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When Tax Enforcement Becomes Investment Risk:

Italy's Digital Tax Cases and the Cost of Over-Enforcement

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Executive Summary

Italy has every right to collect tax and act against genuine evasion. At the same time, several high-profile cases involving foreign technology companies have relied on contested legal interpretations and included criminal investigations, searches, potential liability for managers and significant settlement pressure before the underlying legal questions have been clarified by courts. Because several of the companies concerned are headquartered in the US, these cases are increasingly viewed in Washington through the lens of investment conditions and the treatment of US companies abroad.

Reported settlements and payments in the cases listed amount to roughly EUR 2.2 billion, while the disputed personal-data VAT assessments against Meta, LinkedIn and X add a further EUR 1.04 billion in contested claims. These figures show why Italy's approach has become economically and politically salient. In the current US policy environment, this creates a risk of disputes arising from Italian tax enforcement spilling over into the transatlantic trade relationship, particularly where US policymakers regard such measures as discriminatory, disproportionate or insufficiently grounded in settled law.

Italy is also entering an important phase in Europe's cloud, AI and digital-investment cycle. Major technology companies have announced new investments in Italian cloud and data-centre infrastructure, creating a timely opportunity for the country to strengthen its role in Europe's digital economy and improve the foundations for future AI-driven growth.

Yet Italy enters this cycle from a comparatively weak base. Its inward FDI stock is smaller than that of its main European peers, US-owned investment represents a relatively small share of that stock, and its technology-related foreign investment has historically been concentrated more heavily in telecommunications than in software, information services and other internationally mobile digital activities.

The scale of the gap is material. If the US share of Italy's inward FDI stock merely matched Spain's, **US-owned investment in Italy would be about EUR 18.4 billion higher. At France's share, it would be about EUR 25.1 billion higher. The gap is also visible in information and communication: matching France's or Spain's US ownership share would imply roughly EUR 2.5–4.3 billion more US ICT investment in Italy, or a US ICT stock about 64–110 per cent larger than today.** These figures show the scale of the investment gap Italy is trying to close, and why legal predictability matters for the next marginal project.

This matters because the investments Italy is seeking remain contestable well beyond the initial announcement. Cloud and data-centre projects are implemented in stages and can be expanded, delayed or scaled back as operating conditions change. Legal and administrative uncertainty therefore becomes an additional cost when companies decide where to place the next expansion phase, specialised function or marginal investment.

The Italian cases examined here involve different legal questions and varying degrees of legal certainty. Some concern established compliance obligations, including marketplace liability for undisclosed third-party sellers and short-term rental withholding obligations. Others apply existing tax concepts to digital and platform business models in areas where the law remains novel, fact-sensitive or contested, including personal data as VAT consideration and digital infrastructure as a permanent establishment. Italy's dual-track system amplifies these differences because administrative tax proceedings and criminal proceedings can develop in parallel. A disputed assessment still requires prosecutors to prove the elements of the relevant offence, including intent and statutory thresholds. Yet companies can face criminal scrutiny, searches, managerial exposure and precautionary measures while the underlying tax question remains unresolved.

Milan is central to this pattern. The cases reviewed show coordination among Milan-based prosecutors, the Guardia di Finanza, the Revenue Agency and, in some cases, the Customs Agency – an approach often referred to as the "Modello Milano". Its distinctive feature is the combination of administrative tax assessment, criminal-law proceedings, precautionary measures and settlement pressure in areas where the body of enforcement practice is developing faster than the body of settled law. Once the legal and evidentiary conditions for criminal action are considered to be met, prosecutors have limited discretion to discontinue a case solely because the underlying tax issue remains contested or because the Revenue Agency has settled.

Several peer Member States also combine tax enforcement with criminal procedures. France, Germany, Spain and the Netherlands all provide routes for criminal-tax enforcement, and France has pursued a criminal-tax case involving Google and investigated Netflix as part of a probe opened in 2022. France retains prosecutorial discretion to close a case; Germany allows criminal-tax investigations to be discontinued under specified statutory conditions; and Spain requires closer reconciliation between the administrative and criminal tax tracks. In Italy, **Article 112 of the Constitution narrows discretionary exit in cases considered prosecutable, while settlements with the Revenue Agency do not automatically terminate parallel criminal proceedings. These procedural differences can increase the criminal and settlement pressure associated with contested tax disputes in Italy, particularly in Milan.**

Policy recommendations

For the **Italian government**, the priority remains to maintain a clear distinction between evasion, artificial abuse and lawful structuring. Criminal-law procedures and precautionary measures should not be the primary means of testing unresolved tax theories where the legal position remains uncertain. The Revenue Agency should issue clearer prospective guidance on digital PE, non-monetary consideration and platform WHT obligations. In cases where fraud is not established, settlements should provide certainty about their consequences for parallel enforcement proceedings.

For **the European Union**, the priority is to close the gap between harmonised VAT rules and divergent national interpretation and enforcement. The Commission, the VAT Committee and, where necessary, the Court of Justice of the European Union (CJEU) should clarify questions such as whether personal data constitute consideration for VAT purposes. Tax certainty and proportionate enforcement should form part of the EU's Single Market and competitiveness agenda.

For **the United States**, the priority is to defend fair, predictable and non-discriminatory treatment of US-headquartered companies. USTR and the US Treasury should monitor Italian enforcement practices where novel or unsettled tax theories are combined with criminal procedures or precautionary measures and raise these concerns through EU-US economic dialogue. Trade escalation should remain a last resort because it risks retaliation and wider economic friction.

For **the OECD**, the priority is simplification, administrability and dispute prevention. While the OECD can promote greater consistency in international tax rules, national governments remain responsible for legal clarity and procedural safeguards. With Pillar One still stalled and Pillar Two adding significant technical and compliance complexity, the OECD should focus future work on reducing uncertainty, preventing disputes and avoiding further layers of complexity.

1. INTRODUCTION

Italy's recent wave of cloud, data-centre and digital-infrastructure investment has raised the stakes for the country's broader investment environment. Italy has attracted large technology projects, but the challenge is whether those projects are implemented, expanded and followed by further investment. Italy still trails several European peers in the scale and composition of inward investment, with a smaller US-owned presence and a technology-investment base historically weighted more towards telecommunications than software and information services. The current cloud and AI cycle will test whether these commitments translate into a stronger position in Europe's digital economy. Energy, connectivity, permitting, infrastructure and market conditions all matter. Tax certainty is part of the same equation: firms need to be able to assess future costs and liabilities before committing capital. For mobile, staged and expandable projects, legal and administrative uncertainty raises the cost of investment and can influence the timing, scale and location of future expansion decisions.

This paper argues that tax certainty and proportionate enforcement are central to Italy's investment environment. Italy should enforce firmly against tax evasion, artificial arrangements, fraudulent documentation and abusive tax planning, and multinational companies remain fully subject to Italian law. The concern is the growing use by some enforcement authorities, particularly in Milan, of expansive interpretations, criminal investigations, manager exposure and settlement pressure in cases where the underlying tax theories remain contested and have yet to be clearly settled by courts, EU guidance or legislation. This creates a risk of legal over-enforcement.

The cases examined here raise different legal issues, including marketplace and intermediary VAT liability, personal data as alleged non-monetary consideration, permanent-establishment (PE) and profit-attribution disputes, digital-infrastructure theories, royalty withholding (WHT) and short-term-rental WHT obligations. Some concern established compliance questions; others test how existing tax concepts apply to digital and platform business models. Lawful VAT structures, reverse-charge mechanisms, cross-border profit allocation and the use of digital infrastructure should not attract suspicion simply because they reduce multiple taxation or reflect the design of the EU Single Market. The central distinction is between evasion and artificial abuse, and lawful structuring within complex VAT and corporate-tax rules.

Many of the most visible cases involve US-headquartered technology and platform companies. Several US firms have faced expansive tax interpretations and forceful procedural measures in Italy in areas where the underlying law remains novel, unsettled or dependent on EU-level interpretation. This potentially raises investment and transatlantic risks. A reputation for resolving unclear digital-tax questions through retroactive enforcement pressure would raise costs across the wider economy, including for Italian SMEs that depend on cloud services, marketplaces, logistics, digital advertising and platforms. It would also weaken Italy's ability to convert its current cloud and AI investment pipeline into realised economic capacity.

Section 1 examines Italy's investment position in Europe's technology landscape and the role of tax certainty in the current cloud and AI investment cycle. **Section 2** maps the main Italian tax cases involving technology and platform companies across four legal categories. **Section 3** examines how contested tax interpretations can generate criminal exposure under Italy's dual-track system, including the interaction between administrative assessments, criminal proceedings and enforcement practice in Milan. **Section 4** compares the Italian framework with selected EU Member States to identify the institutional features that distinguish Italy's approach. And **Section 5** concludes with policy recommendations for Italy, the EU, US and the OECD.

1.1 Italy's Investment Challenge: Why Tax Certainty Matters Now

Italy is entering the current cloud and AI investment cycle from a comparatively weak starting position. This matters for tax policy because the economic cost of legal uncertainty goes beyond the direct financial costs reflected by direct tax claims, settlements or seized assets. It also depends on the type of investment a country is trying to attract, how mobile that investment is, and whether announced projects are ultimately converted into operating capacity.

The evidence should be read carefully. Foreign direct investment (FDI) positions and company investment announcements measure different things. FDI positions show the accumulated stock of foreign capital in resident affiliates, while company announcements indicate intended gross spending on new facilities, equipment, cloud regions, data centres, skills programmes or related operations. They are not additive and should not be treated as equivalent measures. Used together, however, they show both the position from which Italy entered the current cloud and AI investment cycle and whether the recent wave of technology projects is likely to change that position.

On the stock measure, Italy lags its main continental peers. In 2023, Italy's total inward FDI position stood at EUR 415 billion, roughly half Spain's and just over 40 per cent of Germany's. US-owned capital accounted for EUR 44.7 billion, or 10.8 per cent of Italy's inward FDI stock. The corresponding US-owned shares were 24.8 per cent in Germany, 16.8 per cent in France and 15.2 per cent in Spain. Italy therefore has both a smaller overall FDI base and a smaller US-owned share of that base. In other words, if the US share of Italy's existing inward stock were merely equal to Spain's, US investment would be EUR 63.1 billion, or EUR 18.4 billion higher. At France's share, it would be EUR 69.8 billion, or EUR 25.1 billion higher.

Table 1: Net inward FDI position and US-owned share, total economy and information and communication sector, 2023 (millions of euros and percentage of total)

Country	Total inward FDI position, 2023, EUR mn	US-owned inward FDI, EUR mn	US share of total inward FDI	ICT inward FDI position, EUR mn	US-owned ICT inward FDI, EUR mn	US share of ICT inward FDI
Italy	415,289	44,709	10.8%	37,356	3,916	10.5%
Spain	844,349	128,169	15.2%	35,211	7,740	22.0%
France	842,551	141,272	16.8%	38,238	6,579	17.2%
Germany	990,230	245,935	24.8%	31,833	-1,860	-5.8%

Source: ECIPE elaboration based on Eurostat. Note: The figure covers all FDI activities and Section J of NACE Rev. 2 (information and communication). Positions are measured on an ultimate counterpart basis, meaning that investment is attributed to the country of the ultimate controlling parent rather than to the immediate direct investor. Germany's negative US-owned ICT figure reflects intra-group financing structures and should not be interpreted as an absence of investment. Full charts and additional comparator figures are provided in Annex I.

Scaling by GDP confirms that the gap is structural, more than simply a function of Italy's economic size. US-owned inward FDI stood at 2.1 per cent of Italian GDP in 2024, compared with 4.9 per cent in France, 5.8 per cent in Germany and 8.3 per cent in Spain in the latest available year. Italy's series has also been largely stagnant: it moved within a narrow range of 2.1 to 2.6 per cent for eight consecutive years. Between 2017 and 2024, US-owned investment grew by 20 per cent in Italy, compared with 81 per cent in Spain. Over the same period, Italy's total inward stock grew by 33 per cent and nominal GDP by 26 per cent. US investment in Italy therefore grew more slowly than both the Italian economy and Italian inward investment as a whole (see Annex I, **Figure 1**).

The same pattern is visible in technology-related investment. As Table 1 illustrates, US-owned ICT investment in Italy is only EUR 3.9 billion, or 10.5 per cent of foreign ICT investment. If Italy had France's US ownership share, the stock would be about EUR 6.4 billion, implying EUR 2.5 billion more US ICT investment. At Spain's share, it would be EUR 8.2 billion, implying EUR 4.3 billion more. Put differently, matching France and Spain would mean a US ICT stock roughly 64–110 per cent larger than today.

Moreover, Italy's US-owned inward FDI position in information and communication increased between 2017 and 2023, but the increase was modest compared with Spain. Spain's US-owned position in the sector rose from EUR 1.2 billion in 2017 to EUR 7.7 billion in 2023, while Italy rose from EUR 2.2 billion to EUR 3.9 billion. Spain and Italy started from broadly comparable levels of US ownership in the sector, but by 2021–2023 Spain's sectoral stock was nearly three times as US-owned as Italy's (see Annex I, **Figure 2**).

The sectoral composition of Italy's technology investment points to a further weakness. Italy's foreign technology investment has historically been more concentrated in telecommunications than in software, computer programming and information services.

By 2023, telecommunications accounted for 85.7 per cent of Italy's information and communication inward FDI stock, while software and information services accounted for only 11.7 per cent. Spain and France present a different picture. In Spain, telecommunications accounted for 53.4 per cent and software and information services for 27.9 per cent. In France, the respective figures were 31.4 per cent and 59.4 per cent. Italy's inherited investment base has therefore been weighted towards regulated network infrastructure rather than the digital-services activities where internationally mobile capital is now being allocated (see Annex I, **Figure 4**).

At the same time, the post-2023 picture is more positive. Italy has attracted important cloud and AI commitments. In October 2024 Microsoft announced EUR 4.3 billion over two years to expand cloud and AI data-centre infrastructure in Italy, describing the project as its largest investment in the country.[1] AWS announced more than EUR 1.2 billion over five years for the Milan region, building on its previously announced EUR 2 billion initial planned investment to launch the AWS Europe (Milan) Region. [2]

The announcements are accompanied by a widening provider footprint. Google opened cloud regions in Milan in 2022 and Turin in 2023.[3,4] Oracle opened a second Italian public cloud region in Turin in November 2025, joining Milan.[5] Italy therefore has local-region infrastructure from Microsoft, AWS, Google and Oracle, and two-region configurations from Google and Oracle. This is a meaningful asset for resilience, data residency and competition between cloud providers, even where companies have not disclosed the associated capital expenditure.

Italy now has a credible cloud-infrastructure footprint and a genuine opportunity to improve its position in the European digital economy. However, the comparator picture remains challenging (see Table 2). In Spain, AWS increased its planned data-centre and AI investment to EUR 33.7 billion in March 2026, adding EUR 18 billion to the EUR 15.7 billion announced in 2024; Microsoft separately committed USD 2.1 billion for 2024–2025.[6] France secured a EUR 4 billion Microsoft cloud and AI programme, including capacity for up to 25,000 advanced GPUs by the end of 2025, alongside AWS's EUR 6 billion cloud infrastructure plan for 2017–2031.[7]

1 Microsoft. (2024, October 2). *Microsoft invests EUR 4.3B to boost AI infrastructure and cloud capacity in Italy*. news.microsoft.com/it-it/2024/10/02/microsoft-invests-e4-3b-to-boost-ai-infrastructure-and-cloud-capacity-in-italy/

2 Amazon Web Services. (2024, December 5). AWS invests EUR 1.2 billion to expand cloud infrastructure in Italy. About Amazon Europe. aboutamazon.eu/news/job-creation-and-investment/aws-invests-1-2-billion-to-expand-cloud-infrastructure-in-italy

3 Google Cloud. (2022, June 15). New Google Cloud region in Milan, Italy now open. cloud.google.com/blog/products/infrastructure/new-google-cloud-region-in-milan-italy-now-open

4 Google Cloud. (2023, March 23). New Google Cloud region in Turin, Italy now open. cloud.google.com/blog/products/infrastructure/new-google-cloud-region-in-turin-italy-now-open

5 Oracle. (2025, November 19). Oracle opens second public cloud region in Italy. oracle.com/uk/news/announcement/oracle-opens-second-public-cloud-region-in-italy-2025-11-19/

6 See Amazon. (2026, March 2). Amazon increases investment in Spain to EUR 33.7 billion to expand data centre infrastructure and drive AI innovation across Europe. About Amazon Europe. aboutamazon.eu/news/job-creation-and-investment/amazon-investment-spain-2026 and Microsoft. (2024, June 11). Microsoft opens its first cloud region in Spain to accelerate the development of the AI economy. news.microsoft.com/source/emea/2024/06/microsoft-opens-its-first-cloud-region-in-spain-to-accelerate-the-development-of-the-ai-economy/?lang=es

7 See Amazon. (2024, May 13). Choose France Summit: Amazon announces plan to invest more than EUR 1.2 billion into its French operations. About Amazon Europe. aboutamazon.eu/news/job-creation-and-investment/choose-france-summit-amazon-announces-plan-to-invest-more-than-1-2-billion-into-its-french-operations and Microsoft. (2024, May 13). Microsoft announces the largest investment to date in France to accelerate the adoption of AI, skilling and innovation. news.microsoft.com/fr-fr/2024/05/13/microsoft-announces-the-largest-investment-to-date-in-france-to-accelerate-the-adoption-of-ai-skilling-and-innovation/

Germany combines an additional EUR 8.8 billion of planned AWS investment in its Frankfurt Region with EUR 7.8 billion for the European Sovereign Cloud through 2040. [8]

Smaller Member States have also attracted specialised investments, showing that market size alone does not determine where advanced digital capacity is located. Portugal secured a Microsoft commitment of more than USD 10 billion from 2026 for 12,600 advanced Nvidia GPUs at Sines. Google announced EUR 5 billion over two years for Belgian cloud and AI infrastructure, while Microsoft committed SEK 33.7 billion (more than EUR 3 billion) over two years in Sweden. Ireland's Intel Fab 34 represents EUR 17 billion of semiconductor manufacturing investment. These projects underline that smaller economies can also attract major specialised digital investments.[9]

Table 2: Selected major US technology investment announcements in Italy and peer Member States, 2023–2026

Country	Selected US technology commitments	Strategic profile
Italy	Microsoft: EUR 4.3 billion over two years. AWS: more than EUR 1.2 billion over five years. Google regions in Milan and Turin; Oracle regions in Milan and Turin.	Broad vendor presence. Recent investment is weighted towards cloud and data-centre capacity.
Spain	AWS: EUR 33.7 billion through 2035. Microsoft: USD 2.1 billion in 2024–2025. Cisco semiconductor design centre; Google cybersecurity engineering centre in Málaga.[10]	Larger infrastructure pipeline, with specialised chip-design and cybersecurity functions.
France	Microsoft: EUR 4 billion for cloud and AI, including up to 25,000 advanced GPUs. AWS: EUR 6 billion cloud plan for 2017–2031.	Near-term Microsoft scale comparable to Italy, but with a stronger inherited software and IT-services investment base.
Germany	AWS: EUR 8.8 billion for Frankfurt and EUR 7.8 billion for sovereign cloud. Apple: EUR 2 billion for Munich silicon design. IBM: first quantum data centre outside the US.[11]	The most diversified mix, spanning cloud, sovereign infrastructure, chip design and frontier computing.

Source: ECIPE compilation from miscellaneous company announcements. Note: The table is selective rather than exhaustive. Announced values cover different time periods and may include different combinations of capital expenditure, operating expenditure and supporting programmes; they should not be added or treated as realised FDI.

8 See Amazon Web Services. (2024, May 15). AWS plans to invest EUR 7.8 billion into the AWS European Sovereign Cloud. About Amazon Europe. aboutamazon.eu/news/aws/aws-plans-to-invest-7-8-billion-into-the-aws-european-sovereign-cloud and Amazon Web Services. (2024, June 19). AWS plans to invest EUR 8.8 billion in Germany. About Amazon Europe. aboutamazon.eu/news/aws/aws-plans-to-invest-8-8-billion-in-germany-supporting-over-15-200-jobs-annually-in-local-businesses

9 See Microsoft. (2025, November 11). Microsoft accelerates AI infrastructure in Portugal. news.microsoft.com/source/emea/2025/11/microsoft-acelera-infraestrutura-de-ia-em-portugal-assinalando-35-anos-de-inovacao-no-pais/?lang=pt-pt; Google. (2025, October 8). Google is powering Belgium's digital future with a two-year EUR 5 billion investment in AI infrastructure. blog.google/innovation-and-ai/infrastructure-and-cloud/global-network/google-ai-infrastructure-investment-belgium/; Microsoft. (2024, June 3). Microsoft announces SEK 33.7 billion investment over two years in cloud and AI infrastructure in Sweden. news.microsoft.com/sv-se/2024/06/03/microsoft-tillkannager-en-investering-pa-337-miljarder-kronor-under-tva-ar-i-moln-och-ai-infrastruktur-och-ett-ai-kompetenslyft-for-en-kvarts-miljon-manniskor-i-sverige/; Intel. (2024). Intel Ireland RISE report 2024. newsroom.intel.com/corporate/intel-ireland-rise-report-2024

10 See Cisco. (2022, November 10). *Cisco to launch new design center in Spain for next-generation semiconductor devices*. Cisco Newsroom. newsroom.cisco.com/c/r/newsroom/en/us/a/y2022/m11/cisco-to-launch-new-design-center-in-spain-for-next-generation-semiconductor-devices.html and Google. (2023, November 29). *New cybersecurity center in Malaga will help build a safer Europe*. blog.google/innovation-and-ai/technology/safety-security/new-cybersecurity-center-in-malaga/

11 See Apple. (2023, March 2). *Apple accelerates investment in Germany with additional EUR 1 billion to expand Silicon Design Centre*. apple.com/uk/newsroom/2023/03/apple-accelerates-investment-in-germany-to-expand-silicon-design-center/ and IBM. (2024, October 1). *First IBM Quantum Data Center in Europe opens*. IBM Newsroom. newsroom.ibm.com/2024-10-01-first-ibm-quantum-data-center-in-europe-opens-will-include-ibms-most-performant-quantum-systems

This evidence shows that Italy entered the current cloud and AI investment cycle from a weak starting position, and its ability to convert announcements into operating capacity will depend partly on legal and administrative predictability. Tax certainty is part of the investment climate. This is particularly important because data-centre and cloud investments are staged. Land acquisition, grid connection, permitting, construction and IT-equipment fit-out occur at different times and can be scaled, postponed or moved. The Polytechnic University of Milan estimates that EUR 7.1 billion was actually invested in Italian data centres during 2023–2025, only 68 per cent of the EUR 10.5 billion forecast at the start of the period. For 2026–2028, it identifies 83 announced projects worth a potential EUR 25.4 billion, but 72 per cent of that value is attributed to new international entrants not yet active in Italy and therefore subject to greater execution risk.[12]

The policy implication is straightforward. Italy does not need weaker tax enforcement. It needs enforcement that is predictable, proportionate and legally clear. The economic channel is not limited to the direct tax amounts under dispute. Uncertainty about the legal basis and procedural consequences of enforcement can raise the expected cost of investing in Italy in three ways. First, it widens the range of possible tax outcomes, potentially increasing the risk premium investors attach to long-payback projects such as data centres. Second, it imposes costs that arise regardless of the final outcome: legal defence, management time and potential restrictions on company assets where precautionary measures are used. Third, it changes the incentive to settle: when the company and its managers face criminal exposure alongside the tax dispute, paying can become rational even where the underlying legal questions remain unresolved. For internationally mobile activities such as cloud infrastructure, AI capacity, digital advertising, marketplaces and platform services, these costs need not eliminate investment altogether. It is sufficient that they reduce the probability that Italy receives the next marginal project, expansion phase or specialised function.

If investors perceive Italy as a jurisdiction where unsettled tax theories can be tested through criminal investigations, searches, preventive seizures and settlement pressure, the risk is not that all technology investment disappears. The more realistic risk is that Italy captures a smaller share of marginal European expansion, or that announced projects are realised more slowly than in competing Member States. For a country seeking to catch up in cloud, AI and digital services, that is a material competitiveness concern.

12 Osservatorio Data Center, Politecnico di Milano. (2026, January). Data center: Già investiti 7 miliardi nel triennio 2023-2025, ulteriori 25 previsti nel prossimo triennio.osservatori.net/comunicato/data-center/data-center-in-italia/

2. THE ITALIAN CASES: FOUR DIFFERENT LEGAL CATEGORIES

The cases reviewed in this paper fall into four broad categories. The first concerns **VAT liability** for marketplace and platform intermediation. The second concerns the **treatment of personal data as possible non-monetary consideration for VAT purposes**. The third covers **corporate income tax disputes** involving PE, profit attribution, digital infrastructure and royalty WHT. The **fourth concerns reporting and WHT obligations** in the short-term rental sector. These cases differ in both their legal basis and the degree of certainty surrounding the underlying tax rules. Some involve relatively established compliance obligations, while others test how existing tax concepts apply to digital and platform business models. These differences matter when assessing the use of searches, criminal investigations, preventive seizures and settlement pressure in individual cases.

Categories 1 and 4 (sub-sections 2.1 and 2.4 below) rest on well-established legal obligations. Marketplace liability for undisclosed third-party sellers rests on express statutory reporting and liability rules; for the part of the period under investigation, these were set out in Italian Decree-Law No. 34/2019, a domestic regime introduced ahead of the EU-wide marketplace VAT rules that have applied since July 2021.[13] The CJEU for its part, largely upheld Italy's authority to impose the short-term WHT obligation in 2022. These cases illustrate how the institutional architecture examined in Section 3, the interaction between the administrative and criminal proceedings and use of precautionary measures can create significant exposure even where the underlying legal obligation is clear. Factual and procedural questions still arise over the scope of liability, reporting compliance, and the calculation of amounts due and the consequences of enforcement action. **Category 2 and certain cases in Category 3, particularly those involving digital-infrastructure PE, concern contested applications of established tax concepts. In these cases, the same enforcement architecture operates in an environment of greater legal uncertainty.** The cost for companies depends on the amount claimed, but also on how enforcement procedures shape the incentive to contest or settle before the underlying legal question has been resolved. **Table 4 in Annex II** summarises the principal publicly reported cases reviewed in this paper.

Table 3 below provides a short overview of the cases. Together, the case overview shows the scale of the issue. Reported settlements and payments in the cases listed amount to roughly EUR 2.2 billion, while the disputed personal-data VAT assessments against Meta, LinkedIn and X add a further EUR 1.04 billion in contested claims. These figures show why Italy's approach has become economically and politically salient.

13 Article 13 of Decree-Law No. 34 of 30 April 2019, converted by Law No. 58 of 28 June 2019, required operators of electronic interfaces, facilitating distance sales of goods to transmit data on their sellers to the Revenue Agency for a transitional period, and deemed them liable for VAT not paid by the seller where the data were not transmitted or were incomplete, unless they could show that the VAT had been paid. The regime was introduced pending full transposition of Council Directive (EU) 2017/2455, whose deemed-supplier rule of marketplaces (Article 14a of the VAT Directive) has applied across the EU only since 1 July 2021. In Circular 13/E, the Revenue Agency set out the scope of these domestic obligations and took the view that, owing to objective uncertainty, the liability under Article 13(3) did not apply in certain cases of incomplete or incorrect reporting before the Circular was issued, where the information could be corrected or supplemented. See Agenzia delle Entrate. (2020, June 1). Circolare n. 13/E: Termini e modalità di trasmissione dei dati relativi alle vendite a distanza di beni che avvengono mediante l'uso di una interfaccia elettronica. def.finanze.it/DocTribFrontend/getPrassiDetail.do?id=%7B6517398C-5F79-432D-AC6A-9A7C637CAE9D%7D

Table 3: Reported amounts in Italian tax enforcement cases against major digital and platform companies

Company	Year	Legal category	Amount (EUR m)	Status
Apple	2015	Alleged PE and profit attribution	318	Settled
Google (2017 case)	2017	PE based on activities of personnel in Italy and profit attribution	306	Settled
Netflix	2022	Digital-infrastructure PE	55.8	Settled
Booking.com	2023	VAT on intermediation services	94	Settled
Airbnb	2023	Short-term rental income-tax withholding	576	Settled
Amazon	2025	Marketplace and intermediary VAT liability	527	Settled
Google (2025 case)	2025	Digital-infrastructure PE and WHT	326	Settled
LinkedIn	2025	Personal data as non-monetary VAT consideration	140	Disputed/appealed
X (Twitter)	2025	Personal data as non-monetary VAT consideration	12.5	Disputed/appealed
Meta	2025	Personal data as non-monetary VAT consideration	887.6	Disputed/appealed

Source: ECIPE elaboration; see Table 4 for full case summaries. Disputed figures remain under appeal and could change.

2.1 Marketplace and Intermediary VAT Liability

The first category concerns VAT owed on sales by third-party sellers and the circumstances in which an online marketplace can become liable for that unpaid tax. Under the Italian rules applicable during the period examined, an intermediary facilitating sales through an electronic marketplace could become liable where it failed to report the required information and could not demonstrate that the third-party seller had paid the VAT due.[14]

The Amazon case concerns alleged VAT losses connected with transactions carried out through the company's Italian marketplace between 2019 and 2021. The Milan investigation began in 2021 and, by 2025, had expanded to include Amazon EU Sàrl, its Luxembourg-based European entity, and several executives. Prosecutors estimated the VAT at issue at approximately EUR 1.2 billion.[15] The investigation focused on non-EU sellers using the platform, particularly sellers based in China whose identifying details and sales information were allegedly missing or incomplete in reports concerning transactions carried out in Italy. The authorities argued that deficiencies in the operation of the marketplace allowed some of these sellers to trade without meeting their Italian VAT obligations.

14 Agenzia delle Entrate. (2020, June 1). *Circolare n. 13/E: Articolo 13 del decreto-legge 30 aprile 2019, n. 34 – Vendite di beni tramite piattaforme digitali.* See, in particular, the discussion of Article 13(3) of Decree-Law No. 34 of 30 April 2019, converted by Law No. 58 of 28 June 2019, concerning the consequences of a platform operator's failure to transmit the prescribed data, or transmission of incomplete data, subject to the statutory conditions and exceptions.

15 Parodi, E. (2025, February 14). Italy investigates Amazon over alleged 1.2 billion euro tax evasion. Reuters. Available at: reuters.com/technology/italy-investigates-amazon-over-alleged-12-billion-euro-tax-evasion-2025-02-14/

In December 2025, Amazon reached an agreement with the Italian Revenue Agency. The settlement was initially reported at EUR 510 million and was later described as EUR 527 million including interest.[16] The agreement resolved the tax claim with the Revenue Agency, while the related criminal proceedings continued. Amazon continued to contest the allegations. On March 12, 2026, the Milan prosecution requested that Amazon EU face trial in connection with the alleged EUR 1.2 billion VAT shortfall. The preliminary-hearing judge must decide whether the case proceeds to trial.[17]

Booking.com faced a separate Italian VAT dispute concerning commissions earned from certain Italian accommodation providers. The Genoa Public Prosecutor's Office began examining the matter in 2018, and in 2021 the Guardia di Finanza alleged that Booking had failed to account for approximately EUR 153 million in VAT between 2013 and 2019. The alleged liability related to commissions of around EUR 700 million received from private accommodation providers in Italy.[18] The dispute centred on the tax status of hosts who were not registered for VAT.[19] Booking treated these providers as carrying on an economic activity and applied the reverse-charge mechanism, under which responsibility for accounting for the VAT shifted to the customer. The Italian authorities took the view that hosts without VAT identification numbers should be treated as non-business customers. On that basis, they argued that **Booking was required to charge Italian VAT on its own intermediation fees and remit the tax directly**. The dispute was resolved financially in November 2023, when Booking agreed to pay approximately EUR 94 million for the 2013–2021 period.[20] The company continued to state that its previous VAT treatment complied with Italian law. Booking also submitted an Italian VAT return for 2022 covering more than EUR 19 million and changed its treatment of transactions involving private hosts who were not VAT-registered, agreeing to collect the relevant VAT itself.[21]

16 Parodi, E. (2025, December 10). Amazon to pay more than $580 million to settle tax probe in Italy. Reuters. Available at: reuters.com/technology/amazon-pay-around-500-mln-euros-settle-tax-probe-italy-sources-2025-12-10/; Parodi, E. (2026, March 12). Italian prosecutors seek trial for Amazon, four execs over alleged $1.4 billion tax evasion. Reuters. Available at: reuters.com/world/italian-prosecutors-seek-trial-amazon-four-execs-over-alleged-14-bln-tax-evasion-2026-03-12/

17 The request was submitted to preliminary-hearing judge Tiziana Landoni, who must decide whether the case should proceed to trial or be dismissed; as of August 3, 2026, no subsequent decision has been publicly reported. Separately, Milan prosecutors are investigating alleged customs and tax fraud involving goods imported from China and whether Amazon maintained an undeclared permanent establishment (PE) in Italy between 2019 and 2024, which could have created additional Italian corporate-tax liabilities. See Parodi, E. (2026, February 12). Italian tax police search Amazon in new tax probe. Reuters. Available at: reuters.com/world/italian-tax-police-search-amazon-new-tax-probe-sources-say-2026-02-12/; Note: These VAT proceedings are also distinct from other tax-related investigations involving Amazon in Italy. One separate inquiry concerns alleged customs and tax irregularities linked to goods imported from China. Parodi, E. (2025, November 24). Amazon sites in Italy raided by police in China smuggling probe, sources say. Reuters. Available at: reuters.com/technology/tax-customs-police-raid-two-amazon-sites-italy-china-smuggling-probe-sources-say-2025-11-24/; Another examines whether Amazon maintained an undeclared PE in Italy between 2019 and 2024, which could give rise to additional Italian corporate-tax liabilities, Parodi, E. (2026, February 12). Italian tax police search Amazon in new tax probe. Reuters. Available at: reuters.com/world/italian-tax-police-search-amazon-new-tax-probe-sources-say-2026-02-12/

18 Parodi, E. (2023, November 10). Booking.com settles Italian tax dispute with 94-million euro payment. Reuters. Available at: . reuters.com/business/retail-consumer/bookingcom-pay-94-million-euros-settle-italian-tax-dispute-2023-11-10/

19 Parodi, E. (2021, June 10). Italian police target Booking.com for alleged tax evasion. Reuters. Available at: reuters.com/technology/italian-police-target-bookingcom-alleged-tax-evasion-2021-06-10/

20 Parodi, E. (2023, November 10). Booking.com settles Italian tax dispute with 94-million euro payment. Reuters. Available at: reuters.com/business/retail-consumer/bookingcom-pay-94-million-euros-settle-italian-tax-dispute-2023-11-10/

21 The case should not be described as applying the same joint-liability or deemed-supplier theory used in the Amazon marketplace investigation: it principally concerned the VAT treatment of Booking.com's own commission services and the disputed use of the reverse charge. A broader EU deemed-supplier regime for platforms facilitating short-term accommodation has since been enacted under the VAT in the Digital Age reforms, but it is scheduled to apply from July 1, 2028, with Member States permitted to postpone implementation until January 1, 2030. See: Council Directive (EU) 2025/516 of 11 March 2025 amending Directive 2006/112/EC as regards VAT rules for the digital age. Available at: eur-lex.europa.eu/eli/dir/2025/516/oj

2.2 Personal Data as Non-Monetary VAT Consideration

The second category rests on the theory that a user receives digital services in exchange for allowing a platform to collect and use their personal data, potentially creating a taxable barter transaction for VAT purposes. **It is argued that data-driven business models and digital advertising generate an "untaxed" form of consumption**,[22] and recent political pressure suggests growing interest in stretching the existing VAT framework to capture perceived gaps in the taxation of digital platforms.[23]

Italian authorities began examining Meta's VAT position in 2023, with the investigation ultimately giving rise to tax assessments issued by the Italian Revenue Agency in March 2025.[24] The authorities attributed approximately EUR 887.6 million in unpaid VAT to Meta across the broader period covered by the inquiry. The dispute turns on the economic value of the personal information supplied by users of Meta's services. In the authorities' view, access to platforms such as Facebook and Instagram forms part of a reciprocal transaction: users obtain digital services while Meta receives data capable of being used for commercial purposes. The Revenue Agency applied the same theory to LinkedIn, using VAT assessments amounting to approximately EUR 140 million.[25] X, formerly Twitter, received separate VAT assessments totalling approximately EUR 12.5 million.[26] Italian authorities similarly argue that users effectively pay for access to the platform by permitting the collection and commercial use of their personal data. Along with Meta and LinkedIn, X has also disputed that characterisation and has challenged the assessment.[27]

The Italian assessments treat these arrangements as barter transactions in which users supply personal data in return for access to digital platforms. The central legal question, however, is whether such a transaction exists at all. Platforms derive commercial value from personal data, but this alone does not establish that users provide such data as consideration for the services received. Under EU VAT law, a taxable transaction requires a sufficiently direct link between an identifiable service and the consideration provided in return. Such a link is difficult to establish where users receive the same service regardless of the personal data they provide. Without it, there is no taxable supply to value. Even where users' data permissions demonstrably affect service functionality, the existence of reciprocal consideration and any taxable amount must be established on the facts rather than presumed from the platform's business model.

22 CMS. (2025, June 18). Italy's Tax Authorities Target 'Free' Online Services for VAT. Available at: cms.law/en/ita/publication/italy-s-tax-authorities-target-free-online-services-for-vat

23 Italy's recent approach highlights the political pressures confronting governments in the taxation of digital markets. Where VAT is viewed as insufficient to capture the value generated by digital business models, and corporate income tax reform is constrained by limited international coordination, tax authorities may be tempted to extend existing VAT concepts beyond their conventional boundaries. If such measures prove ineffective or face legal challenge, digital services taxes are likely to become increasingly attractive as second-best alternatives, despite the legal uncertainty and economic distortions they may create. See: Bauer, M and Pandya, D. (2026). From Digital Tax Symbolism to Meaningful Reform: Europe's Substantial VAT Gap as a Source of Untapped Fiscal Capacity. ECIPE Occasional Papers. Available at: https://ecipe.org/wp-content/uploads/2026/03/ECI_OccasionalPaper_03-2026_LY03.pdf

24 Parodi, E. (2025, March 26). Italy pursues payment from Meta, X and LinkedIn in landmark tax case. Reuters. Available at: reuters.com/technology/italy-hands-vat-bill-meta-x-linkedin-landmark-tax-case-2025-03-26/

25 Ibid

26 Ibid

27 Ibid

The Italian approach also previously faced resistance at EU level. **In 2018, the VAT Committee concluded that the provision of IT services without monetary payment does not constitute a taxable transaction where the same service is offered to users irrespective of the quantity or quality of personal data they provide, because in those circumstances no sufficiently direct link exists between the service and the data received.**[28] More recent Commission analysis, prepared in response to Italy's request, did not entirely exclude the possibility of VAT treatment, **but limited it to circumstances in which the functionality or level of service received by users depends on the data permissions they grant.** Whether the necessary direct link exists must therefore be assessed case by case.[29] The EU-level discussion does not support a general "data-for-service" barter theory, but it leaves open the possibility of VAT treatment in more specific data-dependent business models. Under the VAT Directive, Article 73 establishes the general rule for determining the taxable amount, while Article 80 permits open-market valuation only in specified circumstances involving connected parties.[30]

The legal basis for the Italian assessment remains contested. Even if that interpretation were ultimately rejected, its use in high-profile cases could encourage other tax authorities to test similarly expansive applications of existing VAT concepts. This is particularly significant because the existing framework was not designed expressly to treat non-monetary transfers of personal data as conventional taxable consideration. **The uncertainty extends beyond the immediate disputes: it raises the question of when the collection of user data is sufficiently connected to the digital service provided to constitute consideration for VAT purposes.**[31]

The revenue implications of the Italian approach remain uncertain. VAT is designed to tax final consumption, with the burden generally passed on to consumers through prices. Where users access digital services without monetary payment, there is no direct price through which VAT on the alleged value of their data can be passed on. Such assessments could impose additional costs on platforms, in the form of an additional tax on a business model, rather than directly taxing final consumption.

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28 European Commission, VAT Committee. (2018). Guidelines resulting from the 111th meeting of 30 November 2018, Document B – taxud.c.1(2019)3722302 – 967. Available at: taxation-customs.ec.europa.eu/system/files/2024-01/guidelines-vat-committee-meetings_en.pdf. The VAT Committee guidelines are advisory and do not bind the European Commission or Member States.

29 European Commission, VAT Committee. (2025, November 11). VAT treatment of IT services provided in exchange for users' personal data: Italian question. Working Paper No. 1118, taxud.c.1(2025)11627393. Available at: circabc.europa.eu/ui/group/cb1eaff7-eedd-413d-ab88-94f761f9773b/library/48dfbd2b-973e-427b-a578-d84f94146c2b/details

30 Council of the European Union. (2006). Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, arts. 73 and 80. OJ L 347, 11 December 2006, pp. 1–118. Consolidated text available at: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02006L0112-20250320. Moreover, since November 2023, Meta has offered EU users a choice between a paid subscription without advertising and free use with consent to data processing for advertising. In November 2024, Meta introduced a third option allowing users to access its services with less personalized advertising. Although these models post-date the periods assessed, they could be cited in future VAT disputes as evidence that data permissions have economic value. See: Meta. (2024, November 12). Facebook and Instagram to offer subscription for no ads in Europe. about.fb.com/news/2024/11/facebook-and-instagram-to-offer-subscription-for-no-ads-in-europe/

31 European Commission, VAT Committee. (2018, November 30). Conditions for there being a taxable transaction when Internet services are provided in exchange of user data (Guideline 967, Document B, taxud.c.1(2019)3722302), in Guidelines resulting from meetings of the VAT Committee, p. 248. Available at: taxation-customs.ec.europa.eu/system/files/2024-01/guidelines-vat-committee-meetings_en.pdf; European Commission, Directorate-General for Taxation and Customs Union. (2018, October 30). Conditions for there being a taxable transaction when Internet services are provided in exchange for user data (VAT Committee Working Paper No. 958, taxud.c.1(2018)6248826). Available at: circabc.europa.eu/sd/a/ee8603b3-9d86-444f-921c-003e3bee08ce/WP%20958%20-%20Art%202%20-%20Internet%20services.pdf

The revenue collected would also depend on how personal data is valued, which remains uncertain under the existing VAT framework. Pursuing broad assessments before these questions have been clarified risks generating substantial compliance and litigation costs without a predictable fiscal outcome.[32]

2.3 Corporate Income Tax, Digital-Infrastructure PE and Royalty WHT

The third category concerns whether a foreign company has sufficient personnel, infrastructure or business activity in Italy to create a taxable presence, or PE, and how profits attributable to that presence should be taxed. Italian enforcement has increasingly applied the PE concept to digital and physical infrastructure alongside more traditional forms of presence based on personnel and business activity.

Apple reached an agreement with the Italian tax authorities in December 2015 under which it paid EUR 318 million in connection with a dispute covering the 2008–2013 tax years.[33] The investigation focused on income attributable to Apple's activities in Italy that had been booked through Apple Sales International in Ireland. Prosecutors alleged that this arrangement reduced the profits subject to Italian corporate taxation. The authorities estimated the disputed tax at close to EUR 880 million. **The settlement did not immediately close the parallel judicial investigation involving three Apple managers, although the agreement was expected to influence its resolution.** Apple also agreed to establish a separate arrangement with the Italian authorities governing the taxation of its activities from fiscal year 2015 onward.

On November 22, 2018, Facebook Italy signed an agreed tax assessment with the Italian Revenue Agency, undertaking to pay more than EUR 100 million to resolve disputes concerning certain tax years within the 2010–2016 period.[34] The disputes followed investigations conducted by the Guardia di Finanza and coordinated by the Milan Public Prosecutor's Office. The underlying investigation reportedly alleged that Facebook had failed to declare approximately EUR 296.7 million of income generated through its Italian advertising business between 2010 and 2016.[35] Investigators examined whether the activities and personnel of Facebook Italy created an undeclared PE of Facebook's Irish entity in Italy and whether profits formally attributed to Facebook Ireland should instead have been attributed to the functions performed in Italy. The settlement did not amount to a judicial ruling. The Revenue Agency stated that the final agreement reflected a partial recharacterisation of the initial claims while leaving the amounts under dispute unreduced.[36]

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32 Bauer, M., & Pandya, D. (2026, March). From Digital Tax Symbolism to Meaningful Reform: Europe's Substantial VAT Gap as a Source of Untapped Fiscal Capacity. ECIPE. Available at: ecipe.org/publications/europes-modern-frameworks-for-taxation/.

33 Ahmed, M., and Sanderson, R. (2015, December 30). Apple agrees to pay €318m fine to close Italian tax case. Financial Times. Available at: ft.com/content/a38fa412-aef3-11e5-b955-1a1d298b6250?syn-25a6b1a6=1; at the same time the Commission was also expanding its investigation into Ireland's preferential tax arrangements with Apple.

34 Agenzia delle Entrate. (2018, November 22). Firmato l'accertamento con adesione: Facebook pagherà al Fisco italiano oltre 100 milioni di euro. Available at: agenziaentrate.gov.it/portale/-/cs-22112018-cs-accertamento. The Revenue Agency states that the agreement closed disputes arising from tax investigations conducted by the Guardia di Finanza under the coordination of the Milan Public Prosecutor's Office and that the settlement was based on a partial recharacterisation of the initial claims without reducing the disputed amounts.

35 Guastella, G. (2018, June 1). La verifica su Facebook in Italia: «Non ha dichiarato 300 milioni». Corriere della Sera. corriere.it/tecnologia/economia-digitale/18_giugno_01/facebook-italia-non-ha-dichiarato-300-milioni-1aff00f2-6521-11e8-95f7-d0bed95533ca.shtml

36 The publicly available Revenue Agency materials do not disclose the complete settlement agreement or the precise allocation of the payment among the relevant taxes, penalties and tax years.

Google's Italian corporate-tax disputes developed in two distinct phases, based on different PE theories. The first ended in May 2017, when Google agreed to pay approximately EUR 306 million to resolve claims involving Google Italy and Google Ireland.[37] The authorities investigated the taxation of income connected with Google's Italian business, focusing in particular on around EUR 1 billion of revenue generated between 2009 and 2013. The final agreement covered a wider period, from 2002 to 2015, and reflected the authorities' **view that Google had a taxable presence in Italy through personnel carrying out activities in the country.** It also initiated discussions with the Revenue Agency over the tax treatment of Google's Italian operations in subsequent years.

A later investigation relied on a **different PE theory centred on technological infrastructure.** In June 2024, the Italian Revenue Agency was seeking approximately EUR 1 billion in unpaid taxes and penalties in a case opened in December 2022 and concerning the 2018–2022 period. Unlike the earlier dispute, which focused on the activities of personnel located in Italy, the latter case examined whether Google's servers and other technological infrastructure were sufficient to establish a taxable presence in the country. Google maintained that it complied with Italian tax law and cooperated with the authorities.[38] In February 2025, Google Ireland agreed to pay EUR 326 million in taxes, penalties and interest under a settlement that Milan prosecutors stated covered the 2015–2019 period. The settlement concerned allegations that income from advertising activities had not been properly declared in Italy and again relied on the presence of servers and other essential technological infrastructure. The difference between the period covered by the approximately EUR 1 billion claim reported in 2024 and the 2015–2019 period covered by the 2025 settlement has not been explained however.[39] Following the agreement, **the Milan Public Prosecutor's Office requested dismissal of the related criminal proceedings after the investigation concluded that the conduct should be treated as tax avoidance and abuse of law instead of criminal tax evasion.**

Netflix provides another important example of Italy's attempt to apply PE rules to digital infrastructure. In May 2022, the company reached a settlement of approximately EUR 55.8 million, including tax, penalties and interest, in relation to the period from October 2015 through 2019.[40] The Milan investigation, which had begun in 2019, centred on whether Netflix International B.V. carried on taxable activity in Italy despite not maintaining a traditional office or workforce there during the period under examination. Instead of relying on the presence of employees, investigators focused on the technological network through which Netflix delivered content to Italian subscribers. That network reportedly included around **350 servers located in Italy**.[41]

37 Reuters. (2017, May 4). Google to pay 306 million euros to settle Italian tax dispute. Available at: reuters.com/article/technology/google-to-pay-306-million-euros-to-settle-italian-tax-dispute-idUSKBN1801D2/

38 Reuters. (2024, June 28). Italy claims 1 billion euros in unpaid taxes from Google. Available at: reuters.com/technology/italy-claims-1-billion-euros-unpaid-taxes-google-2024-06-28/

39 Rotondi, F. (2025, February 19). Google Agrees to Pay €326M to Settle Tax Case in Italy. BloombergTax. Available at: news.bloombergtax.com/daily-tax-report-international/google-agrees-to-pay-326m-to-settle-tax-case-in-italy

40 Reuters. (2022, May 20). Netflix to pay $59 million to settle Italian tax dispute. Reuters. Available at: reuters.com/world/europe/netflix-pay-59-million-settle-italian-tax-dispute-2022-05-20/; The report states that Netflix agreed to pay EUR 55.8 million for the period October 2015—2019 and that Milan prosecutors had opened a tax-evasion investigation three years earlier based on the digital infrastructure used to provide streaming services in Italy.

41 De Riccardis, S. (2022, May 20). Netflix fa pace con il Fisco e versa 55,8 milioni. la Repubblica, reporting a statement by the Milan Public Prosecutor's Office. Available at: https://milano.repubblica.it/cronaca/2022/05/20/news/netflix_fa_pace_con_il_fisco_e_versa_558_milioni_inchiesta_procura_milano-350378087/

The authorities' theory was that this infrastructure performed an integral function in supplying Netflix's streaming service and could therefore constitute a fixed place of business for PE purposes, even without personnel physically operating it in Italy. **The servers were located in third-party data centres but were regarded by the authorities as being used for Netflix's streaming activities and as performing functions that were not merely preparatory or auxiliary.**[42] The settlement did not produce a judicial ruling on whether Netflix's infrastructure constituted a PE and therefore established no binding precedent for comparable arrangements. By the time the dispute was resolved, Netflix had separately established an Italian presence in Rome and hired more than 40 employees.[43] The Revenue Agency also relied on Netflix's country-by-country reporting data, together with transfer-pricing methods, to estimate the profits attributable to the alleged Italian PE.[44]

2.4 Short-Term Rental WHT and Reporting Obligations

The fourth category concerns platform WHT, reporting obligations and the collection of information in the short-term rental sector. Article 4 of Decree-Law No. 50 of 2017 introduced a specific tax regime for residential leases of no more than 30 days entered into by individuals outside the exercise of a business activity, whether concluded directly or through real-estate intermediaries, including online platforms.[45] Property intermediaries and platforms must report specified information on contracts concluded through them. Where an intermediary collects the rent or participates in the payment, it must generally withhold 21 per cent of the gross amount and remit it to the Italian Treasury. The framework also creates an interaction between tax collection and criminal enforcement. **The Revenue Agency can pursue the tax liability and settlement, while prosecutors can separately investigate criminal responsibility, confiscation and corporate liability.**

Airbnb challenged the Italian regime before the Court of Justice of the European Union (CJEU). In *Airbnb Ireland and Airbnb Payments UK v Agenzia delle Entrate* (Case C-83/21), decided on December 22, 2022, the Court upheld Italy's ability to require short-term-rental intermediaries to transmit information on rental contracts and, where they participate in collecting the rent, to withhold and remit the applicable tax.

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42 Polacco, G., & De Carne, A. (2022, July 5). Italian tax authorities expand concept of permanent establishment for the digital age. Bloomberg Tax, Daily Tax Report International. Available at: news.bloombergtax.com/daily-tax-report-international/italian-tax-authorities-expand-concept-of-permanent-establishment-for-the-digital-age; also see: Mehboob, D. (2022, June 13). Secret Netflix tax settlement raises permanent establishment issues. International Tax Review. Available at: internationaltaxreview.com/article/2a83d1i64zddp6w6dojy8/direct-tax/secret-netflix-tax-settlement-raises-permanent-establishment-issues

43 Reuters. (2022, May 20). Netflix to pay $59 million to settle Italian tax dispute. Reuters. Available at: https://www.reuters.com/world/europe/netflix-pay-59-million-settle-italian-tax-dispute-2022-05-20/

44 The reported use of CbCR data prompted concern among tax practitioners because OECD guidance treats country-by-country reports primarily as tools for high-level transfer-pricing and BEPS risk assessment. The OECD expressly cautions that CbCR information should not, by itself, substitute for a detailed transfer-pricing analysis based on the relevant functions, assets, risks and comparability factors. OECD. (2015). Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 – 2015 Final Report. OECD/G20 Base Erosion and Profit Shifting Project; OECD. (2017). Guidance on the Appropriate Use of Information Contained in Country-by-Country Reports. Available at: oecd.org/content/dam/oecd/en/topics/policy-sub-issues/cbcr/beps-action-13-on-country-by-country-reporting-appropriate-use-of-information-in-cbc-reports.pdf

45 Agenzia delle Entrate. (2017, October 12). Circolare n. 24/E: Regime fiscale delle locazioni brevi – Articolo 4 del decreto-legge 24 aprile 2017. The Circular explains the scope of the short-term rental regime, including contracts concluded through intermediaries and online portals.

The Court found, however, that requiring an intermediary established in another Member State and without an Italian PE to appoint a tax representative in Italy went beyond what was necessary and infringed Article 56 TFEU. The dispute then moved into enforcement.[46]

On November 6, 2023, a Milan judge authorised the preventive seizure of EUR 779.5 million from Airbnb Ireland in connection with alleged failures to apply the 21 per cent WHT between 2017 and 2021.[47] Three individuals who had held managerial positions during the relevant period were also placed under investigation. The disputed amount was calculated by reference to approximately EUR 3.7 billion in rental payments processed during those years. Airbnb Ireland reached an agreement with the Italian Revenue Agency the following month. On December 13, 2023, it agreed, without admitting liability, to pay EUR 576 million to resolve the WHT dispute for the 2017–2021 audit periods. The amount included unpaid WHT taxes, administrative penalties and interest. The lower settlement figure reflected, among other adjustments, taxes that some hosts had already paid independently. Reuters reported that prosecutors would seek release of the EUR 779.5 million seizure and that the proceedings involving the three managers would be dropped.[48] Airbnb's tax exposure continued for subsequent years. The company entered into a further EUR 139 million agreement in December 2024 covering the 2022 audit period and another agreement worth EUR 179 million in January 2025 for 2023. It began withholding tax on payments to hosts for Italian listings in 2024.

3. FROM TAX INTERPRETATION TO CRIMINAL EXPOSURE

The coercive use of tax-enforcement powers becomes most apparent when a dispute over tax characterisation escalates into criminal proceedings before the underlying tax issue has been settled. In digital commerce, the threshold question can itself be novel and legally untested: whether user data constitute consideration for VAT purposes, or whether a content-delivery network creates a PE.

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46 Importantly, the reporting framework has changed since the original dispute. Council Directive (EU) 2021/514 (DAC7) establishes common EU-wide due-diligence and reporting requirements for digital platforms, including those facilitating the rental of immovable property. Platform operators must collect specified information on reportable sellers and properties and report relevant consideration and other information to the competent tax authority. DAC7 therefore standardises much of the platform-reporting function at EU level. Italy's separate requirement for intermediaries handling rental payments to withhold and remit tax continues to operate alongside that framework. See: European Commission. (n.d.). DAC7: Tax transparency for digital platforms. Taxation and Customs Union. DAC7 places reporting obligations on platform operators and expressly covers activities involving the rental of immovable property located in a Member State. Available at: https://taxation-customs.ec.europa.eu/taxation/tax-transparency-cooperation/administrative-co-operation-and-mutual-assistance/dac7_en; Council of the European Union. (2021). Council Directive (EU) 2021/514 of 22 March 2021 amending Directive 2011/16/EU on administrative cooperation in the field of taxation. Official Journal of the European Union, L 104, 1–26. Also see: Agenzia delle Entrate. (2024, May 10). Circolare n. 10/E: Locazioni brevi. Italian intermediaries that intervene in the payment or collection of short-term rental consideration remain required to apply a 21 per cent withholding tax. Available at: https://www.agenziaentrate.gov.it/portale/documents/20143/6101200/circolare%2Blocazioni%2Bbrevi%2B.%2B10%2Bdel%2B10%2Bmaggio%2B%2B2024.pdf/6b3c5a29-9158-959b-91fb-8cdab88367eb

47 ANSA. (2023, November 6). Over €779 million seized from Airbnb. Available at: ansa.it/english/newswire/english_service/2023/11/06/over-779-million-seized-from-airbnb-4_22f8e06c-f0ff-4c0d-a221-a00e83585866.html. The preventive seizure concerned more than EUR 779 million and related to an investigation into alleged tax offences involving Airbnb Ireland Unlimited Company and three former officials.

48 Airbnb, Inc. (2025, February 13). Annual report for the fiscal year ended December 31, 2024 (Form 10-K). U.S. Securities and Exchange Commission. https://www.sec.gov/Archives/edgar/data/1559720/000155972025000010/abnb-20241231.htm; Note: DAC7- Council Directive (EU) 2021/514 has introduced harmonised EU-wide due-diligence and annual reporting obligations for platform operators, including platforms facilitating rentals of immovable property. However, DAC7 has not supplanted the Italian Article 4 regime. The systems coexist: DAC7 governs broader platform reporting and cross-border information exchange, while Italian intermediaries remain subject to the domestic short-term rental reporting and 21 per cent withholding requirements. Italian Revenue Agency materials continue to prescribe annual Article 4 reporting and withholding obligations.

The cases examined above show a recurring pattern in Italy, where administrative tax assessments involving multinational technology and platform companies have frequently been accompanied by criminal investigations and, in some cases, investigations of managers, precautionary asset seizures and subsequent payments or negotiated settlements. The combination of these measures can create substantial pressure to settle, even where the underlying legal interpretation remains contested.

Most of these disputes concern the application of established tax concepts to digital and platform business models. They involve PE, profit attribution, WHT obligations, non-monetary consideration and the jurisdiction in which taxable economic activity occurs. Their application becomes more difficult when sellers, users, infrastructure, data, payment flows and income-generating functions are spread across several jurisdictions. Legal uncertainty can extend to the existence of the tax liability, the entity liable, the location of the taxable activity and the calculation of the tax base.

Undeclared-PE cases illustrate how this uncertainty can generate criminal exposure. A foreign enterprise can declare its revenues outside Italy because it considers that it has no taxable presence there. **If Italian authorities subsequently determine that local personnel, servers, content-delivery infrastructure or other functions constitute a PE, that finding can support an allegation that the company should have filed an Italian income-tax or VAT return.** Failure to file can fall within the offence of omitted declaration where the required intent, statutory threshold and other legal conditions are established.[49] The investigation creates legal and practical exposure before the PE interpretation has been authoritatively resolved. **The risk is that an unresolved international-tax characterisation can place the company and relevant managers within the criminal process before the underlying tax question has been authoritatively resolved.**

The personal-data VAT cases raise the same institutional concern through a different tax theory. The proposition that access to a digital platform constitutes a taxable service supplied in exchange for users' personal data remains contested under EU VAT law. In the Meta case, this theory led to both administrative VAT assessments and criminal-law scrutiny, while similar assessments were issued against other digital platforms. The cases show how criminal proceedings can move forward even when the underlying question of substantive tax liability has not been settled. **This matters because administrative tax liability and criminal liability are subject to different legal tests and can produce different outcomes.** A finding that VAT is due does not in itself establish criminal liability, which requires proof of all elements of a specific offence. The amount of tax allegedly evaded can satisfy a statutory quantitative threshold, but it does not by itself establish "mens rea" or the other elements of the offence. Prosecutors must prove the conduct and intent required by the relevant offence and, where corporate liability is alleged, the separate conditions for holding the entity itself criminally liable. A criminal

49 The disputed nexus question therefore becomes relevant to the offence of omitted declaration under Article 5 of Legislative Decree No. 74/2000. See: Legislative Decree No. 74 of 10 March 2000, art. 5 (omitted declaration); Cerrato, M. (2018). La procedura di cooperazione e collaborazione rafforzata in materia di stabile organizzazione (c.d. web tax transitoria). Rivista di diritto tributario, 6, 751–778, especially pp. 757 n. 5 and 774–776. Available at: https://www.maisto.it/content/images/news/Articolo_M_Cerrato_Rivista_di_Diritto_Tributario.pdf

investigation can therefore have serious practical consequences even while the underlying tax interpretation remains open to challenge. The special cooperation procedure for large foreign multinationals reflects this close connection between PE disputes and criminal-tax exposure. Where a PE is established and the resulting tax liabilities are settled, the procedure can shield the taxpayer from punishment for the omitted-declaration offence.[50]

3.1 The Italian Criminal-Tax Framework and Legal Uncertainty

Legislative Decree No. 74/2000 criminalises specified conduct concerning income taxes and VAT.[51] The relevant offences include fraudulent declarations involving invoices or other documents relating to non-existent transactions (Article 2), fraudulent declarations by other artifices (Article 3), unfaithful declarations (Article 4), omitted declarations (Article 5), the issuing of invoices or other documents for non-existent transactions (Article 8), the concealment or destruction of accounting records (Article 10), and specified failures to remit WHT or VAT (Articles 10-bis and 10-ter).

Each offence has its own **constituent elements and, where applicable, quantitative thresholds. Criminal responsibility requires** the prosecution to establish the objective and subjective elements of the relevant offence, including the required form of intent and any statutory threshold. A different interpretation of the tax legislation by the Revenue Agency, or a determination that additional tax is payable, is insufficient on its own to establish criminal liability.

Article 15 reinforces this distinction in cases involving uncertain tax rules. It provides that a violation is not punishable under the Decree where it results from objective uncertainty about the scope or application of the relevant rule.[52] A taxpayer can therefore still face an assessment for additional tax while avoiding criminal punishment where the underlying obligation was objectively unclear. The safeguard recognises that disagreement over the interpretation of an uncertain tax rule does not in itself amount to criminal tax conduct. The legal-certainty concern arises because investigations and coercive measures can occur before it has been determined whether that protection applies. Administrative and criminal dimensions can

50 See Article 1-bis, Decree-Law No. 50 of 24 April 2017, converted with amendments by Law No. 96 of 21 June 2017, establishing the procedura di cooperazione e collaborazione rafforzata for qualifying non-resident multinational enterprises. Where the procedure results in settlement of the tax liabilities attributable to an Italian permanent establishment, the applicable administrative penalties are reduced and the offence of failure to file a tax return (omessa dichiarazione) is not punishable. See also: Cerrato, M. (2018). *La procedura di cooperazione e collaborazione rafforzata in materia di stabile organizzazione (c.d. web tax transitoria)*. Rivista di diritto tributario, 6, 751–778. Available at: https://www.maisto.it/content/images/news/Articolo_M_Cerrato_Rivista_di_Diritto_Tributario.pdf ; the author says that Italian PE law has internationally unusual interpretative characteristics, expressly describes Italy as a unicum, discusses the ease of bringing an omitted-declaration charge in hidden-PE cases, and refers to the settlement incentives created by parallel tax/criminal exposure for foreign MNEs; See also Polacco, G., & De Carne, A. (2022, July 5). Italian tax authorities expand concept of permanent establishment for the digital age. Bloomberg Tax. Available at: https://news.bloombergtax.com/daily-tax-report-international/italian-tax-authorities-expand-concept-of-permanent-establishment-for-the-digital-age

51 Legislative Decree No. 173 of 5 November 2024, *Testo unico delle sanzioni tributarie amministrative e penali*, was published in G.U. No. 279 of 28 November 2024. Under Article 102, as subsequently amended, the provisions of the consolidated sanctions code are scheduled to apply from 1 January 2027. See Decreto Legislativo 5 novembre 2024, n. 173, available at: https://www.gazzettaufficiale.it/eli/id/2024/11/28/24G00191/SG; Decreto-Legge 31 dicembre 2025, n. 200, converted with amendments by Law No. 26 of 27 February 2026, available at: https://www.gazzettaufficiale.it/eli/id/2025/12/31/25G00213/sg. The Constitutional Court has also recorded that the effectiveness of Legislative Decree 173/2024 was postponed to 1 January 2027.

52 Legislative Decree No. 74/2000, art. 15. The provision states that violations of tax rules dependent on objective conditions of uncertainty concerning their scope or application do not give rise to punishable conduct under the Decree. See also Legislative Decree No. 173/2024, art. 92, which reproduces Article 15 and is scheduled to apply from 1 January 2027.

develop simultaneously. **Article 20** provides that the administrative assessment procedure and tax litigation may not be suspended merely because criminal proceedings concerning the same facts, or facts on which the tax dispute depends, are pending.[53] The Constitutional Court has described the resulting arrangement as a "doppio binario", or a dual-track system.[54]

The Revenue Agency can continue its assessment and tax litigation can proceed while prosecutors investigate whether the conduct satisfies the elements of a criminal offence. Collection remains governed by the ordinary rules applicable to the tax, interest and administrative penalties. A tax agreement does not automatically terminate the criminal proceedings, and an "archiviazione" or other criminal outcome outside the statutory coordination rules does not automatically determine the underlying tax liability.[55]

3.2 The Dual-track System: Tax and Criminal Proceedings

The two tracks remain legally distinct, although recent reforms have strengthened their coordination. Article 119 of Legislative Decree No. 175/2024, which reproduces the substance of former Article 21-bis,[56] gives binding effect in tax proceedings to an irrevocable acquittal following trial where "the fact does not exist" or "the defendant did not commit it", provided that the statutory objective and factual conditions are satisfied. The rule does not automatically extend to dismissals, non-final decisions, acquittals issued under procedures outside the scope of the provision or acquittals based on other grounds.

In Judgment No. 50 of 2026, the Constitutional Court upheld the provision through a constitutionally conforming interpretation.[57] It held that the binding effect generally extends to acquittals resulting from insufficient or contradictory evidence. The Court recognised exceptions where the tax claim depends on a statutory presumption that could not operate in the criminal proceeding and was not rebutted there, or where the acquittal resulted exclusively from the inadmissibility of evidence in the criminal proceeding that remains admissible under tax-procedure rules. The administrative and criminal tracks are consequently parallel but increasingly coordinated.

A tax dispute can enter the criminal track when facts identified during an audit are considered capable of constituting a tax offence. Under Article 331 of the Code of Criminal Procedure,

53 Legislative Decree No. 74/2000, art. 20. Article 20 is the provision currently governing the relationship between the administrative/tax and criminal proceedings. Its substance is reproduced in Article 97 of Legislative Decree No. 173/2024, scheduled to apply from 1 January 2027.

54 Corte costituzionale. (2018, March 2). Sentenza n. 43/2018 (ECLI:IT:COST:2018:43).

55 EU law also constrains the operation of the dual-track system. In Menci, a case arising from Italian VAT enforcement, the Court of Justice held that cumulative administrative proceedings or penalties of a criminal nature and criminal proceedings can engage the ne bis in idem protection under Article 50 of the Charter. Any limitation on that protection must satisfy Article 52(1), including the requirements of necessity and proportionality. See: Court of Justice of the European Union. Menci, Case C-524/15, Judgment of 20 March 2018, ECLI:EU:C:2018:197. The Court held that cumulative administrative proceedings or penalties of a criminal nature and criminal proceedings may engage Article 50 of the Charter and that any limitation must satisfy Article 52(1), including requirements of necessity and proportionality.

56 Former Article 21-bis of Legislative Decree No. 74/2000; its substance is now reproduced in Article 119 of Legislative Decree No. 175/2024, Testo unico della giustizia tributaria. Legislative Decree No. 175/2024 entered into force on 29 November 2024.

57 Corte costituzionale. (2026, April 13). Sentenza n. 50/2026 (ECLI:IT:COST:2026:50). See also Petruzzella, L. (2026, April 28). Un fatto, due processi, una res iudicata: Nota a Corte cost. n. 50/2026. Rivista di Diritto Tributario. Available at: https://www.rivistadirittotributario.it/2026/04/28/un-fatto-due-processi-una-res-iudicata-nota-a-corte-cost-n-50-2026/. The Court confirmed the binding effect of qualifying final acquittals while recognising qualifications where tax-law presumptions or evidence admissible only in the tax proceeding are involved.

public officials and persons entrusted with a public service who become aware, in the exercise of their functions, of an offence prosecutable ex officio must report it without delay to the public prosecutor or judicial police.[58] This is particularly relevant in tax enforcement because the Guardia di Finanza combines fiscal-control functions with judicial-police powers. Facts identified during a tax audit can therefore trigger a criminal investigation before the underlying tax characterisation has been definitively resolved.

The referral itself does not establish that an offence has occurred or that prosecution will follow. Article 112 of the Italian Constitution also helps explain why a criminal proceeding can continue after the administrative tax dispute has been resolved. It requires the public prosecutor to exercise criminal action where the legal and evidentiary conditions for prosecution are satisfied. Prosecutors do not have a general discretion to abandon a sustainable case solely because the Revenue Agency has reached an agreement with the taxpayer. Decisions concerning prosecution or dismissal remain governed by criminal-procedure standards and subject to judicial control.

A Revenue Agency settlement leaves the related criminal track open unless a specific statutory rule or prosecutorial decision brings it to an end. Where prosecutors consider the conditions for prosecution to be satisfied, the administrative agreement does not determine their decision. Payment can still affect the criminal proceedings where specific statutory provisions provide consequences for seizure, non-punishability or mitigation. The Amazon proceeding illustrates this separation: the company reached a settlement with the Revenue Agency, after which Milan prosecutors requested that Amazon EU be committed for trial. Moreover, precautionary asset measures add to the practical significance of the criminal track. Article 12-bis provides, following conviction or the application of an agreed sentence, for confiscation of the price or profit of offences covered by the Decree, except where the property belongs to a person unconnected with the offence. Where direct confiscation is unavailable, assets under the offender's control can be confiscated up to an equivalent value.[59]Preventive seizure can also be ordered during the proceedings to preserve assets for possible confiscation.

3.3 Limits of Substantive Tax Characterisation

The Italian VAT assessments test the limits of the EU concepts of consideration and direct link. For personal data to qualify as non-monetary consideration, the authorities would first have to establish a reciprocal legal relationship and a sufficiently direct link between the service provided and the data made available by the individual user. A separate issue concerns the taxable amount. Under the general rule in Article 73 of the EU VAT Directive, the taxable amount is the consideration actually obtained or to be obtained. Article 80 permits the use of open-market value only in specified circumstances involving particular links between the parties.

58 Code of Criminal Procedure, Article 331. The provision requires public officials and persons entrusted with a public service who, in or because of their functions or service, become aware of an offence prosecutable ex officio to report it without delay to the public prosecutor or a judicial-police officer. On the Guardia di Finanza's tax-control and judicial-police functions, see Guardia di Finanza, Controlli fiscali: gdf.gov.it/it/cosa-facciamo/polizia-economico-finanziaria/evasione-elusione-e-frodi-fiscali/controlli-fiscali

59 Legislative Decree No. 74/2000, art. 12-bis, remains the relevant confiscation provision under the framework currently applicable in 2026. Article 87 of Legislative Decree No. 173/2024 reproduces its substance and is scheduled to apply from 1 January 2027.

The commercial value of an aggregated dataset cannot therefore, on its own, establish the value of the consideration supplied by each individual user. The 2018 VAT Committee guidelines reinforce the direct-link problem, although they are advisory and non-binding. The Committee considered that no taxable exchange arose where digital services were provided on the same terms irrespective of the quantity or quality of personal data supplied.

PE cases require the same careful application of established legal criteria. **The commercial importance of servers, or other technological infrastructure does not by itself establish a fixed-place PE.** The determination should be based on whether there is a sufficiently fixed place of business, whether the location or equipment is at the foreign enterprise's disposal, whether the enterprise carries on its business wholly or partly through it, and whether the functions performed are preparatory or auxiliary. Profit attribution, where a PE is found to exist, is a separate inquiry. Computer equipment has long been capable in principle of constituting a fixed-place PE under OECD analysis. In the digital-infrastructure cases, the unresolved issue concerns the application of the PE criteria to the particular facts: the degree of permanence, the enterprise's disposal over the equipment and the functions performed through it under the applicable domestic and treaty rules. A payment or settlement resolves the liability agreed in the individual case but does not establish a generally applicable rule for comparable infrastructure.[60] Domestic-law nexus must also be distinguished from treaty nexus. Article 162 of the Italian Income Tax Code includes a significant-and-continuous-economic-presence rule, while an applicable tax treaty can contain a narrower PE definition where it is more favourable to the taxpayer. The governing treaty can therefore constrain the reach of the domestic provision.

3.4 The Milan Enforcement Pattern

A distinctive enforcement pattern has emerged in Italian digital and platform taxation. Italian authorities have repeatedly tested the outer boundaries of existing tax concepts against digital business models, including PE, profit attribution, marketplace VAT responsibility, platform WHT obligations and the possible treatment of personal data as VAT consideration. The cases span several areas of tax law and show a recurring willingness to apply existing rules expansively where digital business models fit uneasily within older legal categories. The cases reviewed show repeated use of expansive tax interpretations, precautionary measures, parallel criminal exposure, and settlement pressure in high-profile disputes involving major foreign technology companies, several of them US-headquartered. This also matters economically: where enforcement repeatedly affects a narrow set of foreign digital firms and raises the expected cost of contesting unsettled tax questions, it alters investment conditions.

60 Italian Income Tax Code (TUIR), art. 162, defines permanent establishment and includes the domestic "significant and continuous economic presence" rule in Article 162(2)(f-bis), subject to Article 169 and applicable treaty rules. Official text reproduced in Gazzetta Ufficiale: gazzettaufficiale.it/atto/serie_generale/caricaArticolo?art.codiceRedazionale=23A00141&art.dataPubblicazioneGazzetta=2023-01-16&art.flagTipoArticolo=0&art.idArticolo=1&art.idGruppo=1&art.idSottoArticolo=1&art.idSottoArticolo1=10&art.progressivo=16&art.versione=1. On the circumstances in which computer equipment or servers may constitute a fixed-place PE, see OECD. (2014). Addressing the Tax Challenges of the Digital Economy, discussion of the OECD Model Commentary at paras. 42.2–42.9. Available at: oecd.org/content/dam/oecd/en/publications/reports/2014/09/addressing-the-tax-challenges-of-the-digital-economy_g1g46cf1/9789264218789-en.pdf

The concern arises from the combination of expansive tax interpretations and powerful enforcement tools. In several cases, contested tax characterisations have been accompanied by criminal investigations. Such measures have a clear role in cases involving fraud, concealment or artificial abuse. They are harder to justify when the substantive legal theory remains unresolved. Repeated settlements add a further dimension. They can generate substantial revenue and lead companies to change their compliance practices while leaving the underlying legal interpretation unresolved. From an economic perspective, this can turn enforcement uncertainty into a risk-adjusted cost of market participation.

A company can resolve its own exposure through settlement without providing other investors with an authoritative rule for assessing comparable activities. The personal-data VAT cases illustrate this problem particularly clearly. The underlying theory remains difficult to reconcile with existing EU-level guidance on consideration and direct link, yet it has already generated substantial assessments against several digital platforms. If similar interpretations spread without clarification at EU or judicial level, the resulting uncertainty would extend beyond the individual companies involved. Annex II, Table 5 provides a detailed overview of the features that distinguish Italy's enforcement approach.

Moreover, Milan occupies a central position in this pattern. As Section 2 shows, many of the cases have involved investigations or enforcement actions by authorities based in Milan. This enforcement pattern closely reflects the practice of coordination and cooperation between the Public Prosecutor's Office, the Guardia di Finanza, the Revenue Agency, alongside the direct cooperation with Customs Agency and other financial authorities. This model has come to be regarded as **"Modello Milano"**.[61]

4. COMPARING ITALY WITH OTHER EU MEMBER STATES: WHAT DISTINGUISHES ITALY?

Repeated resort to criminal-tax investigations in disputes involving digital technology and platform companies has become a recurring feature of law enforcement practice in Italy. Italy should be compared with peer Member States that also combine administrative tax enforcement with criminal procedures. France has pursued criminal-tax proceedings involving Google and investigated Netflix, while Germany, Spain and the Netherlands also provide routes for criminal-tax enforcement. The Italian cases stand out in two respects: the institutional path from tax assessment to criminal exposure, and the repeated use of that path in disputes involving contested applications of traditional tax rules to digital business models.

61 Procura Generale della Repubblica presso la Corte d'Appello di Milano. (2026). Relazione sull'amministrazione della giustizia per l'anno 2026, p. 18. Available at: pg-milano.giustizia.it/cmsresources/cms/documents/Procura_Generale_di_Milano_Relazione_AG_2026.pdf

France

France provides a useful point of comparison for Italy. Under Article L.228 of the French Livre des procédures fiscales, the tax administration must transmit certain cases to the public prosecutor where a tax audit results in more than EUR 100,000 of additional tax and the application of specified surcharges. These include the 100 per cent surcharge associated with ex officio assessment following obstruction to a tax audit, specified 80 per cent surcharges, and certain 40 per cent surcharges where the taxpayer has been subject to comparable penalties or a tax-fraud complaint during the preceding six years. The mandatory transmission mechanism applies to cases combining a significant tax adjustment with specified forms of non-compliance. Once such cases are transmitted, criminal proceedings can proceed without a prior complaint from the tax administration or an opinion from the Commission des infractions fiscales (CIF). For cases falling outside the mandatory transmission framework, Article L.228(II) preserves the administration-led procedure, under which criminal complaints generally require the involvement of the CIF, subject to statutory exceptions.[62]

The 2018 reform relaxed the so-called verrou de Bercy by expanding the circumstances in which tax authorities must refer cases to prosecutors. Once a case reaches the prosecutor, Article 40-1 of the French Code de procédure pénale reflects the principle of opportunité des poursuites. Where the legal conditions are met, prosecutors may bring proceedings, use an alternative procedure or close the case without further action.[63] France combines statutory filters governing the referral of tax cases with prosecutorial discretion over whether criminal proceedings should continue. This differs from the Italian framework, where Article 112 of the Constitution limits prosecutorial discretion once the conditions for prosecution are considered to be met.

France has pursued criminal-tax investigations in two prominent cases involving major digital companies, but these have largely concerned established tax rules rather than novel applications of tax law. In 2019, Google entered into a convention judiciaire d'intérêt public (CJIP) with the French National Financial Prosecutor (Parquet national financier, PNF), alongside a separate settlement with the French tax administration. The agreement resolved the criminal proceedings concerning alleged tax fraud while the tax dispute was settled through administrative channels; it did not constitute a criminal conviction. The French Ministry of Justice described the CJIP and tax agreement as bringing an end to the outstanding litigation concerning Google's taxation in France.[64]

62 France, Livre des procédures fiscales, art. L.228(I)–(II), version in force from 1 September 2026. Under the current provision, mandatory reporting applies to specified audited cases involving more than EUR 100,000 of additional tax and the listed surcharges; other tax-fraud complaints generally remain administration-initiated and subject to the conforming opinion of the Commission des infractions fiscales, subject to statutory exceptions. A further amended version is scheduled to take effect on 1 January 2027. Available at: legifrance.gouv.fr/codes/article_lc/LEGIARTI000041471253

63 France, Code de procédure pénale, art. 40-1, version in force as of August 2026. Where the statutory conditions are satisfied, the public prosecutor may decide to prosecute, use an alternative procedure or close the matter without further action where the circumstances justify it. Available at: legifrance.gouv.fr/codes/article_lc/LEGIARTI000033611483

64 Ministère de la Justice. (2019, September 12)). Règlement des contentieux relatifs à l'imposition Google. Available at: justice.gouv.fr/actualites/espace-presse/reglement-contentieux-relatifs-limposition-google

In another case concerning Netflix, the PNF opened a preliminary investigation in 2022 into alleged tax fraud which led both French and Dutch authorities, in 2024, to conduct searches of Netflix's Paris office and its European headquarters in Amsterdam. The investigation examined the treatment of revenues generated from Netflix's French activities and those reported through Netflix International B.V. The inquiry concerns alleged blanchiment aggravé de fraude fiscale (aggravated money laundering of tax fraud) and travail dissimulé (undeclared work), as well as the allocation of functions, revenues and profits between entities. The underlying question focused on whether Netflix's corporate structure and tax declarations accurately reflected the economic substance of its activities in France, or whether taxable activity had been understated or improperly allocated elsewhere. The criminal dimension arises because French authorities are examining whether any potential underpayment resulted from intentional concealment or fraudulent conduct, instead of a genuine disagreement over the appropriate allocation of taxing rights.[65]

Germany

Unlike Italy and France, Germany follows a decentralised model of criminal-tax enforcement. Tax evasion is criminalised under Section 370 of the German Fiscal Code (Abgabenordnung, AO), which covers cases involving incorrect or incomplete information provided to tax authorities, failure to disclose relevant tax facts, or the obtaining of an unjustified tax advantage. Criminal liability requires intent. Where the underlying tax rule is genuinely uncertain, this can make criminal **prosecution more difficult because prosecutors must show that the taxpayer knowingly or deliberately understated its tax liability**. Investigations are conducted by the Steuerfahndung under Section 208 AO, which combines specialised tax expertise with certain criminal investigative powers.[66] Unlike Italy's Guardia di Finanza, the Steuerfahndung is not a national financial police force but operates primarily within the tax administrations of Germany's federal states (Länder). Criminal tax proceedings involve cooperation between tax authorities and public prosecutors.[67]

Despite this enforcement capacity, no publicly reported cases comparable to the Italian and French investigations involving major digital technology platforms have been identified in Germany. This reflects Germany's institutional preference for addressing complex international tax disputes through administrative and tax-assessment mechanisms. The framework also places strong weight on legal certainty (Rechtssicherheit) and proportionality, **with criminal sanctions generally requiring clear evidence of intentional wrongdoing rather than disagreement over the application of complex international tax rules.**

65 As of 2026, there has been no public indication that the Netflix investigation has resulted in formal charges, a trial, or a final settlement in France or the Netherlands. The case remains a preliminary investigation. See: Loueve, F., and Gupta, K. S. (2024, November 6). Netflix under tax fraud investigation as offices in France and Netherlands raided. Available at: https://www.reuters.com/business/media-telecom/investigators-search-netflix-offices-france-netherlands-source-2024-11-05/

66 Germany: Abgabenordnung (Fiscal Code), §§ 370 (tax evasion) and 208 (tax investigation/Steuerfahndung). Official federal texts: gesetze-im-internet.de/ao_1977/__370.html and https://www.gesetze-im-internet.de/ao_1977/__208.html.

67 Fine and Criminal Investigation Office (Bußgeld- und Strafsachenstelle/BuStra) and Tax Investigation Office (Criminal Investigation Division/Steuerfahndung/Steufa). Available at: steuerstrafrecht-rechtsanwalt.de/en/investigating-authorities-in-criminal-tax-proceedings.html

Spain

Spain follows a model that combines administrative tax enforcement with criminal proceedings under defined statutory conditions. Under Article 305 of the Spanish Criminal Code, tax fraud is criminalised where taxpayers intentionally defraud the public treasury above the statutory threshold. The framework allows for interaction between tax and criminal proceedings. Under Articles 250, 254 and 255 of the General Tax Law (Ley General Tributaria), the tax administration can continue administrative assessment procedures for matters that do not depend on the criminal determination, while referring indications of a tax offence to the competent criminal authorities.[68] Any subsequent administrative assessment must be aligned with the outcome of the criminal proceedings under the applicable provisions of the LGT.

Despite this enforcement framework, no publicly reported criminal tax proceedings appear to have been initiated against major digital technology platforms in Spain. The Spanish Tax Agency (Agencia Estatal de Administración Tributaria, AEAT) has, however, actively investigated and challenged the tax structures of major digital firms through tax audits, and international tax inquiries concerning the allocation of revenues and profits between Spain and other jurisdictions. These actions have generally remained within the administrative tax enforcement framework.

The Netherlands

The FIOD is the specialised investigative service responsible for tax fraud, financial crime and related offences within the Dutch Ministry of Finance. It combines tax expertise with criminal investigative powers, allowing Dutch authorities to investigate suspected financial and fiscal offences. Similar to Germany's Steuerfahndung, FIOD is not a separate national financial police force but operates within the Dutch tax administration structure. The Netflix investigation illustrates the Netherlands' role as a cooperating jurisdiction in cross-border tax enforcement. Following the French PNF investigation into suspected aggravated tax fraud laundering and undeclared work, Dutch authorities searched Netflix's European headquarters in Amsterdam in November 2024 at the request of French authorities. The Dutch involvement does not appear to represent a separate Dutch criminal tax theory against Netflix. It only demonstrates how national tax enforcement authorities cooperate in cases involving multinational digital companies whose corporate structures span several jurisdictions.

68 Ley 58/2003, de 17 de diciembre, General Tributaria, Title VI, especially arts. 250, 254, 255. Where indications of a tax offence arise, the tax administration may issue the assessment linked to the alleged offence and refer the matter to the criminal jurisdiction or prosecutor; commencement of criminal proceedings does not by itself suspend collection, and the administrative assessment must ultimately be adjusted in accordance with the criminal outcome as provided by the statute. Official consolidated text: boe.es/buscar/act.php?id=BOE-A-2003-23186 ; Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal. Article 305. Official consolidated text: https://www.boe.es/buscar/act.php?id=BOE-A-1995-25444#a305

What makes Italy unique?

Italy's distinguishing feature lies in the path from tax enforcement to criminal exposure. Compared with the peer systems reviewed above, Italy has fewer discretionary filters before a tax dispute can proceed in parallel through administrative and criminal channels. Once indications of a possible tax offence are identified, the case can generate corporate and managerial exposure before courts or EU institutions have clarified the underlying tax question.

Notably, the concentration of cases in Milan reflects the coordination structure described in Section 3.4 – cooperation between the Public Prosecutor's Office, the Guardia di Finanza, the Revenue Agency and the Customs Agency under the "Modello Milano". This matters where the underlying tax interpretation is novel or contested, because the same coordinated enforcement structure can bring administrative assessment, criminal investigation and precautionary measures to bear before the legal question has been settled. This can significantly increase the cost of contesting an assessment.

5. CONCLUSIONS AND POLICY RECOMMENDATIONS

Tax enforcement becomes an investment risk when complex rules are interpreted expansively and enforced through coercive procedures before the underlying legal position has been settled. Similar digital business models operate across the Single Market, so unresolved legal theories tested in one Member State can influence enforcement approaches elsewhere. Without judicial or EU-level clarification, this creates divergent interpretations of existing tax concepts and greater uncertainty for companies operating across Europe.

We propose the following policy recommendations:

For the Italian Government

- Maintain a clear distinction between evasion, abuse and legitimate structuring. Italy should continue to enforce against fraud and artificial arrangements, but contested applications of tax concepts to genuine commercial structures should be resolved through guidance, rulings and courts first.
- Avoid using criminal procedures to resolve unsettled tax questions. Issues such as whether personal data can constitute VAT consideration, or whether digital infrastructure creates a PE, require legal clarification before becoming the basis for criminal exposure.
- Apply precautionary measures proportionately. Searches, seizures and investigations involving managers have an important role where there is evidence of fraud or asset dissipation. They are more problematic where companies are contesting uncertain interpretations of complex tax rules.

- Increase certainty around settlements. Administrative settlements should provide clearer expectations about their relationship with parallel criminal proceedings. Otherwise, settlement can become a way of managing enforcement risk without resolving the underlying legal uncertainty.
- Provide prospective guidance on digital taxation. The Revenue Agency should clarify the treatment of digital-infrastructure PE, marketplace VAT liability, non-monetary consideration and platform withholding obligations, particularly where the legal framework remains unsettled.

Recommendations for the EU

- Reduce divergence in the interpretation of harmonised VAT rules. The Commission, VAT Committee and, where necessary, the CJEU should provide greater clarity on contested concepts, including whether personal data can constitute consideration for VAT purposes.
- **Make tax certainty part of the Single Market agenda.** Businesses need common rules and predictable application of those rules. Divergent or retrospective interpretations of harmonised tax provisions can increase the cost and risk of cross-border investment.
- Promote proportionate enforcement of EU-derived tax obligations. Where the underlying tax treatment depends on a novel interpretation of EU rules, enforcement should distinguish legal uncertainty from fraud, concealment or artificial abuse.

Recommendations for the United States

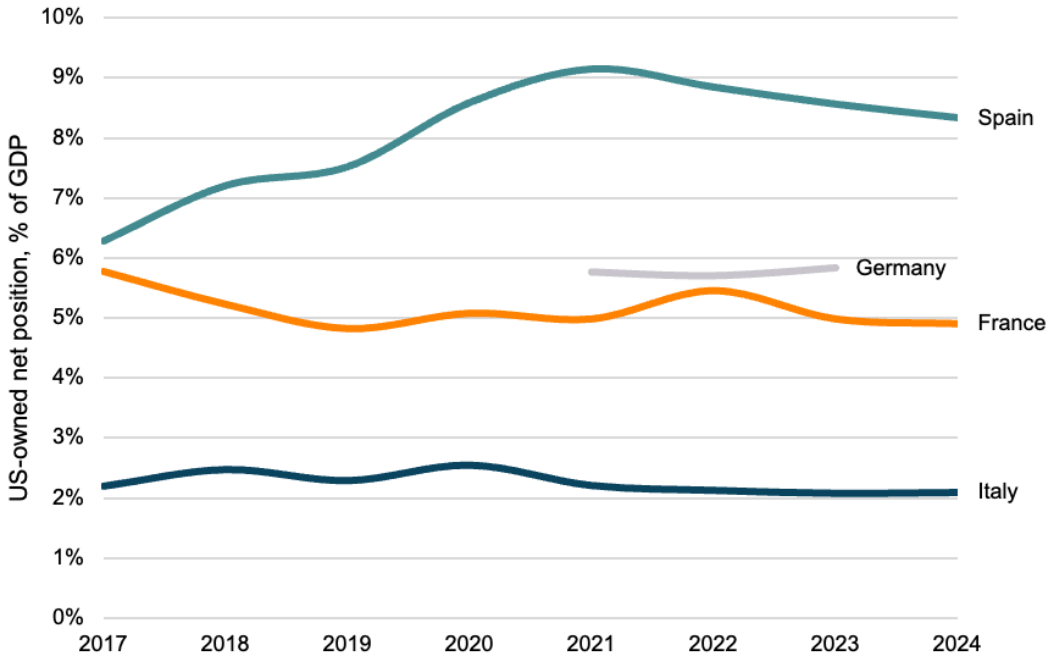
- Monitor enforcement practices affecting US companies. The US government should monitor formal digital taxes and enforcement practices where novel tax interpretations are combined with criminal procedures, precautionary measures or significant settlement pressure.
- Raise tax certainty in EU-US economic dialogue. The objective should be predictable treatment, transparent procedures and effective legal remedies for US companies subject to European tax rules.
- Use trade measures cautiously. Concerns about discriminatory or disproportionate treatment should be addressed through evidence-based dialogue and assessment before escalation, given the wider risks for transatlantic economic relations.

Recommendations for the OECD

- Prioritise simplicity and administrability. International tax cooperation should reduce complexity, improve compliance and avoid additional layers of rules that generate new disputes.
- Assess whether recent reforms are improving certainty. The OECD should examine whether Pillar Two is delivering greater predictability or shifting disputes into new technical areas, while reconsidering whether Pillar One Amount A can realistically deliver the certainty originally expected.
- Strengthen dispute prevention. Future work should focus more on clear guidance, practical administration and mechanisms that prevent disagreements before they become enforcement disputes.
- Recognise the limits of international coordination. The OECD can encourage common standards, but national governments remain responsible for clear legislation, proportionate enforcement and effective safeguards.

Annex I

Figure 1: Net US-owned inward FDI position in Italy and peer EU Member States as a percentage of GDP, 2017–2024

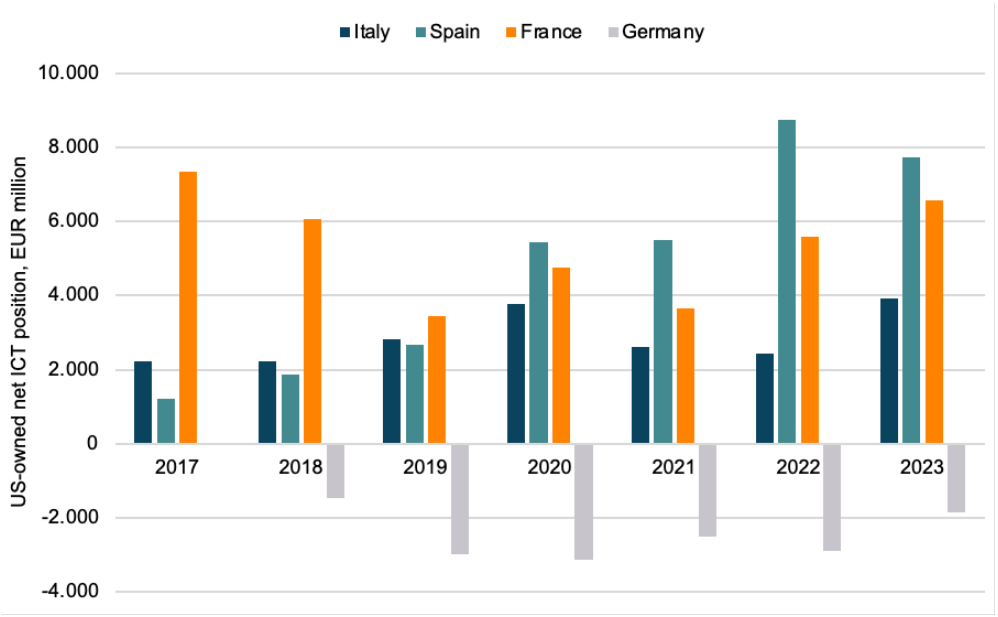


Source: ECIPE calculations based on Eurostat.[69,70] *Note: Positions are measured on an ultimate counterpart basis, meaning that investment is attributed to the country of the ultimate controlling parent rather than to the immediate direct investor. Figures for Germany are shown only for 2021–2023, as Eurostat suppresses data for the remaining years for confidentiality reasons.*

69 Eurostat. *EU direct investment positions by country, ultimate and immediate counterpart and economic activity (BPM6)* [Data set]. European Commission.ec.europa.eu/eurostat/databrowser/view/bop_fdi6_pos__custom_22259773/default/table

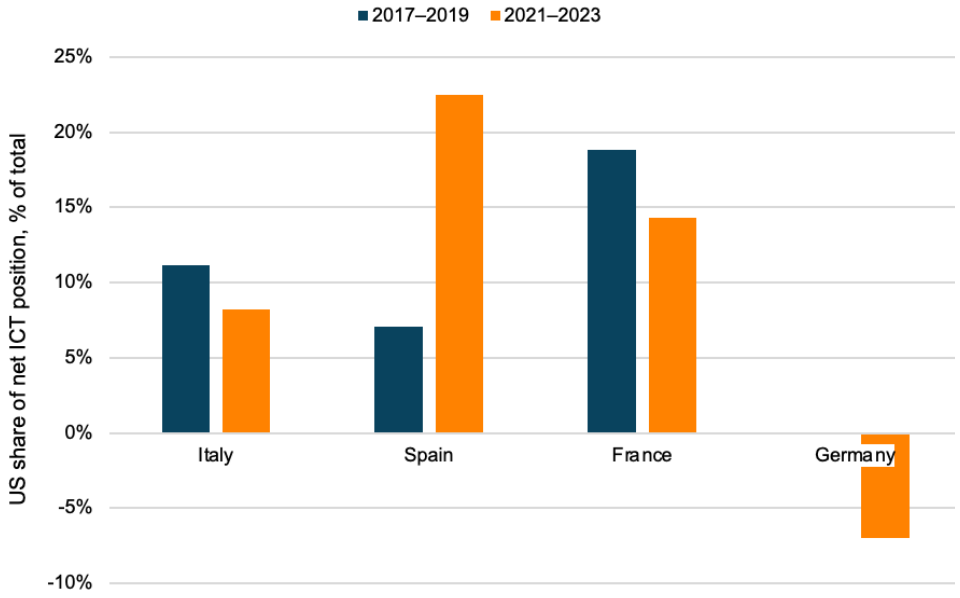
70 Eurostat. *Gross domestic product (GDP) and main components (output, expenditure and income)–Annual data* [Data set; nama_10_gdp]. European Commission. ec.europa.eu/eurostat/databrowser/view/nama_10_gdp__custom_22263491/default/table

Figure 2: Net US-owned inward FDI position in the information and communication sector, Italy and peer EU Member States, 2017–2023 (millions of euros)



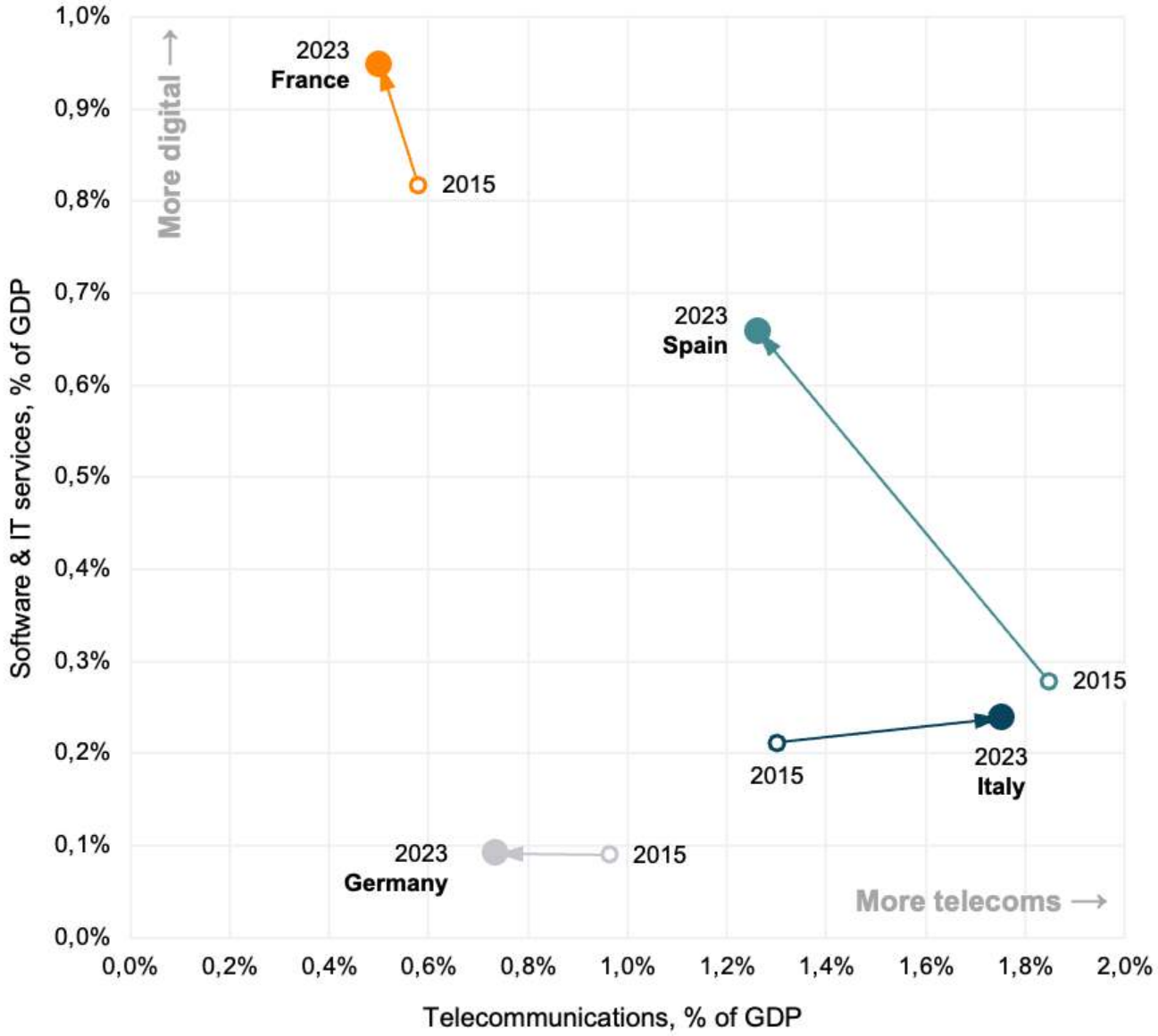
Source: ECIPE elaboration based on Eurostat. Note: The figure covers Section J of NACE Rev. 2 (information and communication). Positions are measured on an ultimate counterpart basis, meaning that investment is attributed to the country of the ultimate controlling parent rather than to the immediate direct investor. Data for Germany is unavailable for 2017.

Figure 3: US share of the net inward FDI position in the information and communication sector, Italy and peer EU Member States, three-year averages, 2017–2019 and 2021–2023 (percentage of the total inward position)



Source: ECIPE calculations based on Eurostat. Note: The figure covers Section J of NACE Rev. 2 (information and communication). Positions are measured on an ultimate counterpart basis, meaning that investment is attributed to the country of the ultimate controlling parent rather than to the immediate direct investor. No figure is shown for Germany for 2017–2019 because data for 2017 and 2018 is unavailable. Germany's position for 2021–2023 is negative because the claims of German affiliates on their US parent companies exceed the value of the parent companies' equity stakes in those affiliates.

Figure 4: Net inward FDI position in telecommunications and in software and information services, from all origins, Italy and peer EU Member States, 2015 and 2023 (percentage of GDP)



Note: hollow markers = 2015; filled markers = 2023; arrows = direction of change; colours identify countries. Source: ECIPE calculations based on Eurostat. Note: The horizontal axis shows the net inward FDI position in telecommunications (Division 61 of NACE Rev. 2) and the vertical axis the position in publishing, computer programming and consultancy, and information service activities (Divisions 58, 62 and 63), both expressed as a percentage of nominal GDP at current market prices in the year shown. Hollow markers denote 2015 and filled markers 2023, with arrows indicating the direction of change. Positions are measured on an immediate counterpart basis, meaning that investment is attributed to the country of the immediate direct investor rather than to the ultimate controlling parent, because Eurostat does not publish ultimate counterpart data below the level of Section J.

Annex II

Table 4: Overview of Italian tax cases against foreign technology companies

Company	Legal category	Settlement or assessment year	Amount and procedural status	Reported basis and scope
Amazon	Marketplace and intermediary VAT liability	2025	€527 million settlement, including interest; related criminal proceeding continued	Milan prosecutors alleged VAT evasion of approximately €1.2 billion in connection with Italian marketplace sales by tens of thousands of non-EU sellers, mainly Chinese, whose identities were allegedly not adequately disclosed. The allegations concern 2019–2021. In March 2026, prosecutors requested that Amazon EU Sàrl and four executives be committed for trial; a preliminary-hearing judge will determine whether the case proceeds.
Booking.com	VAT on intermediation services	2023	Approximately €94 million settlement	The dispute concerned VAT on commissions earned by Booking.com from private accommodation providers without VAT numbers. The original allegation of approximately €153 million covered 2013–2019 and related to approximately €700 million in commissions. The settlement covered 2013–2021. Booking.com also filed a separate 2022 VAT return involving more than €19 million.
Meta	Personal data as alleged non-monetary VAT consideration	2025	Reported aggregate claim of €887.6 million; assessment notices appealed	Italian authorities argue that access to Facebook and Instagram is supplied in exchange for users' personal data, creating taxable non-monetary consideration. The reported aggregate claim concerns 2015–2021. The assessment notices issued in 2025 initially concerned years approaching expiry rather than necessarily assessing the entire aggregate amount at once.
LinkedIn	Personal data as alleged non-monetary VAT consideration	2025	Reported aggregate claim of approximately €140 million; assessment notices appealed	The claim is based on the same general theory: that membership and platform services are supplied in exchange for users' personal data. The relevant investigations are placed within a broader period beginning in 2015 or 2016 and ending in 2021/2022, depending on the company. The precise full LinkedIn period has not been separately identified in the principal public reporting reviewed.

Company	Legal category	Settlement or assessment year	Amount and procedural status	Reported basis and scope
X, formerly Twitter	Personal data as alleged non-monetary VAT consideration	2025	Reported aggregate claim of €12.5 million; assessment notices appealed	Italian authorities allege that platform registration constitutes an exchange of access for personal data. The Guardia di Finanza audit concerned 2016–2022, while the Revenue Agency's initial formal observations concerned the 2016 tax year.
Apple	Corporate income tax / alleged PE and profit attribution	2015	€318 million settlement	Prosecutors alleged an underpayment of approximately €879 million in corporate income tax for 2008–2013. The dispute concerned profits allegedly generated through Apple's Italian activities but recorded by Apple Sales International in Ireland, involving questions of Italian taxable presence and the attribution of income to the Irish entity. The settlement did not produce a judgment resolving those questions.
Facebook	Corporate income tax / alleged PE and profit attribution	2018	More than €100 million settlement (exact amount not publicly disclosed)	Guardia di Finanza investigators coordinated by the Milan Public Prosecutor's Office alleged that Facebook Italy failed to declare approximately €296.7 million of Italian advertising income for 2010–2016, arguing that the company's activity and personnel created an undeclared Italian PE of its Irish entity.. The November 2018 agreed assessment resolved certain tax years within that period: the Revenue Agency described the settlement as a partial recharacterisation of the initial claims and it did not produce a judicial ruling on the underlying PE question.
Google – first case	Corporate income tax / personnel-based PE and profit attribution	2017	€306 million settlement	Authorities alleged that Google had an Italian PE through local personnel and activities while revenue and profits were attributed to its Irish entity. The principal investigation concerned 2009–2013, while the final settlement resolved disputes relating to the broader period 2002–2015.

Company	Legal category	Settlement or assessment year	Amount and procedural status	Reported basis and scope
Google – second case	Corporate income tax / digital-infrastructure PE and withholding issues	2025	€326 million settlement, including tax, penalties and interest; prosecutors announced that they would seek dismissal of the criminal case	Authorities alleged that Google failed to declare Italian advertising income on the basis that servers and other essential technological infrastructure constituted an undisclosed Italian PE. The settlement expressly covered 2015–2019. Withholding-tax issues involving payments characterised as royalties were also identified. The settlement did not produce a judicial ruling that comparable infrastructure necessarily constitutes a PE.
Netflix	Corporate income tax / digital-infrastructure PE	2022	€55.8 million payment, including tax, penalties and interest	Milan authorities alleged that Netflix's content-delivery infrastructure created an undisclosed fixed taxable presence despite the absence of personnel. The reported network comprised more than 350 servers installed on a stable basis at Italian data centres and telecommunications operators. The resolution covered October 2015–2019 and did not produce a final judgment on whether the infrastructure legally constituted a PE.
Airbnb	Short-term rental income-tax withholding	2023	€576 million settlement for 2017–2021; no admission of liability	Authorities alleged that Airbnb failed to withhold and remit the 21% tax applicable to qualifying rental income paid to Italian hosts. The original seizure order concerned approximately €779.5 million; the settlement amount reflected, among other matters, taxes reportedly paid independently by some hosts. The settlement excluded 2022 and 2023, and the related case against three managers was reportedly to be discontinued.

Source: ECIPE elaboration based on publicly available sources

Table 5: Distinguishing features of Italy's enforcement approach to digital and platform taxation

Distinguishing factor	Evidence	Legal significance
Domestic law was expressly widened to address economic presence without a conventional physical establishment	Italy amended Article 162(2)(f-bis) of the Income Tax Code with effect from 2018 to include a "significant and continuous economic presence" in Italy structured so as not to result in a physical presence. The amendment has been regarded as a domestic response to the digital-economy nexus problem.	Italy incorporated the digital-economy nexus issue into its domestic PE definition, instead of relying exclusively on an EU-level solution. The significance of the provision must be qualified: where an applicable tax treaty contains a narrower and more favourable PE definition, the treaty can limit the reach of the domestic rule. However, the provision does not establish a treaty PE for every remote digital business.
Authorities have relied on digital infrastructure to support conventional fixed-place PE theories	Netflix was investigated on the basis that servers, cables and content-delivery infrastructure used in providing streaming services could constitute an Italian taxable presence. The later Google investigation similarly relied on servers and other technological infrastructure connected with Italian advertising revenue. Both matters were resolved through payments without a final judicial determination of the disputed PE theory.	These cases show how authorities sought to establish a conventional fixed-place PE through physical technological infrastructure even where a broader digital nexus remains unavailable under the applicable treaty. Computer equipment can in principle constitute a PE; the unresolved questions concern whether the particular equipment was sufficiently fixed, at the enterprise's disposal and used to carry on non-auxiliary business functions.
Italian authorities have tested several different tax concepts across the digital and platform sector	The cases reviewed involve personnel- and infrastructure-based PE theories, profit attribution, personal data as alleged VAT consideration, marketplace responsibility for third-party VAT and platform withholding obligations.	The important aspect remains the continuation of the enforcement activity. The cases test the boundaries of corporate-income-tax, VAT and withholding rules across different digital business models.
The personal-data VAT theory has been publicly characterised as unprecedented	Italian authorities have alleged that access to services supplied by Meta, X and LinkedIn is provided in exchange for permission to collect and commercially use users' personal data, thereby creating non-monetary consideration for VAT purposes.	The theory differs from an ordinary monetary transaction. Its application requires, among other questions, a reciprocal legal relationship, a sufficiently direct link between the service and the alleged consideration, and a legally defensible basis for determining the taxable amount.
The personal-data theory is difficult to reconcile with existing, non-binding EU-level guidance	Following its November 2018 meeting, the VAT Committee unanimously considered that permission to use personal data did not ordinarily constitute an economic activity or taxable supply and that, where the same IT service was provided irrespective of the quantity or quality of data supplied, the necessary direct link for a taxable transaction was absent. The guidelines are expressly non-binding.	The Italian theory points in a different direction from the factual analysis underlying the 2018 guidelines. It should be described as difficult to reconcile with, rather than conclusively contrary to, EU guidance. The non-binding character of the guidelines and the importance of the particular facts leave the substantive issue open.

Distinguishing factor	Evidence	Legal significance
Italian criminal–tax law expressly recognises objective legal uncertainty as relevant to punishability	Article 15 of Legislative Decree No. 74/2000 provides that violations arising from objective uncertainty as to the scope or application of a tax rule do not give rise to punishable conduct under the Decree. The provision remains part of the framework currently in force; its substance is also reproduced in Article 92 of the consolidated sanctions legislation scheduled to take effect from 2027.	A novel or disputed tax interpretation does not establish criminal liability. The investigation or coercive exposure may arise before the effect of the uncertainty safeguard has been conclusively determined.
Tax assessment and criminal proceedings may proceed on parallel, but increasingly coordinated, tracks	Article 20 of Legislative Decree No. 74/2000 provides that tax assessment proceedings and tax litigation are not suspended merely because related criminal proceedings are pending. The reforms adopted in 2024 strengthened coordination between the two systems. In particular, the substance of former Article 21-bis is reproduced in Article 119 of Legislative Decree No. 175/2024, under which specified final acquittals may have binding effect in the related tax proceedings as to the same material facts. The Constitutional Court examined this framework in Judgment No. 50/2026.	A company can settle, pay or litigate the administrative claim while a related criminal matter continues. An administrative agreement does not necessarily determine the criminal outcome. At the same time, the two tracks cannot be described as independent because the reforms provide specific mechanisms of evidentiary and adjudicative coordination.
Tax verification can provide an institutional route into the criminal track	Article 331 of the Code of Criminal Procedure requires public officials and persons entrusted with a public service who, in the exercise of their functions, become aware of an offence prosecutable ex officio to report it without delay to the public prosecutor or a judicial-police officer.	A referral does not establish that a tax offence has occurred and does not amount to prosecution. It however helps explain how a tax verification involving facts thought potentially criminal can move into a parallel criminal investigation before the disputed tax question has been finally adjudicated.
Prosecutorial independence limits the Revenue Agency's ability to guarantee criminal finality	Article 112 of the Italian Constitution states that the public prosecutor is obliged to exercise criminal action. Not every referral results in a prosecution where legal or evidentiary basis is insufficient, but this also does not mean that an administrative settlement cannot by dictating the prosecutor's decision.	The institutional separation between tax administration and prosecution helps explain why settlement of the tax claim does not necessarily end a related criminal matter. The Amazon proceedings illustrate this possibility.
Investigations affect both company operations and individual managers	The cases reviewed include criminal investigations involving company managers. In the separate February 2026 Amazon PE investigation, the Guardia di Finanza searched Amazon's Milan headquarters, the homes of seven managers and KPMG's offices and seized computers and other data devices.	The exposure created by a tax investigation is not confined to an administrative tax liability. Searches and evidence seizures can affect business operations, while directors and other individuals may face personal criminal investigation.

Distinguishing factor	Evidence	Legal significance
Confiscation and preventive-seizure rules can create material asset exposure before final judgment	Article 12-bis of Legislative Decree No. 74/2000 provides for confiscation in relation to the price or profit of covered tax offences and, where direct confiscation is unavailable, assets of corresponding value. Article 12-bis remains within the legislation currently in force in 2026. Listed tax offences can also engage entity liability under Article 25-quinquiesdecies of Legislative Decree No. 231/2001 where its requirements are satisfied.	A disputed tax characterisation can create potential asset exposure before final resolution through precautionary measures designed to preserve property for possible later confiscation. Such measures are not automatic and remain subject to the applicable statutory and judicial requirements.
Milan-based enforcement institutions have developed a recurring line of digital-tax investigations	A substantial number of the Google, Netflix, Meta, Amazon and other technology cases reviewed were investigated or coordinated in Milan. Reporting on the Google infrastructure investigation indicated that similar approaches could be considered in relation to other web multinationals, while subsequent investigations have continued to examine infrastructure, platform and data-related tax questions.	The concentration of cases supports a cautious inference of an enforcement pattern and a coordinated arrangement between different agencies in Italy.
Repeated settlements have limited authoritative judicial clarification of contested tax theories	Google and Netflix made substantial payments without final judgments establishing whether the technological infrastructure in question constituted a PE. The Meta, X and LinkedIn appeals are considered as a departure from the more common pattern of negotiated resolution and as creating the prospect of fuller judicial scrutiny of the personal-data VAT theory.	Settlements can provide revenue and establish future compliance arrangements. They do not generally create binding precedent for other taxpayers. Repeated negotiated resolutions have left fewer authoritative decisions explaining the legal limits of some of the theories being applied.

Source: ECIPE elaboration based on publicly available sources