Benchmarking of the tax situation of Islamic financial instruments

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Abstract— **The ever-increasing trend of "Islamic finance" has prompted many European countries to implement very different solutions to meet the needs arising; in particular, the regulatory systems have been implemented with legislative measures, or rather, Financial Administration has introduced interpretations so as to regulate the tax burden on Islamic financial instruments. The contribution is addressed to the analysis of the current Italian legislation namely to the investigation of the tax effects generated by Islamic financial instruments on the different players by comparing with other countries such as the United Kingdom and France, whose experience in this regard has proved to be important to achieve an accurate understanding of the evolution of the rules governing such instruments. This paper is therefore aimed at suggesting simplifying guidelines (given the economic and financial implications) to be implemented in terms of legislation, with a view to providing an Italian standard for Islamic financial instruments so as to leverage the different synergies arising from the regulation of such instruments.**

Keywords- taxation; Islamic financial instruments; Europe; Italy

I. INTRODUCTION

The consolidated use of financial instruments in compliance with[1] the Islamic religion (*Shari'ah*) has required an extensive regulatory effort, aimed at determining not only each instrument within the legal systems of different countries in Europe, but also at identifying the relevant tax system.

The purpose of this paper is to evaluate the availability of a tax harmonization process in Europe (EU and non-EU) in order to encourage, among other things, the free exchange of capital through the widespread use of such instruments in commercial and financial exchanges among economic and/or private players located in different countries.

The purpose of this paper is to assess a process of tax harmonization at European level (EU and non-EU) to foster, inter alia, the free exchange of capital through the widespread use of such instruments in trade and financial exchanges among economic and/or private traders located in different countries.

Therefore, having focused on the details of the method, the countries which have implemented regulatory measures[2] were identified in order to select Italy, France and the United Kingdom as reference countries.

Such countries have been identified through a careful analysis of the regulations and procedures in force in each of the European Union Member States and a reference sample has been identified according to whether or not there have been significant measures governing the taxation of such instruments.

While not attempting to examine the fundamental principles underlying Islamic finance, such as the impossibility of lending money by receiving interest or signing random contracts, the following instruments have also been identified as targets of regulatory measures:

- *Murabaha*, is a (goods) purchase agreement where the costs associated with the realization of the goods and the

[1] The commonly used term is *Shari'ah* compliant [1].

[2] Even if not thoroughly analyzed, the presence of a direct correlation, within each State, between the spread of rules governing Islamic instruments and the commercial exchange with Islamic countries, as well as the presence of a population respectful of the religious prescriptions of the *Sharia'ah*, is likely to exist.

relevant margin are clearly defined so as to identify the sale price. Such preliminary analysis removes any doubts about the characteristics of the goods to be sold;

- *Mudaraba* and *Musharaka*, are partnership agreements where the capital contributor is not entitled to a specified remuneration (due to the above-mentioned limitations on the interest right) but rather to a profit on the transaction, as well as losses incurred by each business participant;

- *Sukuk*, are securities with specific characteristics, i.e., not linked to bonds entitled to a pre-set interest, but rather to a shareholding (undivided holding) of a property or assets. Usually issued by investment funds which in turn hold a stake in the capital of a company.

- *Ijarah* is a transaction whereby the bank is committed to purchase, upon customer's request, a specific asset from the supplier by leasing it to the customer in exchange for the recurring payment of a rent based on the cost of the asset plus a pre-set margin. In essence, the ownership of the asset is held by the bank and the right to use such asset, until the contract expires, belongs to the customer.

- *Istisna'a* a transaction whereby the contract provides for an asset not yet existing (i.e. being produced or built) therefore the bank enters into a sale and purchase with the producer and then resells the asset to the customer against payment of a price equal to the cost of the asset plus a pre-set margin. Payment can also be made in instalments, whereby the ownership right is assigned to the customer upon payment of the last instalment.

Concluding this paper, therefore, the main aims were to:

- evaluate the degree of evolution and harmonization of the different tax systems (Italy, France and United Kingdom) with regard to the taxation of Islamic financial instruments;
- identify suggestions for a possible legislative evolution for countries experiencing significant regulatory and/or procedural weaknesses and gaps.

II. Comparative analysis of the taxation of main countries' Islamic instruments

As a preliminary point, it should be emphasized that the methodological approach used in this article in order to achieve the beforementioned objectives of the research is *comparative law*[3], as it is to be considered the most suitable in the present case.

In fact, such methodology can compare different regulations with a specific content or a set of legal issues, specifically it is possible to analyze, at a first stage, one or more foreign legal systems and then match with other legal systems [2], often including, in that analysis, the national systems of those that make the comparison (although, in several studies, it has been noted that researchers have compared two or more foreign systems without any reference to their national jurisdictions [3].

A further line of research regards the analysis of an international system by comparing it with one or more national systems which have undergone a process of harmonization [4].

It is exactly from this comparative analysis between the different States that it is possible to understand the small differences between the law and – if it is considered effective – to improve in the country of those that carry out the survey.

On the basis of this methodology, it was decided to make a comparison of two countries of Europe, with particular regard to the United Kingdom and France that introduced Islamic financial instruments and related guidelines for their taxation, in order to be able to identify the peculiarities and then understand the best law for the Italian system

Therefore, this paper revealed how the different countries govern the taxation of Islamic financial instruments according to two different approaches: the first involves the adoption of a specific legislation for Islamic finance with substantial amendments to the relevant tax rules, while the other provides for some further information from the tax authorities, without issuing or amending the legislation on the taxation of financial instruments [2]. Although pursuing two different approaches, those Countries which have introduced Islamic finance into their system are consistent with the principle of the prevalence of substance over form with respect to Islamic financial instruments, the purpose of which is to avoid the application of disproportionate tax burdens, thus favoring the spread of such instruments throughout the country.

The United Kingdom (which is no longer part of the European Union since the February 1st, 2020) is undoubtedly the most cutting edge[4] among all the countries in Europe with the strongest experience in the field of Islamic financial instruments[5]. As a matter of fact, it has been able to attract the most important Islamic banks, not least, thanks to the considerable Islamic resident population (a direct consequence

[3] The methodology of *comparative law* is a relatively young academic discipline (the writings of David and Brierley, [5] and Schlesinger [6] are cited as a reference) that since its foundation, the main concern was to examine the main differences between systems [7].

[4] Just think that London launched the first app for Muslim savers [8]

[5] The most advanced countries, besides Great Britain, are Hong Kong and Malaysia; nevertheless, many other countries are tackling "the issue - no tax administration in the OECD has yet decided to challenge this issue, starting with the US, considering it to be off limits. According to a research of the last IFA congress -International fiscal association - held in London in September 2018, roughly every single consultant in the Western world will be affected in the coming years by the problem of compliance with Islamic finance. Just from Great Britain come the first case-study about the meaning of trying to integrate, from the tax point of view, schemes which have nothing of homogeneous, indeed [9]

of the strong historical connections with many Middle-Eastern countries), to the remarkable expertise of the financial professionals and to the high level of globalization of the English market. The English lawmakers have regulated Islamic finance for tax purposes, classifying it among the so-called "*alternative finance arrangements*" transactions, including in this category a range of Islamic instruments and, in particular: transactions for the purchase and resale of goods and properties (*murabaha*), partnership agreements (*mudaraba*), diminishing shared ownership (*musharaka*), profit-sharing agreements (*wakala*) the issue of securities (*sukuk*)[6]. UK tax law has evolved over time with several developments as shown in Figure 1 below:

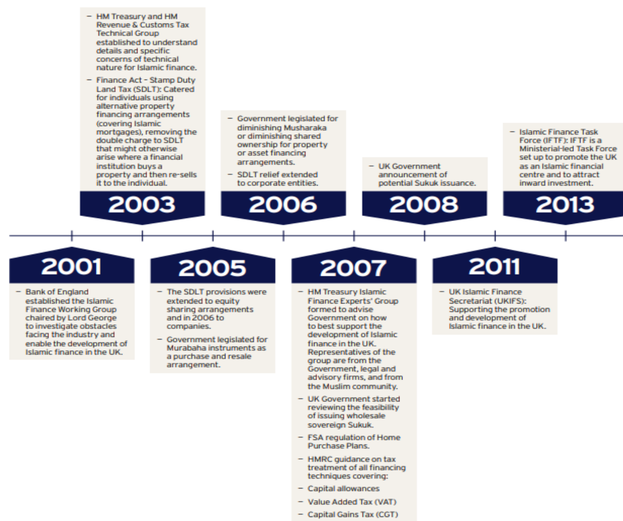

Figure 1: Regulatory Development of Islamic Finance in the UK [11]

The choice to make the substance prevail over the form has led to the revenues from Islamic financial transactions being processed, in tax terms, in the same way as interest paid on money loans. In short, treating the "*alternative financing arrangements*" as financing transactions makes it possible to treat the proceeds generated, for example, by *murahaba* operations as interest, as results arising from the provision of capital rather than as capital gains. In the same way, the proceeds of a *mudaraba* transaction, which, although derived from a partnership agreement, are not treated as dividends or equity profits, but rather as income assimilated to interest. Whereas sukuk for tax purposes is regarded as security when specific legal conditions are met[7].

Thus, direct tax legislation does not modify the nature of the financial arrangements, nor does it in any way attribute the interest or consider it to arise where it does not exist. In other words, the lawmakers can be considered to have introduced a specific code for the tax treatment of transactions falling within its definitions. Table I below sets out the concepts created by tax law and Islamic finance comparable:

TABLE I. SIMILARITIES BETWEEN THE ENGLISH TAX LAW AND THE VARIOUS ISLAMIC FINANCIAL INSTRUMENTS [13]

Tax Law	Islamic finance
Purchase and resale	Murabaha
Deposit	Mudaraba
Profit share agency	Wakala
Diminishing shared ownership	Diminishing musharaka
Alternative finance investment bond	Sukuk

Furthermore, it should be noted that through this assimilation between Islamic and traditional instruments, the avoidance of double taxation on transfer taxes has been achieved. In particular, the transfer of ownership and the leasing of real estate are subject to the so-called "*stamp duty land tax*" ["*SDLT*"], therefore, in the case of Islamic finance

[6] Ireland is the country whose approach has been the same as the United Kingdom, i.e. through the implementation of specific rules in its legal system, and in fact Islamic financing transactions are treated in the same favorable way as conventional financing transactions. [10]

[7] In particular the following ("Investment bond arrangements"):
"*(a) they provide for one person ("the bond-holder") to pay a sum of money ("the capital") to another ("the bond-issuer"),*
(b) they identify assets, or a class of assets, which the bond-issuer will acquire for the purpose of generating income or gains directly or indirectly ("the bond assets"),
(c) they specify a period at the end of which they cease to have effect ("the bond term"),
(d) the bond-issuer undertakes under the arrangements
(i) to dispose at the end of the bond term of any bond assets which are still in the bond-issuer's possession,
(ii) to make a repayment of the capital ("the redemption payment") to the bond-holder during or at the end of the bond-term (whether or not in instalments), and
(iii) to pay to the bond-holder other payments on one or more occasions during or at the end of the bond term ("additional payments"),
(e) the amount of the additional payments does not exceed an amount which would be a reasonable commercial return on a loan of the capital,
(f) under the arrangements the bond-issuer undertakes to arrange for the management of the bond assets with a view to generating income sufficient to pay the redemption payment and additional payments,
(g) the bond-holder is able to transfer the rights under the arrangements to another person (who becomes the bond-holder because of the transfer),
(h) the arrangements are a listed security on a recognized stock exchange, and
(i) the arrangements are wholly or partly treated in accordance with international accounting standards as a financial liability of the bond issuer or would be if the bond-issuer applied those standards." [12]

operations based on the "*transfer*" of a real estate property, the SDLT could have applied more than once in a single transaction. An example can be found in *murabaha* transactions where a double transfer of the same asset occurs. In cases as such, the regulatory framework required SDLT to be applied only once, specifically to the original transaction, while the subsequent resale by the lender to the third party (the beneficiary of the asset) is exempt from SDLT, as is the case for the sale with resale agreement, SDLT-exempt. [14].

Despite the financial leadership of the United Kingdom, France is the leading European country in terms of resident Muslims, with half of these residents being full-fledged French citizens and often second or third generation migrants. Given such a significant Muslim population, in 2007 the authorities issued reforms to align the French banking system with *Shari'ah* law so as to bring Islamic products onto the market. Afterwards, the French Ministry of Economy addressed tax issues by issuing a number of interpretations designed to favor Islamic financial instruments at the beginning of 2008. Indeed, on December 18th, 2008, the Ministry published a set of interpretations relating to two types of Islamic financial transactions, *murabaha* and sukuk, thereby structuring a favorable interpretation of the current rules of the French tax code (Code Général des Impôts, CGI) with regard to such transaction. Such interpretations were finally published as official administrative guidelines in the Bulletin officiel des impôts on February 25th, 2009. Such guidelines were thoroughly revised during an extensive industry-wide consultation that led to the release of updated guidelines for *murabaha* and *sukuk* transactions and new guidelines for *ijara* and *istisna* transactions on August 24th, 2010 [15]. Eventually, further clarifications were examined in 2012 [16].

These administrative guidelines, while complying with the existing rules of the French tax code without modifying its content, define the conditions to be met in order for these specific Islamic financial instruments to benefit from the same tax treatment as comparable conventional financial instruments [17].

As pointed out above, the French Ministry of Finance has also elected to maintain the principle of substance over form, since sukuk are considered for tax purposes - until any conversion into shares - as debt securities, so that the remuneration paid to sukuk investment holders is treated for tax purposes as interest according to the standard rules[8].

While in the case of *murabaha*, the lender is considered to be a real intermediary in a financing transaction and the income received from the latter as a result of this activity is considered as interest, attributable for tax purposes according to a maturity principle.

From this study it emerged that the different countries regulate the taxation of Islamic financial instruments by identifying two types of different approaches: one of them consists in the adoption of specific legislation for Islamic finance with significant changes to the relevant tax rules while the other consists in providing only some clarifications from the tax authorities, without issuing or changing the legislation concerning the taxation of financial instruments [19].

However, while following two different approaches, the States that have introduced Islamic finance into their system are in line in asserting the principle of the "*prevalence of substance over form*" on Islamic financial instruments whose purpose is to avoid the application of excessive charges of a fiscal nature, thus favoring their diffusion in the territory.

III. The Italian tax situation for Islamic financial instruments

Nowadays in Italy, Islamic finance is experiencing greater interest[9] , since the last parliamentary activity - which had no further results - dates back to Law Proposal C. 4453 submitted to Parliament on May 2nd, 2017, which dealt with the "*provisions regarding the tax treatment for Islamic financial transactions*"[10] whose purpose was to identify some of the

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[8] In particular, if:
"*(i) sukuk should entitle their owners to be reimbursed before the shareholders of the issuer;*
(ii) sukuk should not grant any voting right or any right in the liquidation profits to them;
(iii) the amount of the remuneration paid to investors should be based on the underlying asset and remain limited to a market rate with a markup;
(iv) the reimbursement of sukuk may be partial" [18].

[9] However, it is a strongly growing sector: according to the Islamic Finance Outlook 2020 Edition the Islamic finance is worth almost 2100 billion, resulting in a growth in the two-year period 2019-2020 thanks to 3 important factors: standardization; the use of technology in the financial sectors; alignment between Islamic finance and the principles of sustainability, also environmental, of the traditional financial sector [20]. It should also be noted that a further research has provided evidence that by 2030 most of the Muslim population will be located between Asia and Africa, countries with strong growth in development [21].

[10] Specifically, "*Article 1 of the Bill sets out the aims of the law, which is intended to regulate for tax purposes specific transactions that otherwise would not be carried out in our country.*
Article 2 provides the definitions governing the transactions examined, aligning them with the current legislation; in particular, it defines:

a) the bank or financial intermediary carrying out the transaction;
b) the user;
c) the fee received by the bank, which must not in any case exceed the limits set out in Article 2, Law No 108 - March 7th, 1996;
d) the manufacturer, producer or supplier as a natural or legal person manufacturing or selling the goods to be financed;
e) the item covered by the transaction;

most important transactions provided for by Islamic finance consistent with the principles of Islamic law (*Shari'ah*) so as to provide for their regulation within the Italian legal system to attract huge amounts of capital that would otherwise have passed elsewhere; in other words, greater tax revenue would have been achieved through such regulations.

Therefore, the Italian legal system - as mentioned above - has no regulatory structure as in the United Kingdom and Ireland and there are no administrative documents governing tax treatment as in France. On that point, it is worth pointing out that in Italy the ministerial approach, which derives mainly from the tax authorities, is not binding on either the taxpayer or the court and does not, above all, provide a source of law[11]. This principle has frequently been reiterated by the Italian Supreme Court having ruled on the legal effectiveness and the possibility of challenging such activities[12]. As a consequence, a French-like approach in an Italian system is certainly not applicable; on the contrary, a system such as the British and Irish ones is more suitable. In this respect, the aforementioned proposal for a law to create specific rules in order to finally "*seal*" the civil-tax treatment of Islamic finance appears to be more appropriate.

Actually, in the opinion of the authors, a specific set of provisions can be identified through a root and branch reform of the entire Italian tax system. Undoubtedly, the system is outdated nowadays, considering also that the Inland Revenue Agency is encouraging efforts towards this approach[13].

While from a strictly tax standpoint, the framework of Islamic finance must take into account which type of approach to choose, whether formal or substantial. The first approach would lead to a disadvantage compared to the "standard transactions" one and would lead to a potential increase in taxation for the Islamic finance transaction; through the substantial approach, the results would be more acceptable with reference to direct taxes, but there would be more problems with indirect taxes, such as, for example, the registration tax, which is due to each single transaction [22]. On the strength of this choice, the line of the other Countries with a greater experience in the past - as highlighted in the previous paragraph - is to apply the principle of the substance prevailing over the form with regard to the Islamic financial instruments[14].

For a better understanding of the aforementioned elements Table II outlines the differences between the two countries together with the pros and cons of the "strategies" applied:

TABLE II. COMPARATIVE ANALYSIS

Countries	Strategies adopted by the countries surveyed	Positive aspects found in Italy by country strategies	Negative aspects found in Italy by country strategies	Common ground
United Kingdom	Adoption of a specific legislation	Regulatory Certainty	Bureaucracy and timing in setting up tax legislation	Principle of prevalence of substance over form
France	Issuance of clarifying documents by tax authorities	Bureaucracy reduction	Possibility to recast the procedure during the assessment phase by the Tax Authority	

f) the margin, as remuneration received by the bank;
g) the transaction.
Article 3 deals with three financial transactions, currently not considered in the Italian legal system, murabaha, ijarah and istisna'a, regulating their tax treatment and classifying them in our legal system.
Article 4 defines the sukuk as securities, framing them in the single text of financial brokerage provisions under Legislative Decree no. 58/1998, and regulating the public offer thereof.
Again with regard to sukuk, Article 5 regulates the characteristics and tax aspects of sukuk, including the provisions relating to the tax treatment of sukuk issues, consistent with the current regulations.
Article 6 states that the transactions referred to in Articles 3, 4 and 5, in any case, shall be subject to ongoing monitoring and to the obligation of suitable control, enhanced, pursuant to and for the purposes of Article 28 of Legislative Decree no. 231 dated November 21st, 2007.
The proposed law does not contain a provision on financial hedging, as the transactions introduced in our system, being currently not feasible, will only constitute an increase in revenue for the Public Treasury".

[11] In addition, it is customary for the tax authorities, once a measure has been issued with instructions to the taxpayer, to challenge its content during the assessment phase resulting in a tax litigation.

[12] Sup. Court n. 6185/2017 and Sup. Court n. 10915/2015.

[13] Interview with the Director of the Revenue Agency - Dr. Ruffini - of August 25, 2020: "We do not have a tax system. We are in a jungle impossible for anyone to be understood, completely out of control. Over the years, financial laws have literally shaken it, creating absurd fragmentations. Now the house has to be rebuilt...".

[14] Moreover, regarding this key aspect, Italian legislation has undergone a revolutionary change, in particular Legislative Decree no. 139/2015 introduced a new paragraph 1-bis in art. 2423-bis whereby "the recognition and presentation of items must be carried out taking into account the substance of the transaction or contract", setting the ground for a harmonization of the ITA GAAP representation rules with those of companies adopting IAS/IFRS within the Italian territory.

That being said, given a substantial approach, most of the proceeds relating to Islamic financial instruments (*murabaha*, *ijarah* and *istisna'a*) can be included in Article 44(1)(h) of Legislative Decree 917/86 [Consolidated Income Tax Code "TUIR"] which provides that: "*capital income includes*: [...] *(h) interest and other income arising from other relationships involving the use of capital, except for those transactions through which positive and negative ratios may be generated as a result of an undefined event*". With regard to the provision under consideration, care must be taken as not all capital investment ratios are capital income generating; actually, those ratios through which positive and negative ratios can be achieved depending on an undefined event are excluded by specific regulatory provision [23]. Moreover, interest deriving from such transactions must be included in the deductibility threshold of 30% of the operating result set out in Article 96 TUIR so as not to create inequalities with traditional instruments[15], specifying that paragraph 12 of the said Article excludes from this threshold financial intermediaries, insurance undertakings and parent companies of insurance groups, while paragraph 13 requires a different threshold for the deductibility of interest equal to 96% of their amount for insurance undertakings and parent companies of insurance groups as well as mutual fund management companies and securities brokerage firms referred to in Legislative Decree dated February 24th, 1998, n. 58. *Sukuk* rules are different as the income from this instrument could fall under both Article 44(2)(a) and (2)(c) of the Consolidated Income Tax Code (TUIR) if it were to be compared to shares or bonds, respectively. However, the *sukuk* instrument is not generally similar to shares[16] and consequently a regulation aimed at equating this instrument to debt securities would eliminate this uncertainty, since Article 44(2)(c) of TUIR [25] would apply. Furthermore, attention must be paid to the transactions of Islamic finance focused on profit and loss sharing (e.g. *mudarabah* and *musharaka*) whereby the remunerations granted to the investors are set in relation to the results of the enterprise or of a given transaction; in such a case, transactions based on the "profit loss sharing" can be fiscally recognized as forms of profit sharing with the own treatment of the dividends for the recipient, and as non-deductible costs for the payer pursuant to Art. 109, paragraph 9 of the TUIR [26].

Finally, and for the sake of completeness, the subject is more sensitive on the indirect taxation level; indeed, double taxation could be created in the field of registration taxes, and in particular Article 20 of the interpretation of transactions states that: "*the tax shall apply according to the specific nature and legal effects of the transaction submitted for registration, even if the security or the evident form of the transaction does not correspond to it, on the basis of the elements inferable from the same transaction, without prejudice to the provisions of the subsequent articles*"[17] . Accordingly, in Islamic finance where several consecutive steps may be taken to finalize the existing transaction, the article in question would give rise to the taxation of such steps. Therefore, inspired by the UK experience with SDLT, where taxation takes place only once, this could be an acceptable solution also in Italy or, since the substantial approach of the existing transaction can always be considered, recent case-law on lawfulness[18] has considered a set of transactions resulting from different legal effects in a single transaction at a time when these could be considered a single legal effect, resulting in a single taxation. Such remarks can also be broadened to include mortgage and cadastral taxes. In short, the predominance of substance over form is the best solution with regard to direct and indirect taxes, as indeed the other States being investigated have applied - albeit with different methods - in their legislation.

IV. CONCLUSIONS

A comparison among the three different tax systems: Italy, France and the United Kingdom, with regard to the regulations on Islamic financial instruments, reveal the following: there is no harmonization of tax systems at European or Community level to regulate Islamic financial instruments[19], since, even if the subsidiarity principle is respected, it could not automatically be precluded the identification of a suitable regulation to precisely define the same instruments.

Furthermore, the grounds for this more or less extensive regulatory activity carried out by each State so as to regulate Islamic financial instruments are manifold, but - in fact - can be traced back to two aspects:

- a real market demand from the users of such instruments, with a steady increase in their spread, mainly due to the presence - and the increase - of the population that follows the principles of *Sharia'ah* and that looks for, and uses, such instruments;

[15] For the sake of completeness of analysis, the "limitations of article 96 of TUIR are inspired by the purpose, which has remained unchanged even after the implementation of the ATAD Directive, to ensure a "reasonable" deduction of interest according to the regular indebtedness ability of the company" [24].

[16] In principle - subject to specific conditions - States consider such instruments as debt securities

[17] Law no. 145 dated December 30th, 2018, in amending Article 1(87)(a) of Law no. 205 dated December 27th, 2017, has consequently provided (with Article 1(1084)) that "Article 1(87)(a) of Law no. 205 dated December 27th, 2017 represents an effective interpretation of Article 20(1) of the consolidated provisions of Presidential Decree no. 131 dated April 26th, 1986".

[18] Sup. Court 19.6.2013 n. 15319

[19] Although there has been real harmonization of indirect taxation alone (ex-Article 93 of the EC Treaty, for example with regard to VAT) at Community level, the different measures (directives) on direct taxation: double taxation, parent and subsidiary taxation, royalties, savings income (interest), etc. should not be ignored.

- the willingness by all Countries to attract - in the first place - foreign capital and, furthermore, to increase tax revenues

For the reasons outlined above, it is not possible, as of today, to refer to a harmonization of the three tax systems subject to comparison with reference to the taxation of Islamic financial instruments, since each single State, for the reasons outlined above, has diverging needs; in other words, always starting from the hypothesis of a steady increase in the use of such financial instruments, there are legal systems which tend to contain the tax pressure in order to attract more capital, with respect to a need for tax revenues with negative effects on the capital movement.

However, it is worth pointing out that the regulatory developments in the three countries examined were based on the same common factor: the substantial aspect definitely prioritized over the legal form of a single transaction.

Based on the closing overviews outlined above and although this paper should be further enhanced by a research phase - the Italian legislative system could be improved and better developed through the mutual experience of the different countries that are adopting Islamic financial instruments, as well as through a wise effort to review and update both civil and tax legislation.

The study, therefore, suggests guidelines, in the legislative field, for the introduction of legislation on Islamic financial instruments in the Italian civil system, and through the principle of substance on the form, in the tax field, to create an appropriate law, as happened in the United Kingdom. Paradoxically – being a common law country – this last model is more suitable for our legal system than the French, since the latter, although it is established on the principle of substance on form, is based on usual procedures, which, for our system, are not considered to be suitable for the reasons set out before. Finally, the introduction into our legal system of appropriates rules for these financial instruments would have a threefold effect:

- regulating a capital market, where new and rapidly expanding financial instruments are entering;
- it would allow an undoubted advantage for the revenue authorities, considering the tax revenue that they could potentially generate;
- a first step towards the international harmonization of legislation, assuming that the Anglo-Saxon model is to be taken as an example;

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Following these conclusions, therefore, there will be a further research activity aimed at monitoring the evolution of the tax regulations in the three States examined and whether the presence of a careful regulation of the Islamic financial instruments, together with a moderate tax pressure, points out a connection with a greater presence of financial intermediaries who manage such instruments

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