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## Automated production processes and new taxation models



## Zautomatyzowane procesy produkcyjne i nowe modele podatkowe

**Abstract:** The transformation of production processes and the changes in work organisation brought about by technological and IT development have led to a new way of looking at the “real” market, transforming it from a physical place for the exchange of goods and rights, modulated by the interaction of supply and demand, into a boundless space to which one can have unrestricted access in order to exchange all kinds of goods. This phenomenon, while allowing for additional income and cost savings, has significant tax implications.

In rethinking the models of the *lex robotica*, the fiscal discipline, in spite of the resistance generated by mistrust and “conservative” attitudes, marked by traditional taxation models based on income and consumption, plays a fundamental role in promoting work and in spreading new forms of economic, productive and social organisation.

In this context, the new taxation models must value the productive capacity of technologies and artificial intelligence, through comparison with human labour, and measure their intrinsic value or cost savings, in order to provide the resources needed to reintegrate into the labour market those who have been expelled from the system.

**Keywords:** scientific and technological innovations, automated production processes, artificial intelligence, robotics, new taxation models.

**Streszczenie:** Transformacja procesów produkcyjnych oraz zmiany w organizacji pracy spowodowane rozwojem technologicznym i informatycznym doprowadziły do nowego spojrzenia na „realny” rynek, przekształcając go z fizycznego miejsca wymiany dóbr i praw, modulowanego przez interakcję podaży i popytu, w nieograniczoną przestrzeń, do której można mieć nieograniczony dostęp w celu wymiany wszelkiego rodzaju dóbr. Zjawisko to, choć pozwala na dodatkowe oszczędności przychodowe i kosztowe, ma istotne implikacje podatkowe. Przy ponownym przemyśleniu modeli lex robotica dyscyplina fiskalna, pomimo oporów wywołanych przez nieufność i postawy „konserwatywne”, naznaczone tradycyjnymi modelami podatkowymi opartymi na dochodzie i konsumpcji, odgrywa fundamentalną rolę w promowaniu pracy i szerzeniu nowych form organizacji gospodarczej, produkcyjnej i społecznej.

W tym kontekście nowe modele podatkowe muszą doceniać zdolność produkcyjną technologii i sztucznej inteligencji poprzez porównanie z ludzką pracą oraz mierzyć ich rzeczywistą wartość lub oszczędności kosztów, aby zapewnić zasoby potrzebne do ponownej integracji na rynku pracy tych, którzy zostali usunięci z systemu.

**Słowa kluczowe:** innowacje naukowe i technologiczne, zautomatyzowane procesy produkcyjne, sztuczna inteligencja, robotyka, nowe modele podatkowe.

## Introduction

In the global and post-modern society, the development of technological knowledge and IT innovation is contributing to significant changes in the organisation of work and in models of producing goods and providing services. In this context, it is essential to use new technologies to promote the efficient use of resources by combating waste and to steer production and consumption towards a circular economy through the use of taxation and facilitation measures. By facilitating the exercise of economic activities and allowing for additional income and cost savings, this phenomenon has significant tax implications<sup>1</sup>.

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<sup>1</sup> Comp. A. Uricchio, *La fiscalità dell'intelligenza artificiale tra nuovi tributi e ulteriori incertitude*, [in:] U. Ruffolo (a cura di), *Intelligenza artificiale. Il diritto, i diritti, l'etica*, Giuffrè, Milano 2020, p. 490–491; A. Uricchio, *La sfida della strategia europea dell'Intelligenza Artificiale tra regolazione e tassazione*, [in:] A.F. Uricchio, G. Riccio, U. Ruffolo (a cura di), *Intelligenza Artificiale tra etica e diritti. Prime riflessioni a seguito del libro bianco dell'Unione europea*, Cacucci, Bari 2020,

In the field of production processes, scientific innovations have marked the transition from a traditional model of organisation (so-called industrialism) to a new phase, technologically more advanced, known as the “fourth industrial revolution”<sup>2</sup>, based on the digital and automated economy and characterised by informationalism<sup>3</sup> and Industry 4.0<sup>4</sup>. This latter expression is used to designate the measures to support the transformation of the economy along four lines: innovative investments; enabling infrastructure; skills and research; awareness and governance<sup>5</sup>.

## **The new way of looking at the real market and its economic and legal repercussions**

The transformations of wealth production processes have generated a new way of considering the “real” market (and its governance), with obvious repercussions in the economic and legal spheres, to make it rise from a mere physical place of exchange of dominical rights, modulated on the interaction of supply and demand, to a boundless and liquid space in which to access freely and without time restrictions to exchange any type of good (even digital), right

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p. 215; S. Dorigo, *Intelligenza artificiale e norme antiabuso: il ruolo dei sistemi “intelligenti” tra funzione amministrativa e attività giurisdizionale*, “Rassegna tributaria” (2019), 4, p. 728. T. Rosembuj, *Inteligencia artificial e impuesto*, II ed., El Fisco, Barcelona 2019; S.A. Parente, *Artificial intelligences and “robot tax”: the role of robotics on tax structures and de iure condendo perspectives*, [in:] I. Florek, A. Koronciová, J.L. Zamora Manzano (edited by), *Crisis as a challenge for human rights*, Comenius University in Bratislava, Bratislava, 2020, p. 353.

<sup>2</sup> Comp. M.C. Carrozza, *I Robot e noi*, Il Mulino, Bologna 2017, p. 20; M.M. Erdogan, C. Karaca, *The Fourth Industrial Revolution and a Possible Robot Tax*, [in:] I. Berksoy, K. Dane, M. Popovic (edited by), *Institutions & Economic Policies: Effects on Social Justice, Employment, Environmental Protection & Growth*, IJOPEC Publication, London 2017, p. 103.

<sup>3</sup> Comp. A. Uricchio, *La fiscalità dell'intelligenza artificiale tra nuovi tributi e ulteriori incentivi ...*, p. 489; A. Uricchio, *Manuale di diritto tributario*, Cacucci, Bari 2020, p. 29.

<sup>4</sup> Comp. G. Donzelli, *L'interazione uomo-macchina tra tecnologie digitali e successo industriale*, [in:] G. Alpa (a cura di), *Diritto e intelligenza artificiale*, Pacini Giuridica, Pisa 2020, p. 83; A. Vacchi, *Artificial Intelligence e Industria 4.0 tra tecnoetica e tecnodiritto*, [in:] U. Ruffolo (a cura di), *Intelligenza artificiale. Il diritto, i diritti, l'etica*, Giuffrè, Milano 2020, p. 277.

<sup>5</sup> Comp. A. Uricchio, *Robot tax: modelli di prelievo e prospettive di riforma*, “Giurisprudenza italiana” (2019), 7, p. 1749.

of enjoyment – even if only temporary and shared (so-called sharing economy)<sup>6</sup> – and information, which, in this context, become legally relevant entities<sup>7</sup>.

In this constant adaptation, the ability to support the innovation process is an important factor for keeping up with the most advanced economies<sup>8</sup>.

The Italian legislator, aware of the need to rethink the relationship between man-machine and machine-machine<sup>9</sup>, has adopted a liberal approach, introducing a series of tax incentives – such as deductions, patent box<sup>10</sup>, tax credits<sup>11</sup>, hyper and super depreciation<sup>12</sup>, incentives for innovative start-up<sup>13</sup> – aimed at stimulating private investment in

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<sup>6</sup> On the topic, comp. M. Allena, *The Web Tax and Taxation of the Sharing Economy. Challenges for Italy*, “European Taxation” (2017), 7, p. 1; C. Buccico, *Modelli fiscali per la sharing economy*, [in:] D. Di Sabato, A. Lepore (a cura di), *Sharing economy. Profili giuridici*, Esi, Napoli 2018, p. 161; A. Uricchio, W. Spinapolic, *La corsa ad ostacoli della web taxation*, “Rassegna tributaria” (2018), 3, p. 483; R. Schiavolin, *La tassazione della sharing economy attuata con piattaforme digitali*, “Rivista della Guardia di Finanza” (2019), 5, p. 1259.

<sup>7</sup> Comp. A. Uricchio, *La fiscalità dell'intelligenza artificiale tra nuovi tributi e ulteriori incentivi ...*, p. 489; A. Uricchio, *Manuale di diritto tributario ...*, p. 29–30.

<sup>8</sup> Comp. R. Cordeiro Guerra, *L'intelligenza artificiale nel prisma del diritto tributario*, [in:] S. Dorigo (a cura di), *Il ragionamento giuridico nell'era dell'intelligenza artificiale*, Pacini Giuridica, Pisa 2020, p. 88.

<sup>9</sup> In subject, comp. M. Versiglioni, *Diritto Matematico<sup>mv</sup>. Diritto Con Verità<sup>mv</sup> e Diritto Senza Verità<sup>mv</sup>*, Pacini Giuridica, Pisa 2020, p. 3.

<sup>10</sup> Comp. P. Arginelli, F. Pedaccini, *Prime riflessioni sul regime italiano di patent box in chiave comparata ed alla luce dei lavori dell'OCSE in materia di contrasto alle pratiche fiscali dannose*, “Rivista di diritto tributario” (2014), 9, p. 57; L.M. Pappalardo, *Alcuni commenti al caldo sul nuovo “patent box”*, “Diritto e pratica tributaria” (2015), 4, I, p. 570; A. Vicini Ronchetti, *Regole europee ed incentivi fiscali allo sviluppo dei brevetti: prime considerazioni sulla Patent Box*, in “Rassegna tributaria” (2016), 3, p. 671.

<sup>11</sup> Comp. G. Sepio, F.M. Silvetti, *Rafforzato il credito d'imposta per attività di ricerca e sviluppo*, “Il fisco” (2017), 6, p. 513.

<sup>12</sup> Comp. G. Albano, *Proroga del superammortamento e introduzione dell'iperammortamento per l'Industria 4.0*, “Corriere tributario” (2016), 45, p. 3456; F. Gavioli, *Superammortamento per i beni strumentali nuovi*, “Finanziamenti su misura – News” (2019), 8–9, p. 24.

<sup>13</sup> Comp. P. Piantavigna, *Start-up innovative e nuove fonti di finanziamento*, “Rivista di diritto finanziario e scienza delle finanze” (2014), 2, I, p. 264; M. Cian, *Società start-up innovative e PMI innovative*, “Giurisprudenza commerciale” (2015), 6, I, p. 969; A. Turi, *Fiscalità agevolata per le start up innovative*, [in:] A.F. Uricchio, M. Aulenta, G. Selicato (a cura di), *La dimensione promozionale del fisco*, Cacucci, Bari 2015, p. 245; A. Turi, *Intelligenza Artificiale e fiscalità promozionale*, [in:] A.F. Uricchio, G. Riccio, U. Ruffolo (a cura di), *Intelligenza Artificiale tra etica e diritti. Prime riflessioni a seguito del libro bianco dell'Unione europea*, Cacucci, Bari 2020, p. 233.

research, development and innovation, to make the economic system more competitive and implement interconnected production bodies in a supranational context in which technological competition is increasingly fierce<sup>14</sup>.

These favourable tax measures – characterised by their temporary nature, as they can only be enjoyed until the innovation process is complete – denote the propensity of the Italian legal system to favour models that encourage the technological modernisation of production processes through the use of automated procedures and robots.

## **Artificial intelligence and robotics as tools for generating wealth. The proposal for a robot tax: merits and demerits**

In the current socio-economic context, artificial intelligence and robotics, rather than being tools, have all the potential to become situations that can generate manifestations of wealth that can be traced back to traditional categories (income, consumption, cost savings), as well as to completely new cases (for example, the value of facilities deriving from the socialisation of robotics)<sup>15</sup>.

In the face of these changes, legal science, also in the tax field, has too often remained inert, anchored to outdated schemes and not always able to grasp the limits and opportunities of the phenomenon<sup>16</sup>, even in the awareness of the need to create a “robotics law”, intended as a “poster” of legal mediation in the artificial intelligence sector<sup>17</sup>.

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<sup>14</sup> Comp. S. Dorigo, *La tassa sui robot tra mito (tanto) e realtà (poca)*, “Corriere tributario” (2018), 30, p. 2369; A. Uricchio, *Robot tax: modelli di prelievo e prospettive di riforma...*, p. 1749, nt. 4; R. Cordeiro Guerra, *L'intelligenza artificiale nel prisma del diritto tributario...*, p. 88–89.

<sup>15</sup> Comp. A. Uricchio, *La fiscalità dell'intelligenza artificiale tra nuovi tributi e ulteriori incentivi...*, p. 491.

<sup>16</sup> Comp. A. Uricchio, *Robot tax: modelli di prelievo e prospettive di riforma...*, p. 1749.

<sup>17</sup> Comp. U. Ruffolo, *Per i fondamenti di un diritto della robotica self-learning: dalla machinery produttiva all'auto driverless: verso una “responsabilità da algoritmo”?*, [in:] U. Ruffolo (a cura di), *Intelligenza artificiale e responsabilità*, Giuffrè, Milano 2017, p. 1.

In rethinking the models of *lex robotica*, the fiscal discipline<sup>18</sup>, in spite of the resistance generated by mistrust and “conservative” attitudes, marked by traditional taxation models based on income and consumption, not very sensitive to the solicitations of technological innovations, plays a fundamental role in the promotion of work and in the diffusion of new forms of economic, productive and social organisation<sup>19</sup>.

It is a well-known fact that whenever there is a new phenomenon, even if only embryonic, which can be abstractly configured as a centre of imputation of rights and obligations, tax law is one of the most diligent sectors of legal knowledge in sounding out its potentialities, in order to verify its fiscal repercussions, namely, the possibility of considering this entity as a taxable entity to which impose obligations instrumental to the levy<sup>20</sup>.

This is the context in which Bill Gates proposed on 17 February 2017, in an interview with Quartz Magazine<sup>21</sup>, that robotics should be subject to taxation in order to slow down automation and technological modernisation processes, allowing for a moderate transition towards new production models, by means of taxation instruments capable of ending the tax moratorium from which artificial intelligence initially benefited<sup>22</sup> and of compensating for the lower revenue resulting from the automation of work, as has happened in the past for other innovations applied to production processes<sup>23</sup>.

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<sup>18</sup> Comp. M. Amparo Grau Ruiz, *La adaptación de la fiscalidad ante los retos jurídicos, económicos, éticos y sociales planteados por la robótica*, “Nueva fiscalidad” (2017), 4, p. 35; Y.S. Urán Azana, M. Amparo Grau Ruiz, *El impacto de la robótica, en especial la robótica inclusiva, en el trabajo: aspectos jurídico-laborales y fiscales*, “Revista Aranzadi de derecho y nuevas tecnologías” (2019), 50.

<sup>19</sup> Comp. A. Uricchio, *Robot tax: modelli di prelievo e prospettive di riforma...*, p. 1749–1750; A. Uricchio, *La fiscalità dell'intelligenza artificiale tra nuovi tributi e ulteriori incentivi...*, p. 492.

<sup>20</sup> Comp. R. Cordeiro Guerra, *L'intelligenza artificiale nel prisma del diritto tributario...*, p. 87.

<sup>21</sup> Comp. K.J. Delaney, *The robot that takes your job should pay taxes, says Bill Gates*, in <https://qz.com/911968/bill-gates-the-robot-that-takes-your-job-should-pay-taxes/>. For a first comment, comp. G. Fransoni, *Per la chiarezza delle idee su Bill Gates e la tassazione dei robot*, “Rivista di diritto tributario – Supplemento online” (10 March 2017), p. 1.

<sup>22</sup> Comp. A. Uricchio, *La fiscalità dell'intelligenza artificiale tra nuovi tributi e ulteriori incentivi...*, p. 494–495.

<sup>23</sup> Comp. J.M. Keynes, *Economic Possibilities for our Grandchildren*, in *Essays in Persuasion*, Harcourt Brace, New York 1932, p. 358; W. Hays Weissman, *Why Robot Taxes Won't Work*, in

Although the proposal put forward by one of the major players in Silicon Valley (an industrial area in which the prospect of automation and the gradual replacement of artificial intelligence with human intelligence has reached rather high levels)<sup>24</sup> is based on the shared assumption that the performance by intelligent machines of activities previously carried out only by human beings, in an equitable and social perspective, entails the urgent need for a legislative intervention to tax the relevant income, there is no shortage of critical issues, of activities formerly carried out only by human beings, from a social and equitable point of view, entails the urgent need for a legislative intervention to subject their income to taxation<sup>25</sup>, there is no shortage of critical technical and legal issues, due to the difficulties in recognising, at present, some form of tax subjectivity of such entities.

In fact, several solutions have been envisaged to prevent, on a social level, the dyscrasias of automation: on the one hand, the introduction of a real robot tax, aimed at taxing intelligent machines capable of self-determination and of producing wealth; on the other hand, the adoption of forms of taxation on the greater profits generated by the use of robotic procedures, through a rethinking of the tax treatment to be applied to economic operators who use forms of automation capable of replacing human labour<sup>26</sup>.

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*State Tax Notes*, 9 aprile 2018, p. 125; F. Roccatagliata, *Implicazioni fiscali legate allo sviluppo della tecnologia e alla gestione dei flussi di dati generati in via automatica*, “Rivista della Guardia di Finanza” (2019), 5, p. 1287, who recalls «that, as early as 1589, Elizabeth I refused to grant William Lee the patent for the exclusive production in her kingdom of the loom, which he had invented shortly before», arguing that it «would certainly ruin weavers, depriving them of work and making them beggars». On the subject, comp. L. Summers, *Robots Are Wealth Creators and Taxing Them Is Illogical*, “Financial Times” (5 March 2017); S. Dorigo, *La tassa sui robot tra mito (tanto) e realtà (poca)...*, p. 2364; A. Uricchio, *Robot tax: modelli di prelievo e prospettive di riforma....*, p. 1750.

<sup>24</sup> Comp. R. Cordeiro Guerra, *L'intelligenza artificiale nel prisma del diritto tributario ...*, p. 90.

<sup>25</sup> Comp. R. Abbott, B. Bogenschneider, *Should Robot Pay Taxes? Tax Policy in the Age of Automation*, “Harvard Law and Policy Review” (2017), p. 145. S. Dorigo, *La tassa sui robot tra mito (tanto) e realtà (poca)...*, p. 2365.

<sup>26</sup> Comp. S. Dorigo, *La tassa sui robot tra mito (tanto) e realtà (poca)...*, p. 2364; R. Cordeiro Guerra, *L'intelligenza artificiale nel prisma del diritto tributario...*, p. 87.

In the opposite direction to the policies pursued with the “Industry 4.0” programme<sup>27</sup>, the tax lever, while slowing down the process of technological evolution in the immediate future, allows those who have lost their jobs to acquire more adequate training to improve their ability to perform new tasks (the so-called employability rate)<sup>28</sup>, ensuring in the long term the strengthening of the legal and economic foundations of the entire system in order to reconcile social and equalisation goals with progress and technological innovation<sup>29</sup>.

## **Foreign experiences between *de iure condito* legislation and *de iure condendo* perspectives**

Bill Gates’ design was indirectly implemented on 6 August 2017 by South Korea<sup>30</sup>, which, without introducing a form of taxation on robotics, revised its tax policy on investments in technological innovation, previously favoured with a series of incentives that were then reduced by excluding from certain preferential treatment economic operators who invest in automated procedures that may reduce the use of human labour, in order to discriminate in a qualitative sense against this form of innovation and affect future employment<sup>31</sup>.

The idea was taken up in September 2019 by Bill de Blasio, the mayor of New York, who proposed<sup>32</sup>, on the one hand, the creation of a federal supervisory agency to grant permits to companies wishing to increase

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<sup>27</sup> On the issue, comp. F. Gallio, B. Rizzi, *Industria 4.0 e agevolazioni fiscali: le opportunità da cogliere*, “Corriere tributario” (2017), 43, p. 3393; A. Uricchio, *La fiscalità dell’innovazione nel modello industria 4.0*, “Rassegna tributaria” (2017), 4, p. 1041.

<sup>28</sup> Comp. R. Cordeiro Guerra, *L'intelligenza artificiale nel prisma del diritto tributario*..., p. 90.

<sup>29</sup> Comp. S. Dorigo, *La tassa sui robot tra mito (tanto) e realtà (poca)*..., p. 2365.

<sup>30</sup> Comp. H. Lee, J.J. Choi, S.S. Kwak, *Can Human Jobs be Taken by Robots? The Appropriate Match Between Robot Types and Task Types*, “Archives of design research” (2015), 3, p. 49.

<sup>31</sup> Comp. S. Dorigo, *La tassa sui robot tra mito (tanto) e realtà (poca)*..., p. 2365; A. Uricchio, *Robot tax: modelli di prelievo e prospettive di riforma*..., p. 1760; R. Cordeiro Guerra, *L'intelligenza artificiale nel prisma del diritto tributario*..., p. 90–91; A. Uricchio, *La fiscalità dell'intelligenza artificiale tra nuovi tributi e ulteriori incentivi*..., p. 519–520.

<sup>32</sup> Comp. G. Giacobini, *Il sindaco di New York vuole introdurre una nuova tassa sui robot*, in <https://www.google.it/amp/s/www.wired.it/amp/256181/attualita/tech/2019/09/10/sindaco-new-york-de-blasio-tassa-robot/>. [Accessed: 25.05.2021].

their use of robotics, making such permits conditional on the payment of a substantial severance package or the re-employment of human workers replaced by automation; on the other hand, the provision of a robot tax, to be paid by economic operators who use robotic systems to replace human labour, of an entity equal to a certain amount (five years of taxes to be paid on the income received by the replaced workers)<sup>33</sup>.

Given the irreversible nature of the automation process and the inevitable benefits it brings, there have been those who have considered inappropriate to adopt tax measures to create a brake on progress to the detriment of general well-being<sup>34</sup>.

Although opposed to the introduction of a robot tax, the thesis supports the idea of a public intervention to protect the weakest categories, with the provision of a “national dividend”, consisting in imposing on every technological company the obligation to confer a part of its shareholdings to a public trust, so that every associate becomes (*de facto*) a shareholder, with the possibility of living in prosperity even if all human workers were replaced by intelligent machines<sup>35</sup>.

This solution was endorsed by the EU institutions in the resolution “Civil law rules on robotics”<sup>36</sup>, adopted by the European Parliament on 16 February 2017<sup>37</sup>, in which, in the absence of shared choices by the Member States, far

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<sup>33</sup> Comp. R. Cordeiro Guerra, *L'intelligenza artificiale nel prisma del diritto tributario* ..., p. 91.

<sup>34</sup> On the subject, comp. Y. Varoufakis, *A Tax on Robots?*, in <https://www.project-syndicate.org/commentary/bill-gates-tax-on-robots-by-yanis-varoufakis-2017-02?barrier=accesspaylog>; Y. Varoufakis, *Taxing robots won't work, says Yanis Varoufakis*, in <https://www.weforum.org/agenda/2017/03/taxing-robots-wont-work-says-yanis-varoufakis>; Ilo, *The Impact of Technology on the Quality and Quantity of Jobs*, in *Issue Brief*, 6, marzo 2018. On this point, comp. S. Dorigo, *La tassa sui robot tra mito (tanto) e realtà (poca)*..., p. 2365 [Accessed: 25.05.2021].

<sup>35</sup> Comp. S. Dorigo, *La tassa sui robot tra mito (tanto) e realtà (poca)*..., p. 2365, nt. 7.

<sup>36</sup> Available in *Gazzetta ufficiale dell'Unione europea*, 18.07.2018, C252/239.

<sup>37</sup> In the topic, comp. A. Zornoza, M. Laukyte, *Robotica e diritto: riflessioni critiche sull'ultima iniziativa di regolamentazione in Europa, "Contratto e impresa/Europa"* (2016), 2, p. 808. M. Chiarelli, *La sfida della regolazione europea dell'intelligenza artificiale, "Diritto&Diritti-Diritto.it"* (2017), p. 1; F. Parente, *Dalla persona biogiuridica alla persona neuronale e cybernetica. La tutela post-moderna del corpo e della mente*, Esi, Napoli 2018, p. 72; A. Amidei, *La governance dell'Intelligenza Artificiale: profili e prospettive di diritto dell'Unione Europea*, [in:] U. Ruffolo (a cura di), *Intelligenza artificiale. Il diritto, i diritti, l'etica*, Giuffrè, Milano 2020, p. 571. F. Rodi, *Gli interventi dell'Unione europea in materia di intelligenza artificiale e robotica: problemi e prospettive*, [in:] G. Alpa (a cura di), *Diritto e intelligenza artificiale*, Pacini Giuridica, Pisa 2020, p. 187.

from subjecting robots to special forms of levy, a commitment was made to monitor the different scenarios and the possible consequences in terms of sustainability of the social security systems of individual Member States<sup>38</sup>.

One thing is clear: the emergence of robots, big data and enabling technologies capable of carrying out multiple activities in the phenomenal reality makes the need to adopt a resilient attitude in order to create a new tax system more topical than ever.

The new taxation models<sup>39</sup> – both for direct taxation (robot income tax and wealth taxes) and for commutative benefits (possession tax) – should enhance the productive capacity of artificial intelligence, by comparing it with human labour, and measure its intrinsic value or cost savings, in order to ensure, with the relevant revenues, greater services to the community, providing the necessary resources to reintegrate into the labour market those who have been expelled from the system, through measures capable of minimising the social impact of the phenomenon<sup>40</sup>.

## Measures envisaged in the European Union legal order

From this perspective, reiterated by the European Economic and Social Committee in its opinion delivered on 31 May 2017 (2017/C 288/01)<sup>41</sup>, the implications raised by the advent of artificial intelligence and robotics in

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<sup>38</sup> Comp. S. Dorigo, *La tassa sui robot tra mito (tanto) e realtà (poca)...*, p. 2366; R. Cordeiro Guerra, *L'intelligenza artificiale nel prisma del diritto tributario...*, p. 91.

<sup>39</sup> Comp. J. Guerreiro, S. Rebelo, P. Teles, *Should Robots be Taxed?*, [in:] NBER Working Paper, 23806, 2017; X. Oberson, *Taxing Robots? From the Emergence of an Electronic Ability to Pay to a Tax on Robots or the Use of Robots*, "World Tax Journal" (May 2017), p. 247; G. Bottone, *A Tax on Robots? Some food for thought*, Dipartimento delle Finanze, Working Paper, 3, September 2018; T. Marwala, *On Robot Revolution and Taxation*, Cornell University Library, 7 August 2018, in <https://arxiv.org/abs/1808.01666v1>; O. Mazur, *Taxing the Robots*, "Pepperdine Law Review" (2019), 46, p. 277; Y. Varoufakis, *A Tax on Robots?*, "Innovation & Technology" (4 May 2019); V. Mastroiacovo, *Uguaglianza sostenibile e sostegno all'innovazione: quale tassazione dei sistemi di intelligenza artificiale?*, [in:] V.V. Cuocci, F.P. Lops, C. Motti (a cura di), *La circolazione della ricchezza nell'era digitale*, Pacini Giuridica, Pisa 2021, p. 63.

<sup>40</sup> Comp. S. Dorigo, *La tassa sui robot tra mito (tanto) e realtà (poca)...*, p. 2364; A. Uricchio, *Robot tax: modelli di prelievo e prospettive di riforma...*, p. 1750; A. Uricchio, *La fiscalità dell'intelligenza artificiale tra nuovi tributi e ulteriori incentivi...*, p. 495.

<sup>41</sup> Available in *Gazzetta ufficiale dell'Unione europea*, 31 agosto 2017, C 288, p. 1.

production processes are manifold and require the preparation of *ad hoc* regulatory models to prevent a major achievement of progress from turning into a framework full of criticalities and application problems<sup>42</sup>.

Robotics applied to industrial and commercial processes, by considerably increasing the productivity, competitiveness and profits of economic operators, generates new forms of wealth, sacrificing in the short/medium term a great deal of labour (especially unskilled), which is replaced by intelligent machines, with prejudice in terms of revenue – due to the reduction in income from employment – and of public expenditure needed to finance social safety nets, namely those forms of support for advanced societies largely subsidised by social security contributions<sup>43</sup>.

In other words, one sector that is inevitably affected by these dynamics is the labour market<sup>44</sup>, with obvious repercussions on the fiscal level: technological development and intelligent automation have challenged traditional models of labour force employment, generating situations of “technological unemployment”<sup>45</sup>, as robots perform functions that are not necessarily linked to the labour market. Technological development and intelligent automation have undermined traditional models of labour

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<sup>42</sup> Comp. A. Uricchio, *Robot tax: modelli di prelievo e prospettive di riforma...*, p. 1752; A. Uricchio, *La fiscalità dell'intelligenza artificiale tra nuovi tributi e ulteriori incentivi...*, p. 499–500.

<sup>43</sup> Comp. F. Roccagliata, *Implicazioni fiscali legate allo sviluppo della tecnologia e alla gestione dei flussi di dati generati in via automatica...*, p. 1282–1283; A. Uricchio, *La fiscalità dell'intelligenza artificiale tra nuovi tributi e ulteriori incentivi...*, p. 503; R. Cordeiro Guerra, *L'intelligenza artificiale nel prisma del diritto tributario...*, p. 90.

<sup>44</sup> Comp. J. Kaplan, *Le persone non servono. Lavoro e ricchezza nell'epoca dell'intelligenza artificiale*, LUISS University Press, Roma 2016; A. Agrawal, J. Gans, A. Goldfarb, *Macchine predittive. Come l'intelligenza artificiale cambierà lavoro e imprese*, Franco Angeli, Milano 2019; L.J. Cevasco, J.G. Corvalán, E.M. Le Fevre Cervini, *Intelligenza artificiale e lavoro. Costruire un nuovo paradigma occupazionale*, Edizioni di Comunità, Roma 2019; P.R. Daugherty, H.J. Wilson, *Human + machine. Ripensare il lavoro nell'età dell'intelligenza artificiale*, Guerini Next, Milano 2019; N. Comelli, C. De Mitri, *Tecnologia e Risorse Umane. La grande sfida delle aziende per non perdere di vista la persona nell'era degli algoritmi e dell'intelligenza artificiale*, Dario Flaccovio, Palermo 2020; S. Mainardi, *Intelligenze artificiali e diritto del lavoro*, [in:] U. Ruffolo (a cura di), *Intelligenza artificiale. Il diritto, i diritti, l'etica*, Giuffrè, Milano 2020, p. 363.

<sup>45</sup> Comp. D.H. Autor, *Why Are There Still So Many Jobs? The History and Future of Workplace Automation*, “*Journal of Economic Perspectives*” 2015, 3, p. 3.

force employment, leading to situations of “technological unemployment”, as robots replace human workers, performing tasks that in the past were the exclusive preserve of the individual and this has a major impact on the sustainability of the tax system, which is almost entirely financed by revenue from employees<sup>46</sup>.

The Legal Affairs Committee of the European Parliament, in an interim report entitled “Draft Report with Recommendations to the Commission on Civil law Rules on Robotics”, adopted on 31 May 2016 [2015/2103 (INL)]<sup>47</sup>, also focused attention on the negative effects that the development of artificial intelligence and robotics may have on employment levels within Member States, urging Member States to consider finding new tax resources by taxing at a higher rate economic operators whose income is positively influenced by the use of automated procedures and advanced technologies<sup>48</sup>.

The final version of the report, adopted on 27 January 2017<sup>49</sup>, highlighted the risks, in terms of employment, linked to maintaining an unchanged tax base, even in the presence of significant automation of industrial processes, advocating the introduction of a robot tax to tax the work carried out by robots or the mere use of robots or their simple dissemination, to ensure social cohesion and well-being by using the revenue to support and retrain those who have lost their jobs, encouraging their relocation to roles – such as caring for the weak persons (children, the elderly or young people with specific needs) – in which the contribution of human beings is essential and difficult to replace by robots<sup>50</sup>.

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<sup>46</sup> Comp. A. Uricchio, *Robot tax: modelli di prelievo e prospettive di riforma...*, p. 1752–1753; A. Uricchio, *La fiscalità dell'intelligenza artificiale tra nuovi tributi e ulteriori incentivi...*, p. 501.

<sup>47</sup> Available in [https://www.europarl.europa.eu/doceo/document/JURI-PR-582443\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/JURI-PR-582443_EN.pdf).

<sup>48</sup> Comp. S. Dorigo, *La tassa sui robot tra mito (tanto) e realtà (poca)...*, p. 2366; R. Cordeiro Guerra, *L'intelligenza artificiale nel prisma del diritto tributario...*, p. 91.

<sup>49</sup> Available in [https://www.europarl.europa.eu/doceo/document/A-8-2017-0005\\_EN.html](https://www.europarl.europa.eu/doceo/document/A-8-2017-0005_EN.html).

<sup>50</sup> Comp. S. Dorigo, *La tassa sui robot tra mito (tanto) e realtà (poca)...*, p. 2366; R. Cordeiro Guerra, *L'intelligenza artificiale nel prisma del diritto tributario...*, p. 90–91; F. Gallo, *Il futuro non è un vicolo cieco. Lo stato tra globalizzazione, decentramento ed economia digitale*, Sellerio, Palermo 2019, p. 32, nt. 29.

## Conclusions

In conclusion, the use of machines guided by algorithmic data and IT tools capable of increasing cognitive capacities through experience and processing information received from users contributes to the “creation of value” in the different areas of operation of the business or user entity, in accordance with the provisions of the proposal for a directive of 21 March 2018 COM (148 – final)<sup>51</sup>, on the digital service tax (DST)<sup>52</sup>.

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<sup>51</sup> Available in <https://ec.europa.eu/transparency/regdoc/rep/1/2018/IT/COM-2018-148-F1-IT-MAIN-PART-1.PDF>. On the topic, comp. T. Di Tanno, *La web tax europea: una misura innovativa ed emergenziale*, “*Corriere tributario*” (2018), 20, p. 1531. M. Nieminem, *The Scope of the Commission’s Digital Tax Proposals*, “*Bulletin for International Taxation*” (2018), p. 664; A. Tomassini, A. Sandalo, *L’iniziativa della Commissione UE sulla tassazione dell’economia digitale*, “*Corriere tributario*” (2018), 18, p. 1395; A. Uricchio, W. Spinapolic, *La corsa ad ostacoli della web taxation...*, p. 459. F. Van Horzen, A. Van Esdonk, *Proposed 3% Digital Services Tax*, “*International Transfer Pricing Journal*” (2018), p. 267; A. Carinci, *La fiscalità dell’economia digitale: dalla web tax alla (auspicabile) presa d’atto di nuovi valori da tassare*, “*Il fisco*” (2019), 47–48, p. 4508–4509; M. Greggi, *La tassazione dell’economia digitale nel contesto europeo: la proposta di direttiva sulla Digital Services Tax*, [in:] A. Persiani (a cura di), *La tassazione dell’economia digitale tra sviluppi recenti e prospettive future*, Nuova Editrice Universitaria, Roma 2019, p. 99; S.A. Parente, *Digital Economy e fiscalità del mondo virtuale: dal commercio elettronico alla Web Taxation*, [in:] *Annali del Dipartimento Jonico*, DJSGE, Taranto 2019, p. 368. A. Perrone, *Tax competition e giustizia sociale nell’unione europea*, Wolters Kluwer, Cedam, Milanofiori Assago (MI) 2019, p. 279. J.F. Pinto Nogueira, *The Compatibility of EU Digital Services Tax with EU and WTO Law: Requiem Aeternam Donate Nascenti Tributo*, “*International Tax Studies*” Journals IBFD (2019); C. Sciancalepore, *Appunti sulla tassazione dell’economia digitale come nuova risorsa propria europea*, “*Rivista di diritto tributario*” (2019), 6, I, p. 686; C. Sciancalepore, *Web tax e risorse proprie europee. Un connubio perfetto?*, “*Rivista di diritto tributario – Supplemento online*” (11 October 2019); G. Corasaniti, *La tassazione della digital economy: evoluzione del dibattito internazionale e prospettive nazionali*, “*Diritto e pratica tributaria internazionale*” (2020), 4, p. 1397; E. Della Valle, *L’imposta sui servizi digitali: tanto tuonò che piovve*, “*Il fisco*” (2020), 5, p. 407; M. Logozzo, *Tassazione della digital economy: l’imposta sui servizi digitali (ISD)*, “*Rivista trimestrale di diritto tributario*” (2020), 4, p. 805; R. Succio, *Digital economy, digital enterprise e imposizione tributaria: alcune considerazioni sistematiche*, “*Diritto e pratica tributaria*” (2020), 6, p. 2363. A.F. Uricchio, *Manuale di diritto tributario...*, p. 377–378.; G. Fransoni, *Note sul presupposto dell’imposta sui servizi digitali*, “*Rassegna tributaria*” (2021), 1, p. 13. A.F. Uricchio, S.A. Parente, *Data driven e digital taxation: prime sperimentazioni e nuovi modelli di prelievo*, “*Diritto e pratica tributaria internazionale*” (2021), 2, p. 606.

<sup>52</sup> Comp. A. Uricchio, *Robot tax: modelli di prelievo e prospettive di riforma...*, p. 1757; A. Uricchio, *La fiscalità dell’intelligenza artificiale tra nuovi tributi e ulteriori incentivi...*, p. 510 e 512; F. Roccatagliata, *Implicazioni fiscali legate allo sviluppo della tecnologia e alla gestione dei flussi di dati generati in via automatica...*, p. 1288–1289.

It is precisely the different way in which value is created, based on the self-learning of intelligent machines and on the correct use of data acquired and ordered by electronic devices, that makes it possible to attribute relevance to new indicators of wealth to be subject to taxation, without being considered extraneous any redistributive purposes attributable to the use of public spending or to the level of automation in relation to the socio-economic condition of the user.

In this perspective, the provision of tax measures aimed at affecting the forms of wealth created or manifested through the use of new technologies appears essential to foster the overall rethinking of the taxation models to be applied to the new economy<sup>53</sup>.

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<sup>53</sup> Comp. A. Uricchio, *Robot tax: modelli di prelievo e prospettive di riforma...*, p. 1753-1757; A. Uricchio, *La fiscalità dell'intelligenza artificiale tra nuovi tributi e ulteriori incentivi...*, p. 501-512.

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