

Tourism in Italy - Tax Law Profiles

Il turismo in Italia - Profili fiscali

di Francesco Farri - 15 gennaio 2020 ⁽¹⁾

Abstract

The article traces the main tax measures relating to the tourism sector in Italy and notes that exception made for some temporary measures, a real fiscal policy in favor of tourism in Italy cannot be said to exist. This underlies the poor competitiveness of the tourism sector in Italy, which does not allow the full exploitation of the potential linked to the extraordinary natural and artistic beauties concentrated in the country.

Keywords: tourism, tourist tax, fiscal policies for tourism

Abstract

Il saggio ripercorre le principali misure tributarie relative al comparto del turismo in Italia e rileva come, con l'eccezione di alcune misure temporanee, non possa dirsi sussistere in Italia una vera politica fiscale a favore del turismo. Ciò sta alla base della scarsa competitività del comparto turistico in Italia, che non permette di sfruttare pienamente le potenzialità collegate alla straordinarietà delle bellezze artistiche e naturali concentrate nel Paese.

Parole chiave: turismo, imposta di soggiorno, politiche fiscali per il turismo

SUMMARY: 1. Italy and tourism. 2. Tax policies for tourism and tourist tax. 3. Tourism and income taxes. 4. Tourism, VAT and property taxes. 5. Conclusions.

1. According to UNESCO, Italy is the country with the highest number of artistic and natural beauties that may be considered World Heritage. This although, in terms of extension of land, Italy ranks only 72nd in the world rankings. The consequence of this, of course, is that in Italy there is a concentration of beauty which is unparalleled in the world.

This awareness is widespread among the population, even before being certified by UNESCO, and can even be considered an essential part of the Italian national identity. While many Italians complain about their State, their civil institutions, their public services and even go as far as cheering against the national football team, you will never find one single Italian who is not proud of the beauties of his country.

If the awareness of the beauty of the territory has its most positive profile in the formation of the national identity, it also has a negative side. The negative side consists in a resulting tendency to believe that the beauty of the country promotes

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itself, in other words, that it is not necessary to realize any specific political strategies to attract foreign tourists to Italy. The thought that we are such a beautiful country is rooted in the population and there is a belief that everyone in the world knows us and as soon as anyone has the opportunity to travel, they will first visit Italy and its beauties.

The sweeping, substantial absence of a forward-looking tourism policy in Italy is symbolically demonstrated by two figures and two facts. The figures are that Italy, the first Country in the world for UNESCO recognized beauties, ranks only at the fifth place for international tourist arrivals (according to World Tourism Organization) and only 26th for tourism competitiveness (according to World Economic Forum): according to the WEF the reason for that is to be found precisely in the fact that Italy lacks laws and policies that can adequately support tourism and which determines a high level of prices in relation to the main competing countries with the same infrastructures (which the WEF defines as excellent in Italy), a scarce attention to environmental matters and to security and a not entirely adequate training of the workforce in the tourism sector. Two facts symbolically represent the causes of this faults. The first fact is represented by the odyssey that the tourism sector experiences in finding its own place in ministerial competences. The second fact is the substantial absence of a fiscal policy to promote tourism.

Under the first point of view, the task to elaborate and formulate political strategies for the formation of tourism was, at first, included among the general competences of the Presidency of the Council of Ministers. Except that, in a turbulent and litigious country from a political point of view such as Italy always was, it is not difficult to understand how the various Prime Ministers always had to think about something else, that they considered more important. Over time, the competence on the subject of tourism has been entrusted to the Ministry of Economic Development, then again brought back to the general competence of the Premiership, where it has been entrusted to ministers without portfolio who have merged it with sport and even with regional affairs, then entrusted to the ministry of agriculture and lastly, in a glimpse of rationality, entrusted to the Ministry for Cultural Heritage. In Italy there is no organic policy to promote tourism largely because it is not even clear who should be promoting it.

2. Under the second profile, it is ascertained that fiscal policies play a fundamental role in the competitiveness of the tourism sector (Mangion M.L. - Durbarry R. - Sinclair M.T., *Tourism competitiveness: price and quality*, in *11 Tourism Economics*, 2005, 45-68). Taxes, in fact, affect the prices of services, directly or indirectly, and, in this regard, it is indicative that according to the WEF Italy is placed only to the 134th place for prices competitiveness of the tourism sector. In fact, looking at the details of tax measures in Italy, there are specific rules in the tax system dedicated to the tourism sector, but they constitute sporadic, non-systematic and represent in any case interventions which are totally unsuitable to give rise to an efficient fiscal promotion of tourism.

From a structural point of view, on the contrary, it should be noted that tourism is the object of a specific tax, that is to say an instrument that from a pure economic point of view, objectively discourages the touristic flow. The visitor's tax and the islands disembarkation tax, in fact, oblige those staying in Italian hotels to pay an amount for each person and for each day of overnight stay that is collected directly by the hotel and deposited by the hotel itself to the Municipality of competence. The reasoning behind the introduction of these taxes, which took place in Italy in 2011 (Article 4 of Legislative Decree No. 23 of 2011), responds precisely to the logic illustrated at the beginning: tourists will come anyway, it won't certainly a few Euros of taxes to dissuade them. Thus, the setting of the fee in relatively low amounts (not to exceed five Euros per day per person), together with the discretion left to the municipalities on the amount to be claimed within the given range (including the possibility not to apply this tax) and on the provision of a maximum number of days of application, removes any concern about the dissuasive effects produced by the tax itself. It should be noted, in particular, that unlike what is often believed, the growing global interconnection and the growing mobility of the population has made the curve of tourist demand fairly elastic, so it is not obvious that those who, for example, are interested in visiting Ancient Roman amphitheatres aren't led to choose e.g. Pula in Croatia rather than Rome also on the basis of economic considerations. And if, to that, we add that e.g. Croatia presents itself as a young and dynamic country, it is easy to understand how the example given is by no means paradoxical. This is no longer a world in which one can live on heritage alone: even in tourism there is great global competition, and this is also true for the top of the class, though Italy has unfortunately not understood it.

To all of the above, we need to add airport taxes (which, however, are a constant in almost all countries), entrance fees for tourist buses in some places, concession fees for accommodation and travel agencies.

3. Let's now shift our attention to general taxes, such as income taxes and VAT in particular. As to what regards the first ones, that is income taxes, we can say that in general terms there are no special incentive schemes structurally established for tour operators. For example, there is no specific provision, in this sector, for a flat tax option as is, instead, provided for professionals of other sectors. The main exception regards holiday farms, which under certain conditions can benefit from the farmers' own tax regime. This is a particularly favorable tax treatment, which allows to pay income taxes not on the income actually received, but on the so called land registry income, that is on a flat rate (generally very low) which is based on the extension of the real estate property.

When the holiday farm exceeds certain given dimensions and its connection with the agricultural activity is only indirect, the option for a flat-rate determination of the profitability of the holiday farm in a height of 25% of the revenues is still possible (art. 5 of the law 413 of 1991). This favorable treatment also regards VAT, for which the deduction is forfeited in the amount of 50% for the services performed.

The holiday farm regime can also be applied to wine tourism (Article 1, paragraph 503 of Law No. 205/2017).

Some specific rules regard bathing establishments. Upon expiration of the concession for the use of the maritime lido (State property), the construction works built by the managers of the establishments are generally returned for free to the property of the State (art. 49 of the navigation code). This should be taken into good account when the relative amortization quotas are deducted from the business income. Also in this case, however, the applicable general rule comes from the Consolidated Income Tax Law, *id est*, art. 104 on the subject of freely transferable assets, and not rules specifically designed for this matter.

Nor it is possible to find specific provisions aimed at facilitating the expenses incurred by tourists. Whereas it is possible to deduct veterinary expenses from income taxes, the costs for gyms, in addition to essential expenses such as medical and pharmaceutical expenses, no deduction is established, for example, for expenses for cultural activities and visits. Deductions are foreseen for treatments at spas, but only for medical needs and not for reasons of simple well-being and, in any event, staying expenses at the spa cannot be deducted (art. 15, comma 1, lett. c del TUIR and resolution n. 207 del 1976). Neither is the maxi-incentive that the Italian legal system has recently granted to rich non-residents who decide to transfer their residence to Italy (with a guarantee to only pay in Italy up to 100,000 Euros in personal income tax for the income produced abroad) (art. 24-bis of TUIR); the same applies to the tax holidays for owners of income coming from foreign pension who transfer their residence in depressed areas of southern Italy (art. 24-ter of TUIR). These measures, in fact, refer to a more stable connection with the territory of the State, such as the residence is, which cannot relay to the concept of tourism, that bears in itself a temporary character.

The main exceptions to the above are the measures contained in law decree n. 83 of 2014. Next to the well-known art bonus, which allows a tax credit benefit in the amount of 65% on the donations made for maintenance, protection and restoration of public cultural assets, for the support of institutions and public places of culture, of theaters, orchestras and festivals and that, therefore, only indirectly has to do with the tourism sector, the decree contains some provisions actually aimed at taking care of taxation in tourism. In particular, art. 9 grants accommodation facilities, travel agencies and tour operators a 30% tax credit on the costs incurred to digitize the activity (e.g. offering wifi to guests, optimizing websites, offering digital consultancy services). Under a different profile, art. 10 grants hotel businesses a 30% tax credit on the costs incurred up to a maximum of 200,000 Euros for extraordinary maintenance, restructuring, elimination of architectural barriers, energy efficiency, the realization of cultural heritage enhancement projects: this, in addition to a series of bureaucratic simplifications and wider public urban and environmental redevelopment projects. Both measures are expressly aimed at improving the competitiveness of the tourism sector though, truthfully, on one hand, they act on simply instrumental aspects, (those pertaining to digitization) and, on the

other hand, on already excellent ones (those pertaining to the quality of infrastructures , which according to the WEF already see Italy in first place in the world ranking: they are, however, highly appreciable measures, although they are configured as temporary and not structural, they are financed with reduced allocations, and although they leave the cost reduction side which, instead, is the one that most affects the competitiveness of the tourism system in Italy according to the aforementioned international studies, substantially uncovered. Finally, the measure contained in art. 11-bis of the decree, which allows some companies operating in the tourism sector to be qualified as innovative start-ups and are consequently subject to the relative tax regime: these are, in particular, companies that have the promotion of national tourism offer through the use of technologies and the development of proprietary software, as their corporate purpose. This takes place, in particular, through the organization of services aimed at tour operators in the field of owner and employees education, establishment and association of tourism and cultural companies, of museum facilities, tourist information and reception offices, arrangement of centralized booking services, collection and statistical data processing relating to tourist flows, development of web applications that allow the linking of cultural tourism and entertainment aspects in the territory as well as the implementation of fact-finding, promotional and marketing activities of the national tourist offer, in the form of incoming services or, more specifically, receiving tourists in the territory by studying and activating new distribution channels.

4. Moving on to the VAT side, it is possible to mention that for some sectors related to tourism (hotel, bar, restaurant services relating to the administration of food and drink) (see Table A, part III, attached to Presidential Decree 633/1972, n. 120 and 121) the reduced rate of 10% (instead of 22%) is applied and that for other sectors, always linked to tourism, VAT exemptions are established (for example for services related to the visit of museums, galleries, art galleries, monuments, historical villas, gardens and similar: Article 10, paragraph 1, No. 22 of Presidential Decree 633/1972). Furthermore, for the sale of goods to tourists, the possibility of obtaining VAT refund remains, according to the general principles for which exports are not subject to VAT. From a procedural point of view, some accounting simplifications for tourism operators are possible: for example, hotels are not obliged to issue an invoice, but may issue simple receipts; the bathing establishments have no obligation to issue any certification of amounts received nor to proceed with periodic VAT payments for winter periods of inactivity. Furthermore, for travel agencies there is a special regime for determining VAT (art. 74-ter of Presidential Decree 633/1972), which allows to settle the due tax directly as a difference between revenues and costs for the sale of tourist packages, notwithstanding the obligation to pay VAT in full on the amounts received and then deduct VAT relating to expenses incurred.

To conclude the overview on tax measures relating to tourism, the incidence of local taxes and, in particular, taxes on real estate and on waste must not be forgotten. As

for the first, the most inflexible Italian Supreme Court has established that it is applicable both to bathing establishments (Cass., 15470/2010) and to ski lifts (as derived from the real estate registry classification established by Cass., 1442/2017) and even to the berths in marinas (Cass., 15198/2016). The Romans said that a ruling can *facere de albo nigrum et de quadrato rotundum*; the Italian Supreme Court interprets the principle by making *de aqua liquida terram immobilem*.

5. In summary, it is clear that the tourism sector in Italy would require the intervention of an organic fiscal policy, aimed at improving the competitiveness of the country's tourism system compared to that of competing countries, particularly with a view to reducing the tax charges charged back to tourists and, therefore, an overall price reduction to visit Italy.

It is true that, in this way, the tax revenue attributable to the individual visiting tourist would probably be reduced. But it is also true that the chances of attracting more tourists would increase, climbing the rankings about the number of visitors who, for the moment, do not see Italy shining. And in this perspective, the reduction in tax revenue attributable to the individual tourist would be more than compensated by the increase in tourist flow (see Manente M. - Zanette M., Tax policies for tourism and macroeconomic effects. Effects of a reduction in VAT, Ciset analysis, Venice 2013). Lowering and rationalizing taxes on tourism, therefore, would be a fundamental investment for the Italian country system, also in view of a structural reduction of public debt.

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