.

E. TAX ON AUTOMOBILE INSURANCE PREMIUMS

LAW n. 1216 of 29 October 1961

ARTICLE 1 bis - TAX ON MANDATORY AUTOMOBILE INSURANCE PREMIUMS

Mandatory insurances covering the civil liability for damages caused by vehicles and ships are subject to the tax on premiums in the amount of 12.5 %. (...)

ARTICLE 4

Taxes provided for by this law are due proportionally to each ITL (*Euro*) of each payment of the premium. They become applicable to the extent that, in Italy or abroad, the premium is paid or otherwise satisfied and they do not cease to be due when the premium, for any reason, is entirely or partially returned to the insurer.

In determining the taxable base, the premium shall be evaluated in its entirety, adding all ancillary items and without any deduction, for any title; as a result, the tax base shall include any amount paid by the policy holder to the insurer, except only for those sums that the policy holder refunds to the insurer as insurance tax and as general tax on revenues

(...)

ARTICLE 9

Insurers shall pay to the tax office, within the following calendar month, the tax due on the premiums and ancillary items collected in each calendar month, as well as any tax balance due on the premiums and ancillary items collected during the second previous month (...).

F. STAMP TAX

PRESIDENTIAL DECREE No. 642 of 26 October 1972

ARTICLE 2 - INSTRUMENTS SUBJECT TO STAMP TAX FROM THE BEGINNING OR IN CASE OF USE

Stamp tax is due from the beginning for those instruments, documents and books listed in Part I of the Tariff attached hereto, if made within the State, and in case of use for those listed in Part II of the Tariff.

The case of use occurs when instruments, documents, and books are filed with the Tax Office for registration.

(...)

ARTICLE 3 - METHODS OF PAYMENT

Stamp tax is paid according to the instructions provided for in the attached Tariff:

- a) paying the tax to an intermediary authorized by the Tax Office, who releases, through electronic means, a proper countermark;
- b) In a virtual way, paying the tax to the Tax Office or to other authorized offices or paying it into a postal account. (...)

ARTICLE 4 - FORM, VALUE AND DISTINGUISHING CHARACTERS OF STAMPED PAPER, STAMP MARKS AND IMPRESSED SEALS

Stamped paper is watermarked and bears the relevant value printed thereon. If the value of the stamped paper is less than the tax due, the difference is paid by applying stamp marks.

Stamped paper, except for that used for promissory notes, must have margins and include one hundred lines for each sheet.

The form, value and other distinguishing characters of the stamped paper, stamp marks and impressed seals, as well as the ways of affixing the rubber-stamping are established by a decree of the Ministry of Finance.

ARTICLE 5 - DEFINITION OF SHEET, PAGE AND COPY

In accordance with this decree and the attached Tariff and Table:

- a) sheet is meant to be composed of four pages and each page is meant to be composed of one side;
- b) copy shall mean the partial or total reproduction of instruments, documents and books certified as true by the person who released it.

For mechanical tabulations, the tax is due for each 100 lines or fraction thereof actually used.

For reproduction by mechanical, photographic, chemical, and other similar means, a sheet is meant to be composed of four pages provided that they are joined or bound together in order to make a unique instrument, bearing on the last page the certification of its trueness.

ARTICLE 22 - SUBJECTS JOINTLY AND SEVERALLY LIABLE FOR THE PAYMENT OF THE TAX

The following are jointly and severally liable for the payment of the tax and of any pecuniary penalties:

1. All parties who sign, receive, accept or negotiate instruments, documents and books which do not comply with the provisions of this decree or who make reference to or attach them to other instruments or documents.
2. All parties who make use, pursuant to Art. 2, of any instrument, document or book not subject to stamp tax from the beginning without previously affixing the required stamp.

TABLE (Enclosure B) Instruments and documents totally exempted from Stamp Tax

ARTICLE 6

Invoices and the other documents listed in Art. 19 and 20 of the Tariff related to the payment of considerations for transactions subject to VAT.

For those mentioned documents which do not contain any evidence of VAT, the exemption is applicable provided that they contain the indication that they are documents issued in relation to the payment of considerations for transactions subject to VAT.

G. REFUSE COLLECTION TAX

LEGISLATIVE DECREE no. 507 of 15 November 1993

ARTICLE 62 - BASIS FOR THE TAX AND EXCLUSIONS

Tax is due for the occupation or possession of premises and outdoor areas, anyhow used, except for outdoor areas pertaining or ancillary to private houses other than green areas, located in the areas of the municipal territory where the service is established and operated or anyhow supplied in a continuous manner (...)

Tax is not due for those premises and outdoor areas that cannot produce refuses, due to their nature or to the particular use which they are permanently destined to, or because they result not to be objectively usable in the course of the year, provided that such circumstances are indicated in the original report or in any variation and that they are evidenced by objective elements or by proper documents. (...)

Tax is excluded for those premises and outdoor areas which are not subject to the municipal exclusivity regime for the collection of domestic urban solid refuses and similar ones, in accordance with laws, regulations, as well as sanitary, environmental and civil protection orders or international agreements concerning bodies of foreign States.

ARTICLE 63 - TAXABLE PERSONS AND PERSONS LIABLE FOR THE PAYMENT OF THE TAX

Tax is due by those persons who occupy or possess the premises or outdoor areas indicated in Art. 62; members of the family or those who make a common use of the same premises and areas are jointly and severally liable.

Tax is excluded for the condominium common areas indicated in Art. 1117 Civil Code, which may produce refuses in accordance with Art. 62. (...)

ARTICLE 64 - BEGINNING AND END OF OCCUPATION AND POSSESS

Tax is paid on the basis of a Tariff calculated per each calendar year, to which an autonomous tax obligation corresponds.

The obligation arises on the first day of the calendar bimonthly period following the one in which the service initiated. (...)

If the occupation or possess ceases in the course of the year, this gives rise to a tax relief effective the first day of the calendar bimonthly period following the one in which the report of cessation, duly assessed, was filed. (...)

ARTICLE 65 - CALCULATION AND TARIFFS

Tax can be calculated on the basis of the average ordinary quantities and qualities, for each unit of taxable area, of domestic urban solid refuses and similar refuses that can be produces in the premises and areas depending on the kind of use which they are destined to and of the cost of disposal or, for the municipalities having less than 35,000 inhabitants, on the basis of the quality and quantity, actually produced, of the urban solid refuses and of the cost of disposal. (...)

ARTICLE 66 - TARIFFS FOR PARTICULAR CONDITIONS OF USE

The unit tariff may be reduced up to one third in the following cases:

- a) Houses where a unique person lives;
- b) Houses kept available for seasonal use or for any other limited and discontinuous use, provided that such use is specified in the original report or in any variation, indicating the permanent address and the home address and expressly declaring no to intend to lease the house nor to give it in free loan, save as otherwise assessed by the municipality;
- c) Premises, other than houses, and outdoor areas destined to seasonal use or discontinuous but recurring use, resulting from any license or authorization released by the competent authorities for the conduct of business.

(...)

H. TAXES ON EXCISE DUTIES

LEGISLATIVE DECREE no. 504 of October 26, 1995

ARTICLE 17- EXEMPTIONS

Products subject to excise duties are exempt from the payment of such duties when they are destined:

- a) to be supplied within the framework of diplomatic or consular relations;
- b) to recognized international organizations and to their members, within the limits and upon the conditions established by the relevant conventions or agreements;
- c) to the armed Forces of an contracting State to the North Atlantic Treaty, for the allowed uses, excluding the national armed Forces;
- d) to be consumed within the framework of an agreement entered into with third Countries or international organizations and granting to the same products the VAT exemption as well.

The above exemptions shall apply upon the terms and conditions established by the domestic legislation until a EU uniform tax legislation is enacted. The execution of agreements providing for exemptions from excise duties shall be previously authorized by the EU council, through the proper procedure set forth. (...)

J. STATE FEES FOR LOADING AND UNLOADING OF GOODS TRANSPORTED BY AIR AND SEA

LAW No. 47 of 28 February 1974, as amended

ARTICLE 1 (State fees on loading and unloading of goods transported by air)

In all airports where a commercial air activity is carried out, a State tax is due on the goods loaded and unloaded from aircraft in an amount not exceeding ITL 100 for each Kg of gross weight. (...). The tax is due by the carrier, who can recover it from the sender or the addressee and it is assessed, liquidated and collected by the airport management, which, if advisable, may delegate such functions to the competent Customs Office (...). The owner of the aircraft is jointly and severally liable for the obligations set forth in this article.

ARTICLE 2 (State fees on loading and unloading of goods transported by sea)

A State tax is due on all goods unloaded and loaded in all Italian ports, roadsteads and beaches, in an amount not exceeding at 180 lire per each metric ton of goods (amended by article 6, Law No. 692 of 1 December 1981). (...)

Pursuant to Art. 3 of L.D. no.47/74 the exemptions provided for by L. 82/1963 (on Port fees) apply also to the Fees for loading and unloading of goods transported by air or sea.

K. FEES ON THE USE OF AIRPORTS OPEN TO CIVILIAN AIR TRAFFIC

a) LAW No. 324 of 5 May 1976

ARTICLE 1

The traffic of private aircrafts and passengers in the national airports open to civilian air traffic is subject to the payment of the following fees:

1. landing, departure or parking fees, for aircrafts
2. embarkation fees, for passengers

ARTICLE 2

(...) the fees provided for by this article (*landing and departure fees*) are due by the operator when the aircraft carries out a commercial activity and by the aircraft pilot in the other cases.

ARTICLE 3

Aircraft sheltering or stopping fees determined in ITL 136 per each ton or fraction of ton of the maximum weight upon landing resulting from the navigability certificate and per each hour or fraction of hour beyond the first two hours which are fee exempt.

The fee is due as provided for by Art. 2, second paragraph.

The fee is not due for the aircraft sheltering or stopping in the spaces used as fitting area by each air company.

ARTICLE 5

(...)

The embarkation fee is not due when the passenger is continuing an interrupted travel and the interruption depends upon the need to change the aircraft or upon any cause extraneous to the passenger's will.

This fee is not due for children up to two years, while it is half-reduced for children up to twelve years.

The fee is payable directly by the carrier who shall recover it from the passenger.

ARTICLE 6

The owner of the aircraft is jointly and severally liable for the payment of the fees provided for by this law.

The fees provided for by Art. 2 and 3 do not apply, upon condition of reciprocity, to foreign State aircrafts not used for commercial services .

b) LAW no. 342 of 21 November 2000

ARTICLE 90

Starting from 2001, a regional tax on the civilian aircraft sound emissions is established (...). The tax is due to any Region and Autonomous Province for any departure and landing of civilian aircrafts in civilian airports. (...)

ARTICLE 91 - Taxable persons and exemptions

The person liable for the payment of the tax provided for by Art. 90 is the aircraft operator, who effects the payment on a quarterly basis, within the 5th day of the month following each quarter.

State, sanitary and emergency flights are excluded from the payment of the tax.