



## Cooperatives' Tax Regimes, Political Orientation of Governments and Rent Seeking

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### Abstract

The paper focuses on the strict relation between the continuous changes of the diversified tax regimes of the various types of cooperatives and the political composition of the governments succeeding each other in Italy from the after war period to the present. It emerged that the different types of cooperatives prevailing in the leftwing League of Cooperatives or in the Confederation of Italian Cooperatives (CCI) of catholic orientation or in both organization had a different possibility of exerting successful rent seeking with the various Governments with different political orientation. Consumption cooperatives operating in the mass retail which obtained generous tax treatments by Governments leaning to the left, lost most of them by centre right Governments. The cooperatives of agriculture and food processing, those of small fishing and those of production and labor, important both in the League and in CCI, were able to obtain from different Governments special privileges in the postwar period and kept most of them also under the centre right Governments of the last period. Social cooperatives object of a special legislation in 1992 under a Government of Giulio Andreotti, a leader close to the catholic organizations, kept their preferential tax regime with all the subsequent governments. They are important both in CCI and in the League and have a peculiar electoral power because of their capillary activities.

**Keywords:** Strict relation, Tax regimes, Political composition of the governments, Organization, CCI

### Introduction

The purpose of this paper is to show that the continuous changes of the differentiated fiscal treatment of the different types of cooperative appears in strict relation with the changes in the political composition of the governments that took place in Italy from Republican Constitution until now. The sector of the cooperative's firms that did grow continuously in terms of turnover and employment, it is composed of different types of cooperative with different linkages and support in the different political movements via the left wing National League of Cooperatives and the catholic Confederation of Italian Cooperatives (CCI). And, given the close connection of the League of the cooperatives and of CCI to the political movements which were ruling the country, when preferential fiscal and financial treatment were conceded to the various types of cooperatives, one may argue that the economic and social importance of the cooperatives sector is, at least partly, due to successful rent seeking. As matter of fact the centre right governments that in the last period reduced or cancelled a large part of the benefits of the types of cooperatives mostly important in the League, did not do so for the other cooperatives with an important electorate in the catholic world. They claim that were responding to requests of correction of the distortions of market competition made by the European community. But are we sure that some of the important fiscal benefits that do remain for the cooperatives influential in CCI do not distort market competition? And why the above mentioned corrections have not been done by the government leaning to the left, that ruled from 1996 to 2001 and realized the entrance of Italy in the European Monetary Union in 1997? Or by the Prodi government with a similar composition, that ruled from 2005 to 2006?

However in this paper we shall not discuss whether the fiscal policies favoring the cooperatives have damaged or promoted collective welfare, valued from the point of view of the principles of a competitive market economy system non indifferent to the correction of social and economic disequilibria. This complex issue is beyond the scope of this paper. But one should concede that, even with a broad spectrum of public policy objectives, in a market oriented public economy, some preferential tax and financial treatments of cooperatives may be "unfair rents" ( Note 1)

The paper is divided in three parts. In the first, of general character, we outline the basic principles of the Italian Constitution for the cooperatives and of the following basic law which originated and regulated the different types of cooperatives, allowing the existence of several different tax regimes. We shall also give a synthetic picture of the present economic importance of the main types of cooperatives in terms of revenue, employment and number of members, considering separately those adhering to the League and to CCI. This review it is interesting in order to throw light on the different opportunities that these various types of cooperatives adhering to the two national organizations may have had of exerting rent seeking activities, in connection with different types of governments.

The second part of the paper considers the evolution of the favourable fiscal treatment of the profits and incomes of the cooperatives and of the preferential regime of some types of them ,as for the contracts with the public administrations. It emerges that substantial benefits to the cooperatives were given in 1947 immediately after the enactment of the

Constitution, favouring both the cooperatives adhering to the League and to CCI. The (big) cooperatives of the League with important political-electoral influence on the leftwing parties obtained increased benefits in the '70 under coalition governments supported by the left. The differentiated favourable treatments for the cooperatives of agriculture and food processing, of small fishing, and of production and labour, particularly important in the CCI and also relevant (even if somewhat less) in the League, resisted to all the changes of governments. The social cooperatives that are now an huge sector, obtained a particular regime, with special preferential treatments, at the beginning the '90 of the last century, when the Democratic Christian Party (DC) had a particular power. Subsequently, under the centre right governments, there was a drastic reduction of the favourable treatments of the big cooperatives of mass retail and of the dynamic production and services cooperatives that flourished in the League. The other types of cooperatives were able to preserve most of their fiscal benefits.

The third part of the paper is devoted to the peculiar fiscal and financial treatment of the societal loans to the cooperatives by their members, an important traditional source of finance at the origin of the growth of the cooperative movement (Note 2).

After having shown the causes of their great importance for the financing of the Italian cooperatives of any type and dimension from the after war period with particular regard to the big consumption cooperatives of mass retail, we consider the evolution of their tax and financial discipline in connection with the changes of governments. And here emerges that the laws and regulations favourable to them have continued, with some moderations in 1985 under the first centre left Craxi government and in 1995 under the first (short living) Berlusconi government. In 2008 under the third Berlusconi governments these benefits have been substantially downsized. Conclusions follow.

## Section I

### Basic Laws on Cooperatives. Their Typologies, Economic Importance and Political Influences

1. The cooperative movement in Italy grew in the last decades of the nineteenth century and at the beginning of the twenty century, from two kinds of the political –ideological points of view: that of the left wing parties, i.e. the socialist, the republican and the leftwing liberals and that of the catholic movement. Until the end of the first world war both of them were organized in the National League of Cooperatives. The League was founded at the end of the nineteenth century with socialist, liberal or republican orientation. The catholic cooperatives originated in the same period, decided to enter in the League in the first decade of the twenty century. They left it in 1919, under the determinant influence of Luigi Sturzo leader of the Popular Party (the catholic party ) who formed the Confederation of Italian Cooperatives (CCI), This organization in its charter proclaimed adherence to the social doctrine of the Church, outlined in the “Enciclica” *Rerum Novarum* of Leon XIII. Merged in the fascist cooperative movement, the two organization, “red” and “white”, remerged after the second world war. The League after an initial president of the Italian Socialist Party,( PSI ) was soon afterwards controlled by the Italian Communist Party ( PCI) which appointed its president and the main executives. But the presence of affiliates to or sympathizers of PSI and of the Republican Party (PRI ) did remain important. The white cooperatives movement, of CCI, reconstituted after the second world war, became closely connected with the Democratic Christian Party (DC) heir of the Popular Party.

At the origin of the favourable legislation for the cooperatives, in Italy, in the second post war period, thus, there is the consensus of PCI and DC, to whom the League and CCI were respectively collateral, on a Constitutional preferential treatment of the cooperatives to promote their growth. Article 45 of the new Italian Constitution, affirms that “ The Republic recognizes the social function of the cooperation with characters of mutuality and without ends of private speculation. The law promotes and favours its growth with the most appropriate means and assures by opportune controls its character and end “.

To make possible the preferential fiscal regime for the cooperation with characters of mutuality, affirmed in the Constitution and to assure the conformity to these characters of the cooperatives asking for it, a specific “Basevi Law “on cooperatives was enacted in 1947. Not only it determined –albeit with looseness –the basic requisites of mutuality to which the preferential tax regime should be conditioned. It gave also an official role of vigilance on these requisites of the cooperatives, to “national associations of cooperation recognized by the state”. In this way any cooperative to get the benefits granted to those endowed of requisites of mutuality, was obliged to enrol either in the League or in CCI. The two new born movements thus were able to become well structured organizations with numerous affiliates in the entire country and an assured important political influence.

For the Basevi Law the basic requisites of mutuality of the cooperatives benefiting of preferential fiscal treatment were the following

- 1) no distribution to the co-operators of dividends in excess to the “legal” interest measured on the capital of the cooperative really disbursed;
- 2) no distribution of reserves to the co-operators during the existence of the cooperative;

- 3) in case of dissolution of the company devolution of its entire patrimony, net of the capital disbursed and of the new dividends if any, to purposes of public utility conforming to the spirit of mutualism;
- 4) minimum 9 co-operators;
- 5) as for the consumption cooperatives, at the moment of the request, co-operators must be at least 50;
- 6) cooperatives of production and labour are admitted to the public contracts, if have less than 25 members but at least 9;
- 7) members of labour cooperatives must be workers and exert (only in their cooperative ) the art or work corresponding to the specialization of that type of cooperatives or to similar ones;
- 8) technical and administrative workers in any cooperative are admitted as co-operators only in a number strictly necessary for the good functioning of the company; and, except for the cultivation of land, cannot exceed 12% of the work force;
- 9) members of the cooperatives of cultivation of land must directly exert this activity; technical and administrative workers are allowed to be members in a measure not exceeding 8%;
- 10) the value of the shares cannot be less than 5.000 lire and more than 100.000; and each co-operator cannot have shares for a value higher than 100.000 lire. The upper values are doubled for the cooperatives processing and trading agricultural products ;
- 11) cooperatives may constitute syndicates of cooperatives with the form of cooperative; these can be admitted to the contracts with the public administrations; requisites are : a minimum of 3 members and a capital of one million lire, of which at least half disbursed; the shares of each cooperative member of the syndicate cannot be lower than 50.000 lire nor exceed 1.000.000 lire;
- 12) cooperatives of fishermen-workers may syndicate in cooperatives with at least 3 members with a minimum capital of 500.000 lire; of which at least half disbursed;

As one can see the only really demanding requisite of mutuality of the Basevi law was that of no distribution of the reserves.

Actually the Basevi law allowed the cooperatives of consumption to sell to non members in any amount, without losing the character of mutuality. And all the types of cooperatives could hire as workers, any number of non members as workers without losing this character. In addition the Basevi law, for the cooperatives with character of mutuality, did accept the Civil Code of 1942 rules allowing the cooperative to be either companies without legal personality or companies with legal personality, with the form of joint stock companies or as companies with limited liability. And, therefore, under the Basevi law, cooperatives, could become joint stock companies preserving the character of mutuality. Given this possibility and given the looseness of the requisites of mutuality, the Basevi law opened the way to the growth of groups of joint stock cooperatives which could keep the official requisites of mutuality while becoming big entities with “capitalistic” characters. This growth, to which a generous fiscal exemption of the (undistributed) profits has been instrumental, was also fostered by the relaxation of the limits to the remuneration of the loans to the cooperatives by their members. And the big (groups of) cooperatives acquired particular importance in the “League”.

The Basevi law, in relation with these different rules, relating to the different problems of the various kind of cooperatives, classified them in the following seven types:

- 1) consumption
- 2) construction
- 3) transportation;
- 4) small fishing;
- 5) agriculture;
- 6) production and work;
- 7) mixed.

The classification of the cooperatives in seven (then eight) different types fostered the organization of associations of cooperatives of the various sector adhering either to the League or to CCI and operating as sectoral pressure groups; this fostered a diversified tax treatment of the cooperatives of the different sectors. Their rationale is often difficult to understand unless in terms of different success in rent seeking.

Subsequently (in 1991) the new type of “social” cooperatives has been introduced with another ad hoc fiscal regime. The housing cooperatives were an earlier new entry.

The reform of the civil code of 2005, done under the second Berlusconi Government, introduced a new, less permissive, distinction between cooperatives with prevailing mutuality and cooperatives without prevalence of mutuality, relevant

also as for the fiscal regime. Notice that this was a centre right government. And as shall be shown, the cooperative which lost a substantial part of their tax privileges, were mostly belonging to the League.

Both the cooperatives with prevalence of mutuality and those without that prevalence according to new article 2525 of the Civil Code must conform to the following basic requirements

- 1) The nominal value of each stock or share cannot be less than € 25 nor higher than € 500(Note 3);
- 2) No member shall have a share higher than € 100.000, nor an amount of stocks whose nominal value exceeds this amount;
- 3) The charter of a cooperative with more than 500 members may allow an increase of this limit up to 2% of the social capital.
- 4) The stocks exceeding this limit shall be redeemed or sold by the administrators in the interest of the member concerned; the rights must be devolved to the indivisible reserve.

The cooperatives with prevalence of mutuality (art.2512 of civil code) are characterised by the existence of a mutual exchange between the cooperative and its members.

The cooperatives have prevalence of mutuality if :

- 1) perform their activity mainly for their members, consumers or users of their goods and services.
- 2) their revenues from the sale of goods and supply of services to their members exceeds 50% of their aggregate revenues.
- 3) the cost of the labour of the members of the cooperatives exceeds the 50 % of the total labour cost.
- 4) do not distribute dividends in a percentage on the capital really disbursed exceeding the maximum interest rate on the postal bonds increased of 2 points,.
- 5) the loans of the member of the cooperatives to their company have a remuneration not exceeding that of point 4) al.
- 6) while existing do not distribute reserves to their members
- 7) in case of dissolution the entire patrimony of the cooperative (net of social capital disbursed and of new payable dividends ) is assigned to mutuality funds for the promotion and development of cooperation.

When in a given cooperative there are simultaneously several types of mutual exchanges the condition of prevalence must be documented with reference to the weighted average.

As for the agricultural cooperatives the condition of prevalence of mutuality exists when the quantity or the value of the goods conferred to the cooperative by its members is greater than the quantity or value of its own products.

A cooperative loses its prevalence of mutuality if for two consecutive exercises does not fulfill the above prevalence conditions

2. Let us now consider ( TABLE 1 in Appendix ) the importance in terms of revenue, employment and members of the various types of the cooperatives, in the present period, distinguishing them by their affiliation to the two big national organization, the “red” League and the “white” CCI.

To this end, instead of the above seen official classification, we adopt a classification in six main types: consumption, agriculture (inclusive of processing and trade of agricultural products), production and services, small fishing, sport and tourism and social cooperative adding the housing cooperatives and the cooperatives non classifiable in the above types(inclusive of the cooperatives of mixed types)

The housing cooperatives which were not considered by the Basevi law became very important with the urban development. However we do not deal with them here because they belong to another chapter of the influence of the pressure groups on tax policy, that of the ( would be) home owners.

It emerges that the League and CCI are both very important in terms of revenue, employment and affiliates. Both the League and CCI have a revenue of about 50 billion. The cooperatives of the League employ about 400.000 workers, those of CCI 470.000, with a larger revenue Their revenue per worker on average it is slightly smaller. This difference may be explained by the fact that in the League the capitalistic cooperative are more important than in CCI . The co-operators of the League are about 7,7 millions, potentially a gigantic pressure group (Italy has about 60 million inhabitants) with an enormous influence on the leftwing parties, while those of CCI are 2,7 millions a less numerous ensemble, however still big and distributed between the centre right and centre and centre left parties.

Between the two cooperative movements there are other big economic and social differences, which emerge considering the different typologies of cooperatives. The League’s *economic* strongholds are in the “capitalistic” sector of cooperatives of consumption and of production of goods and services. Indeed, in the area of consumption cooperatives, the League has a revenue of about 18 billion consisting of a 11,75 billion revenue in the area of mass retail and of 7,8 billion in the small retail. The 11,75 billion revenue in the mass retail is obtained with 53.800 workers i.e. 218.000 euro

per worker and 6,4 million of coo-operators. Its market position in the retail distribution is reinforced by qualified network of small and medium size shops (with the brand Conad) that together make a 7,8 billion revenue with about 35.000 workers (about 223.000 of revenue per worker). In the sector of the cooperatives of production and work (where the cooperatives of construction predominate) the League makes a revenue of about 9 billion with 35.000 workers and 152.000 members. The important *social-electoral* stronghold of the League it is the provision of services where it employs 150.000 workers with a revenue of 6,5 billion (only 43.000 per worker) and in the area of agriculture and food processing where it gets a revenue of more than 7 billion with 23.700 workers (295.000 per worker). In the area of social services the League makes a revenue of about 2 billion with about 63.000 workers ( about 32.000 per worker) and 60.000 members. A respectable result. But this type of cooperatives, from the social-electoral point of view- it is much more important in CCI. In the small fishing the League has an important presence with a revenue of 840 million of euro and about 50.000 workers. The revenue per worker however it is only 16.700 euro. Perhaps an explanation of this small revenue is the difficulty of the tax administration of assessing this revenue. In tourism and related services the League has a minor presence. But the reason is that in this area as in the area of culture its activity is merged in the broad sector of the cooperatives of services.

The *economic* stronghold of CCI is, by far, in the area of agriculture and food processing and trade, where its activity shows “capitalistic” characters. Actually here it makes half of its 50 billion total revenue, with 66.700 workers ( a revenue of 357.000 per worker) and a similar amount of members. On the other hand its presence in the small fishing sector is less relevant than that of the League both in terms of revenue and of workers, but is much more relevant in terms of revenues per worker, as the revenue of nearly half billion, with 7900 workers (and a number of members less than the double ). The revenue per worker here is 60.000 euro.

In the consumers sector CCI has a revenue of about 9 billion euro with about 9.800 workers, a revenue of 918.000 euro per worker and 283.000 members. Its sub sectors are of two kinds: wholesale purchase which give 83% of the total revenue and small retailers which give 17% or 1,5 billion euro with 950 shops of small size (mostly less than 200 square meters each) (Note 4) doing collective purchases. In the sector of the cooperatives of capital and work and of services it makes a revenue of 9,5 billion with 187.000 workers, i.e about 51.000 euro per worker, with 445.000 members.

CCI has a *social orientation* more pronounced than that of the League and operates mostly with small cooperatives. Actually in the sector of social cooperation it employs 184.000 workers supported by 940 affiliates with a revenue of about 4,7 billion euro, with a revenue per worker of only 25.500 euro. In the area of culture, tourism and sport the CCI is mostly present with services of volunteers to the users because it makes only 662 million of euro with 14.000 “workers” (less than 5.000 euro per worker) and 320.000 affiliates.

The different tax regimes of the revenues of the different types cooperative through time are interwined with the different presence of the League and CCI in these various types.

As we shall show, in the next section (see Table 2 in the Appendix) the favourable tax regimes conquered by the cooperatives from the Basevi law resisted to the political changes of the last sixty years chiefly in the area of the cooperative that the new civil code defines with prevalence of mutuality. And this may appear logical. However these privileges are systematically greater for the cooperatives agriculture, fishing, small distribution, social and cultural services. Furthermore the consumption cooperatives operating by the mass retail of the supermarkets with requisites of mutuality have been the object of specific legislation of the centre right governments cancelling their fiscal privileges. As one could see from the above analysis, CCI is well represented in the cooperatives with prevailing mutuality of agriculture, fishing, small distribution, social and cultural services but not in the mass retail. On the other hand do belong to the League most of the big cooperatives of production and work without prevailing mutuality which have been spoiled of most of their privileges.

There is now a wide difference between the fiscal regimes of the incomes of the eight different types of cooperatives considered in Table 1 which can only be explained by the fact that some types of cooperatives are present in CCI or both in CCI and the League, and therefore retain greater fiscal benefits because of their differential electoral-political influence. Other are mostly present in the League and therefore are not protected by the centre right governments.

## Section 2

### Evolution of the Preferential Fiscal Regimes for the Cooperative’S Incomes

1. The fiscal regimes with which we deal in this section, as already said, underwent continuous changes as for the different types of cooperatives, in relation to the changes of Governments. with different political orientation ( see table 2 in Appendix). Broadly speaking, one may distinguish six periods:

I) In the first period, that of the formation of the Constitutional Chart, in which all the anti fascist parties had a power, a broad consensus emerged between the Demo Christian Party (DC), the Communist Party ( PCI) and the Socialist party (PSI) and the small Republican party (PRI) on a future preferential policy for the cooperatives with characters of mutuality broadly defined. The vague statement of Article 49 of the Constitution, which was the result of that consensus,

corresponded well to the expectations of the numerous cooperatives adhering to the new borne National League of the Cooperatives and of the less numerous (but growing) group of white cooperatives adhering to CCI.

II) In the second period, the centrist one, which lasted for about fifteen years from 1947 to 1963, the cooperatives got an extremely favourable tax treatment. In December 1947, under the centre Government of Alcide De Gasperi, the Basevi law was enacted, which provided total the exemptions from taxation of the profits of the cooperatives with characters of mutuality and of the loans of the co-operators to their cooperatives. To the co-operators--workers was given the exemption from the social security contributions. Their wages were taxed with the normal rates of the real income tax but could be determined discretionally. And there fore by their manipulation it was possible to minimize their tax burden. The remuneration of the members of the cooperatives working in professional activities too were freely determinable for tax purposes and , therefore, could be manipulated to reduce the overall tax burden on the cooperatives and their members

The interests on the loans of the co-operators to their cooperative were exonerated from the real tax on the income of financial capital up to a given amount. The amount exonerated was doubled for the loans to the cooperatives of processing and trading of products of agriculture and for the cooperatives of production and work.

The cooperatives were also exonerated from the tax, introduced in 1953, on the extra profits of the corporations and other collective entities, The largest part of the then existing cooperatives to whom these generous fiscal benefits were conceded were entities of small dimension, organized as companies without distinct personality But there was already a number of not so small cooperatives organized as corporations with own personality. Among them predominated, both in the League and in CCI, the cooperatives engaged in the processing and commerce of agricultural product.

III) The third period, lasting twelve years from 1962 to 1974, was that of the (moderate) centre left governments, succeeding each other. They had always a DC premier, but had with different fiscal policies in relation to the different political affiliation of the Ministers of finance and of Treasury. At the end of the period the fiscal regime of cooperatives became less generous, as a consequence of the general tax reform, prepared in the previous years, to modernize and rationalize the tax system,. The reform was conceived under the influence of the business associations as well as of the pro market tendencies present in PRI and PSDI (Social Democratic Party) who prepared the reform. The new income tax system was based on three pillars: a moderately progressive personal income tax, a profits tax on the incomes of the corporations and other entities with own personality, an additional local tax (ILOR) on all the incomes different from wages. In principle the incomes of the cooperatives where subject to all these three taxes. But as for the cooperatives the rate of the tax on their profits, both for the personal income tax, for the corporation income tax, a well for ILOR was reduced to 75% of the standard rate. And a total exemption from these taxes was given to the profits of the cooperatives of agriculture (in which also those operating for the processing and trade of the agricultural products are included), small fishing, production and labour. The dividends received by the co-operators-workers were exonerated from their income tax up to 10% of the total profits.

The interests received by the co-operators on their loans to the cooperatives were subject to the normal rates applied to the "income of financial capital."

IV) This new tax regime did not resist to the political changes of the '70, caused by the emergence of a new DC-PCI parliamentary alliance, which lead to governments of "national solidarity", headed by DC leaders with ministers of DC and minor parties and PCI supporting the Government by abstaining from voting. With a Pandolfi law of 1977 to the benefit of the taxation of the incomes of the cooperatives at a rate equal to 75% of the normal rate was added the full deduction from the tax basis of the profits devolved to "indivisible reserve" The Pandolfi law also introduced an exemption from the personal income tax for the preferential stocks received by the co-operators, in occasion of an increase of the social capital due to the devolution of reserves to capital. The reimbursement to the co-operators of the social capital in case of dissolution of the company was not considered taxable income provided that the dissolution was at least five after its formation. These two last provision are still in effect. Therefore practically the capital gains of the co-operators are never taxed. All these new fiscal benefits gave particular advantages to the new "capitalistic" cooperatives operating in mass retail by supermarkets, in constructions industry and in the transformation and trade of agricultural products.

V) The fifth period, which began in the early '80 and ended in 1994 was characterized by a re-edition of the centre left coalition with a greater role for PSI. The preferential rules of the Pandolfi law for the cooperatives were retained. In 1983 a Forte law (Note 5) allowed the cooperatives organized as joint stock corporations or companies with limited liability to pay dividends up to a percentage equal to that granted to the loans of the co-operators (see below). The new law was intended to limit the power of the managers arising from by passing the profits of the cooperatives to self financing an to enhance the role of the coo-operators. In 1991, under an Andreotti government, a new type of cooperatives was introduced in the Italian legislation: the social cooperatives. They were given the advantageous tax treatment reserved to the cooperative of capital and labour and a privileged position as for the contracts with the public administration. This last provision implied a derogation to the European rules in this matter. In 1992, again under an Andreotti government, a total

exemption from the personal income tax was given to the members of the cooperatives as for the profits distributed to them that they reinvested in their company. On balance in this period both the red and white cooperative gained benefits.

VI) The last period, from 1994 to the present days it is characterized by an alternation between centre right (Berlusconi) governments and governments leaning to the left. In this period whenever centre right governments have been in power the cooperatives underwent considerable losses of fiscal and contractual benefits. In 2001 the Berlusconi Government stated that, the wages of the co-operators as for incomes tax purposes should be considered at least equal to the minimum contractual wage set in the corresponding national labour contracts and could not exceed them of a percentage greater than 30%. These wages were also subjected to the social security contribution. As for the remunerations of the members of the cooperatives with contracts of independent labour, their amount could not be lower of the corresponding average remunerations as determined in the market and could not exceed them more than 30%. These new rules preventing the manipulation for income tax purposes of the remunerations of the workers co-operators were mostly relevant for the cooperatives of production and work, of services, of retail, where the labour factor is important, much less relevant for the cooperatives of transformation and trade of agricultural products and for the social cooperatives.

From 2002 on were also downsized the fiscal benefits of the indivisible reserves of the big cooperatives without prevalence of mutuality and of consumption, which, as seen, are mostly affiliated to the League of Cooperatives.

3. But let us now consider in detail the changes in the tax regime of these reserves, as for the various types of cooperatives. As seen in 1977, with the Pandolfi law, the indivisible reserves of the cooperatives were fully exempted from taxation. This preferential tax treatment resisted for 25 years, until 2002. In this year a law of the centre right government reduced substantially this tax benefits, distinguishing the cooperatives without prevalence of mutuality from the others. For the first type of cooperatives only the obligatory reserves were fully exempted. The indivisible reserves in excess to them were granted an exemption up to 39% of their amount. For the cooperatives of agriculture and of small fishing this additional exemption was 60%.

A bigger change took place with the financial law of 2004, following the mentioned reform of the civil laws code which, introduced for the future years the above mentioned dichotomy between cooperatives without prevalence of mutuality and cooperatives with prevalence of mutuality

To the cooperatives with prevalence of mutuality of agriculture and fishing an exemption of 80% of the indivisible reserves has been conceded. For the social cooperatives the exemption was 100% For all the other cooperative with prevalence of mutuality the exemption was 70%

To the reserves of the cooperatives without prevalence of mutuality two different hypothesis were considered.

*The first hypothesis* was that of the cooperatives whose charter states the indivisibility of the legal reserves. These indivisible reserves up to 30% of the profits, were exonerated from the tax. The remaining 70%, was taxed with the ordinary rates.net of a 3% to be destined to the mutuality fund,

*The second hypothesis* is that of the cooperatives with charters that do not state the indivisibility of the legal reserve. In this case the share of profits to be taxed with the ordinary rates became 97%: 100% minus the 3% destined to the mutuality fund)

The exemption of 30% of the profits sent to indivisible reserve was still a substantial benefit; however the clause of indivisibility of these reserves with the constraint of their devolution to purposes of mutuality in case of dissolution of the company put a big limit to the advantages of this regime, as for co-operators that do not control their company. On the other hand, this provision could be appreciated by the managers of the big cooperatives who could justify with fiscal reasons, a policy of reinvestment of a large share of the profits.

The new dual tax regime did not appear sufficient to downsize the fiscal benefits on the reserves of the big consumption cooperatives operating by supermarkets, which were able preserve the prevalence of mutuality, having more than 50% of their sales with their affiliates. To be member of the consumption cooperatives may be advantageous for their customs given the practice of discounts reserved to the affiliates. In 2008, under the IV Berlusconi centre right government, a Tremonti decree reduced to 45 % the exemption of the reserves of the consumption cooperatives with prevalence of mutuality and abolished any exemption for the reserves of the cooperatives without prevalence of mutuality.

The decree also abolished the preferential treatment of the social cooperatives in the contracts with the public administrations, in adherence to the European rules.

The decree obliged the cooperatives with prevailing mutuality to devolve 5% of the revenue to a solidarity fund for the less to do citizens, if these cooperatives had loans from their members for an amount higher than 50 millions of euro, and this amount exceeded the patrimony of the company. This last norm was against the big cooperatives of mass retail. With the conversion of the decree in law this new rule was limited to the years 2008, 2009, while the other measures of the decree were confirmed.

The abolition of the privileges of the social cooperatives as for the contracts with the public administrations has certainly damaged the social cooperatives adhering to CCI. However one should remember that they still keep a 100% exemption from taxation of their incomes.

### Section 3

#### The Loans to the Cooperative by Their Affiliates

1. The fiscal and financial regime of the societal loans of the co-operators to their companies has had a paramount importance for the growth of them. In 1989, when the Bank of Italy felt it necessary to adopt an hoc regulation for these reserves, in the consumption cooperatives of mass retail of the League the societal loans, on average, according to their official statements, provided the highest percentage of their standing financial resources: 52%. Social capitals plus reserves provided another 22,5% while the long term debts contributed for 7,7% and short term the remaining 17,7%.

In the Italian legislation, the societal loans are allowed for any kind of company and may also take the form of deposits similar to those in the banks. The societal loans, as of the cooperatives, are suitable to a peculiar development for several reasons, not necessarily related with tax privileges. Indeed there may be a trust relation between the co-operators and their company due to the "one person –one vote principle". This trust may be increased by the fractioning of the social capital deriving from the limits to the individual property of shares, that makes impossible to any member to get the control of the company. Cooperators who invest in societal loans have updated personal information about the situation of the company, because of their frequent contacts with them. The members of consumption cooperatives go to shop periodically in their supermarkets and hypermarkets. These are ideal places for the collection and administration of these deposits of the cooperators who go there to shop. The workers members the cooperatives of production and work too are in daily contact with their company. And the same may be true for the members of the cooperatives of agriculture and fishing. When these loans take the form of deposits at the porter the secrecy of the investment it is higher than for any banking deposit, because the cooperatives are not subject to inspections of the authority supervising the financial intermediaries.

On the other hand, if these loans are subject to a small flat tax, as now, the member-workers of the production and labor cooperatives may be able to elude the burden of the progressivity of the personal income tax on their incomes from the cooperatives by them. Indeed they may commute in loans a share of their wages or bonuses eluding the income tax on them.

2. As for the changes of the fiscal and financial regime of the cooperatives' societal loans too we may distinguish different periods (broadly speaking nine) in connection with the different types of governments. (see table. 2 in Appendix).

I) In first period immediately after the Basevi law, the interests on the societal loans could not exceed the official discount rate of the central bank. Therefore they appeared as sacrifices of the members of the cooperatives for the common interest of the company. Their exemption from the real tax on the income from financial capital, motivated on this ground, was unable to entice their diffusion.

II) The societal loans of the cooperatives got a big impulse by a 1971 law (February 17, 1971, n. 127 art.12) that allowed the interests on them to be set at the level of the rate on the postal bonds. And the exemption from the real tax on the income from capital became relevant in enticing their popularity.

III) With the 1973 tax reform that abolished the system of real income taxes and introduced the local proportional income tax (ILOR) on all incomes different from wages, the interests on the societal loans were exonerated from this tax up to a given amount, provided that their rate did not exceed the rate on the postal bonds. The limits of the exemption was set at 20 million lire (10.000 euro) for each member of cooperatives, increased to 40 millions (20.000 euro) for the cooperatives of agriculture and of production and labor. A limit of 3 million lire per year (1.500 euro) was also set on the withholdings of shares of wages and bonuses of the members of the cooperatives, to be automatically commuted in societal loans. However the interests on these loans were subject to a 10% flat withholding tax replacing the personal income tax (D. L. 8.4.1974 n. 95). The flat withholding tax was 12,5% for the interests of obligations and higher for the interests on bank deposits. A signal that the influence of the white cooperatives on the government, as for this preferential tax treatment of the societal loans of the cooperatives, is the fact that the cooperatives of transformation and trade of agricultural product and of production and work, got an exemption from ILOR double than the other cooperatives. For the cooperatives of production and work the loans of the workers co-operators are traditionally one of the basic means by which they are able to form the enterprise. But the same does not appear true for the cooperatives of processing and trade of product of agriculture. Indeed the farmers-owner of the land can get credit on their property.

IV) In the 1980, the Forlani (DCI) government did increase the limit to the interests on the societal loans to the maximum level of the postal accounts plus by 2,5% (item 6 bis of D.L 31.10.1980). The limits of 20 and 40 million were increased yearly by reference to the official inflation rate. The exemption from ILOR and the 10% flat rate on the interests not exceeding these amounts remained.

In 1985, (Law 12/27 1985 n. 49 article 23), under the first Craxi government, under a pro market minister of finance of PRI (Visentini) the final withholding tax on the societal loans of the cooperatives was put at 12,5%, aligning it to that generally applied to the interests on obligations. But on bank deposits was (and it is still) 27%. The new tax regime of the societal loans, however less favorable than the previous one, was still quite advantageous.

V) In 1992 (Law 31.1.1992 n. 59 art. 10) with the same Andreotti government, that introduced the new typology of the social cooperatives, the limit to the societal loans of the cooperatives has been doubled to 40 million lire for the normal cases and to 80 million for the cooperatives of processing and trade of agricultural products and for the cooperatives of production and labor. The rule of the yearly increase of these limits on the basis of the official inflation rate was kept, in spite of the fact that, for wags, the escalator clause had been abolished.

VI) The amount of the societal loans was continuously growing because of their differential yield, made possible by their favorable tax treatment in comparison with that of the bank deposits and of the peculiar possibilities of the cooperatives, particularly the consumption cooperatives, of promoting them. Therefore in 1994 the Bank of Italy, considering that they appeared an anomalous form of collection of mass saving, by non financial intermediaries, found it necessary to limit their dimension in relation to the social capital of the cooperatives to which were destined. This limit by a decree of the Committee for Credit and Saving of March 3, 1994, was fixed by the Ciampi Government, supported by PDS (former PCI) at three times the value of the aggregate social capital of any given cooperative. A very high level. The head of the government, Carlo Azelio Ciampi was the former governor of the Bank of Italy. To mitigate somewhat this largesse, each cooperative was required to issue a regulation of its loans, under the control of the Bank of Italy, as authority of surveillance of the financial market.

VII) The centre right Berlusconi Government, that succeeded to the Ciampi government, after the general elections of summer 1994, issued a ministerial decree of October 7 1994, by which the societal loans were subject to the rules of transparency of the banking law. The decree could be considered as a first step for a future submission of the societal loans to the general rules for the financial intermediaries collecting mass savings.

VIII) But under the subsequent leftist Prodi government, the line of liberality as for the social loans came back. In 1998 (Financial Law 12/ 23. 1998 n. 448 art. 59) the preferential limits to the societal loans of the cooperatives of processing and trading of agricultural production and of work and capital were extended to the housing cooperatives. Notice that both in the CCI and in the League these cooperatives have traditionally an important role (Note 6). And both CCI and the League were influential with this government. Prodi is an historical leader of the left wing catholic movements. The most important party of that government was PDS.

IX) In 2008, under the fourth Berlusconi centre right government, with a Tremonti decree the flat withholding tax on the societal loans has been increased to 20%. It is an important increase in comparison with the previous 12,5%. However these loans get still a preferential treatment in comparison with the bank deposits that have a final withholding tax of 27%.

On the one hand one may argue that this treatment is justified by the fact that for the cooperators it is not possible to make use of the sums deposited in their accounts, by issuing checks. On the other hand with the total abolition of the fiscal secrecy as for the bank accounts these loans benefit of a privacy that the bank accounts do not enjoy. And the cooperatives employing these loans get an advantage over the banks, with the bank accounts, because are not conditioned by any patrimonial "tier". Moreover, as noted, the societal loans may be employed to elude the progressive taxation of wage incomes and profits of the cooperators.

On the other hand one may observe that any joint stock or limited liability company may issue loans to be subscribed by their members, with the final withholding tax of 20% on the interests. Therefore this tax regime cannot be considered a preferential treatment of the cooperatives *over the ordinary commercial companies*. And likely an increase of the withholding tax on these loans might be considered a favor for the banking sector, whose popularity in this period appears in decline

### Concluding Remarks

At present it appears that do exists at last nine different tax regimes for the different types of cooperatives. 1) The social cooperatives enjoy a total tax exemption for the profits devolved to their indivisible reserve. 2) For the cooperatives of agriculture and processing and trading of agricultural products and the cooperatives of small fishing with prevalence of mutuality the indivisible reserves are exonerated for 80% of their amount. 3) For the cooperatives of consumption with prevalence of mutuality the share of the reserves exempted is 45%. 4) For all the other cooperatives with prevailing mutuality the share of the reserves exempted is 70% except for the cooperatives of mass retail. 5) These cooperatives even if endowed of the requisites of prevalence of mutuality are subject to the tax regime of the cooperatives without prevalence of mutuality 6) For the cooperatives without prevalence of mutuality the reserves are taxed at the normal rate. 7) The cooperatives of production and work have a preferential treatment as for the limit to the loans of the cooperators, which it double than the normal one. 8) The regime of the cooperatives of processing and trade of agricultural products differs from the preferential regime of the other agricultural cooperatives for the same reason, relating to their societal

loans 9) The regime of cooperatives of home owners differs from the general regime of the cooperatives, because the limit to the loans of the cooperators is double than the normal one; their tax regime differs from that of the cooperatives of work and capital that benefit of the same privilege, because unlike the other cooperatives, their properties and those of their members are exonerated from the local tax on the real estates (ICI).

In this paper we did not want to discuss if and how much the fiscal and financial benefits obtained by the various types of cooperatives in the past were acceptable from the point of view of principles of efficient allocation and of equity, under the assumption of given principles of political economy.

However it appears difficult to argue that the nine different fiscal regimes now existing for the different kinds of cooperatives may be entirely justified in terms of rational allocation of resources and distributional policies, rather than in terms of differential success in rent seeking.

In this respect it appears that:

- the alternation between periods of increases and reductions of the preferential treatments of the various kinds of cooperatives is strictly connected with the alternation of governments with different political orientation.

-the persistence of a more favorable regimes for the cooperatives with prevalence of mutuality *different from the consumption cooperatives of mass retail* in comparison with the others and the differentiated preferential regimes of the societal loans may be explained by the fact that they are important both in the CCI and in the League.

The persistence of *differentiate regimes of particular favor*, for the cooperatives of agriculture and for the processing and trade of agricultural products and for the fishing cooperatives, important both in CCI and the League, and for the cooperatives of production and labor might be additionally explained by their particular power as pressure groups because of their territorial concentration and their links with the respective Unions of workers.

The peculiar favor of the tax regimes and -until the most recent times- the preferential treatment in the contracts with the public administrations obtained by the social cooperatives, important both in CCI and Union the League, may be explained by the fact that they supply social services. However these social services could also be supplied by *true nonprofit organizations*. An additional explanation of their extremely favorable tax treatments may lie in their great electoral power deriving from their close contacts with a large number of voters who, because of poor economic conditions, precarious health state and /or old age, may be easily influenced by those who assist them.

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## Notes

Note 1. Actually the authors of this paper do believe that the cooperatives may have a important functions in a pluralistic society, in order to realize the "subsidiarity principle", particularly in the social and cultural sector and for the promotion of the economic growth of the less favored areas and social groups. Notice that the rent seeking process does not necessarily cause "distortions" in the public choices see Forte F. (2000), Chapter V, Second Part On rent seeking of pressure groups see Becker G.S (1983), Becker G.S (1985), Buchanan J.M., Tollison R.D and. Tullock G (eds) (1980) Muller D.C (2000) Muller D.C (2002) Roger D. Congleton, Arye L. Hillman (2008) 1 and 2. The rent seeking may result in increased public expenditures or in tax benefits. Authors as Muller (2002) focus on the effects of rent seeking on the size of Government. He consider, in the first place, the case of agricultural pressure groups. Here we focus on the taxation side. Rent Seeking may be exerted by electoral and political influence trough financing or trough voting. In our case both may be relevant. And political financing mostly, obviously, can be done legally. We don't consider here the dark side of corruption, which for this sector as for Italy, does not seem relevant.

Note 2. For the intrinsic importance of these loans for the cooperatives since their birth in the nineteen century, see A. ROSSI,

Note 3. If the law does not state differently

Note 4. Source : Federconsumo , the organization of the cooperatives of consumption and distribution adhering to CCI

Note 5. Francesco Forte co-author of the present paper was then Minister of Finance. He was the leader of the growing pro market wing of the socialist party

Note 6. A large share of the housing cooperatives of the League are cooperatives with undivided property, while the CCI housing cooperatives are normally cooperatives with property of the individual members which end when they enter in possession of their own house.

## Appendix

Table 1. Revenue, employed and members of the various types of cooperatives belonging to the League and CCI

The cooperatives sector in Italy			
<b>I Consumption</b>	<b>LEAGUE</b>	<b>CCI</b>	<b>Total</b>
<b>Revenue (millions of €)</b>			
mass retail	11.750	-	
small retail and wholesale purchase	7.800	-	
Total	19.550	9.130	28.680
<b>Employed</b>			
mass retail	53.800	8.250	62.050
small retail and wholesale purchase	35.200	1.530	36.730
Total	89.000	9.780	98.780
<b>Members</b>			
mass retail	6.400.000	-	-
small retail and wholesale purchase	3.600	-	-
Total	6.403.600	282.000	6.685.600
<b>II Production and work and services</b>			
	<b>LEAGUE</b>	<b>CCI</b>	<b>Total</b>
<b>Revenue ( millions of €)</b>			
production and labour and services	9.090	-	
Services	6,5	-	
Total	9.090	9.500	18.590
<b>Employed</b>			
production and labour and services	35.000	-	
Services	150.000	-	
Total	185.000	188.000	373.000
<b>Members</b>			
production and labour and services	24.400	-	
Services	128.000	-	
Total	152.400	448.659	601.059
<b>III Agriculture and food processing</b>			
	<b>LEAGUE</b>	<b>CCI</b>	<b>Total</b>
Revenue in millions of €	7.380	25.617	32.997
Employed	23.740	66.640	90.380
Members	22.000	67.620	89.620
<b>IV Small Fishing</b>			
	<b>LEAGUE</b>	<b>CCI</b>	<b>Total</b>
Revenue in millions of €	829	466	1295
Employed	4930	7.880	12810
Members	18.900	13.171	32.071
<b>V Social</b>			
	<b>LEAGUE</b>	<b>CCI</b>	<b>Total</b>
Revenue in millions of €	2.130	4.690	6.820
Employed	66.300	184.025	250.325
Members	63.200	940.000	1.003.200
<b>VI housing</b>			
	<b>LEAGUE</b>	<b>CCI</b>	<b>Total</b>
Revenue in millions of €	1.022	3.100	4.122
Employed	1.530	976	2.506
Members	420.000	67.620	487.620
<b>VII others types of cooperatives</b>			
	<b>LEAGUE</b>	<b>CCI</b>	<b>Total</b>
Revenue in millions of €	3.650	8.801	12.451
Employed	43.000	35.000	78.000
Members	45.600	940.000	985.600
<b>VIII All cooperatives</b>			
	<b>LEAGUE</b>	<b>CCI</b>	<b>Total</b>
Revenue in millions of €	43.651	52.591	96.242
Employed	413.500	470.645	884.145
Members	7.125.700	2.759.070	9.884.770

The data for the League of Cooperatives refer to years 2006 and for CCI to year 2008

Table n. 2. Political composition of the governments and fiscal measures for the cooperatives

year	Law or decree	Premier (name and party)	Parties of the government	Proponent of the legislation (name and party)	Political line	Effect for the Cooperatives	
						Benefits	Reduction of benefits
1947	D.PR n.1577 December 14 (Baseli's law)	De Gasperi, DCI	DCI, PCI, PSI, PRI, PLI	Basevi PSI	grand coalition	For all	////////////////////
1971	Law n. 127 February 17	Colombo DCI	DCI, PSI, PSDI, PRI	Ferrari Agradi DCI	C	for all	////////////////////
1973	DPR 597/598/600/601 September 29 ( Italian Tax Reform)	Rumor DCI	DCI, PSI, PSDI, PRI	Colombo DCI	C and CL	For all	For all in particular for cooperatives of agriculture, food processing, small fishing, production and labour
1974	D.L n. 95 , April 8	Rumor DCI	DCI, PSI, PSDI	Tanassi PSDI	C and CL	////////////////////	For all
1977	Law n. 904 December 16.	Andreotti DCI	DC and coalition with support of PCI	Pandolfi DCI	L	For all	////////////////////
1980	Decree (DL) paragraf 6 bis October 31, (D.L)	Forlani, DCI	DCI, PSI, PSDI, PRI	Andreatta DCI	CL	For all	////////////////////
1985	Law n.49 Paragraf 15/23 February 27	Craxi PSI	DCI, PSDI, PRI, PLI	Goria DC	CL	For all	For all
1991	Law n. 381 November 8	Andreotti DCI	DC, PSI, PSDI, PLI	Formica PSI	CL	social cooperatives	////////////////////
1992	Law n. 59 January 31	Andreotti DCI	DCI, PSI, PSDI, PLI	Formica PSI	CL	for agricult	////////////////////
1994	Ministerial Decree May 3,	Ciampi, independent of the left	DCI, and coalition with support of PCI (PSI, PSDI, PLI)	Barucci DCI (left)	L	For all	/////
1994	Ministerial Decree October 7	Berlusconi FI	AN, LN, CCD, UDC	Dini FI	CR	////////////////////	For all
1996	Law n. 52 February 6	Dini, independent of the left	coalition of left and independent	Fantozzi Independent (left)	L	Social cooperatives	////////////////////
1998	Financial Law n. 448 Paragraf 59 December 23	D' Alema, Ulivo (L)	Ulivo PDC, UDR	Ciampi Ulivo	L	For all	////////////////////
2001	Law n. 142 April 3 2001	Amato Ulivo	Ulivo, PDC, UDEUR	De Turco Ulivo	L	For all	////////////////////
2002	Decree (DL) n. 63 April 15	Berlusconi FI	F I, AN, L.N , CCD-CDU	Tremonti FI	CR	////////////////////	For all except agriculture and fishing
2004	Law n. 311 item 1 paragraf 460-466 financial law Dicember 30	Berlusconi FI	F. I, AN, L.N, CCD-CDU	Siniscalco Indipendet FI	CR	////////////////////	For all except agriculture and fishing
2008	Decree n.112 June 25	Berlusconi PDL	PDL e L.G	Tremonti FI	CR	////////////////////	For all, in paticular for big consumption cooperatives excepted agriculture and fishing
2008	Law n. 133 August 6	Berlusconi PDL	PDL e L.G	Tremonti FI	CR	////////////////////	For all , in paticular for big consumption cooperatives excepted agriculture and fishing

Meaning of initial for legislation: Dpr = decree of the president of the republic, D.L decree/ law

Meaning of Initial for party C= Centre L= Left R= right DCI= Italian Democratic Christians [CR]; PLI= Liberal Party[R]; PRI = Republican Party[C]; PSDI[C]= Socialist Democratic Party; PSI [CL]= Socialist Party, PCI [L]=Italian Communist Party; DS[L] Democratic Left (former PCI), ULIVO[L]=DS +DemoChristian Left; PD[LC] Former DS and DemoChristian Left; AN [R]= National Alliance; FI [CR]= Party for Italy; PDL[CR] = Party of Liberty; LN [RC]= Northern League; UDEUR[CL] = Democratic European Republican Union UDR [CL] = Democratic European Union; Biancifiore [C] = CCD+UDC; CCD [C] = Christian Democratic Center; UDC [C] = Union of Democratic Christians; PDC [L] = Party of Communist Democracy