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Value-Based Confiscation of Corporate Crime Proceeds Excludes the Unenriched Individual Offender

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ABSTRACT
Judgment no. 39655/2026 of the Italian Court of Cassation marks a decisive turning point in the field of value-based confiscation under Article 322-ter of the Criminal Code. By extending the ruling of the Joint Chambers in Massini to corporate structures, the Court strictly rejects joint and several liability between the individual perpetrator and the beneficiary entity: where criminal proceeds are entirely absorbed by corporate coffers, asset freezing and value confiscation cannot affect the physical actor who obtained no personal enrichment. Furthermore, departing from the historical Gubert doctrine, the Court allows value-based confiscation directly against the non-innocent entity under ordinary criminal law, even if corporate administrative liability under Legislative Decree no. 231/2001 is barred by the statute of limitations. This paper analyzes the systemic implications of this restorative approach and contrasts it with tax crime forfeiture regimes.

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Value-Based Confiscation of Corporate Crime Proceeds Excludes the Unenriched Individual Offender

From the Massini Joint Divisions Precedent to the Overruling of Gubert: Subjective Boundaries of Asset Forfeiture and Corporate Administrative Prescription under Legislative Decree no. 231/2001 (Italian Supreme Court of Cassation, Criminal Division, Judgment no. 39655/2026)

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Criminal Law & Precautionary & Asset Measures

16 November 2026 Reading time 13 min

Current Legal Framework as of 16 November 2026: the Supreme Court consolidates the strictly restorative nature of value-based confiscation under Article 322-ter of the Criminal Code, excluding any precautionary restraint on an individual offender who obtained no personal enrichment where the proceeds were absorbed by the beneficiary corporate entity, and overcoming the subjective limitation of Gubert directly against the non-innocent entity even where corporate administrative proceedings under Legislative Decree no. 231/2001 are time-barred.

ABSTRACT

Value-Based Confiscation of Corporate Crime Proceeds Excludes the Unenriched Individual Offender — Judgment no. 39655/2026 of the Italian Supreme Court of Cassation (Criminal Division) marks a decisive jurisprudential milestone regarding **value-based confiscation of corporate crime proceeds** in offences against the public administration and public funds. Extending the nomofilattic doctrine established by the Joint Divisions in Massini to corporate structures, the Court strictly rejects any form of **joint and several liability** in value-based asset deprivation: where the unlawful profit derived from aggravated fraud is entirely absorbed by corporate coffers, preventive seizure cannot target the natural person perpetrator who obtained no **actual personal enrichment**. In parallel, departing from the restrictive precedent of the Joint Divisions in Gubert, the Court holds that the assets of an entity not stranger to the crime remain subject to value confiscation under Article 322-ter of the Criminal Code, even where corporate administrative liability under Legislative Decree no. 231/2001 is barred by statutory limitation. This analysis examines the procedural ramifications of this restorative realignment and highlights the persistent structural friction with tax offence confiscation regimes.

Key Takeaways

- **Exclusion of joint liability between perpetrator and corporate entity:** preventive seizure for value-based confiscation cannot target the physical offender when the entire illicit profit has flowed into the estate of the beneficiary legal entity.
- **Restorative function of value-based asset deprivation:** following the Joint Divisions ruling in Massini, asset forfeiture under Article 322-ter of the Criminal Code is designed solely to restore economic balance and requires strict proof of the recipient's actual economic enrichment.
- **Overcoming Gubert and prescription under Legislative Decree no. 231/2001:** a company not stranger to the offence remains liable to value-based confiscation in ordinary criminal proceedings even when corporate administrative prosecution is extinguished by statutory limitation.
- **Systemic divergence from tax offence regimes:** ordinary criminal doctrine firmly diverges from expansive practices under Article 12-bis of Legislative Decree no. 74/2000, protecting the non-enriched defendant from unwarranted precautionary duplication.

CASE DOSSIER

JURISDICTION
Italy (Civil Law)

SUBJECT AREA
Criminal Law & Precautionary & Asset Measures

LEADING DECISION
Italian Supreme Court of Cassation, Criminal Division, Judgment no. 39655 of 11 November 2026 — Outcome: quashed and remanded the

Principle of Law / Editorial Headnote

In preventive asset seizure under Article 322-ter of the Criminal Code, value-based restraint requires proof of actual receipt of illicit proceeds: where the economic benefit is retained exclusively by the company, no freezing order may burden the individual offender devoid of personal enrichment.

COMPARATIVE & EUROPEAN LEGAL FRAMING

Institutional & EU Nexus: The ruling rendered by the Italian Supreme Court of Cassation aligns national asset recovery with Directive 2014/42/EU on the freezing and confiscation of instrumentalities and proceeds of crime, reinforcing European Court of Human Rights standards under Article 1 of Protocol No. 1 concerning proportionality and the strictly restorative boundary of value-based forfeiture. **Comparative Common Law Lens:** While Anglo-American jurisdictions historically apply joint and several liability in criminal forfeiture among co-conspirators—a doctrine curtailed in federal practice by the United States Supreme Court in *Honeycutt v. United States* (2017)—Italian civil law establishes an absolute barrier against joint liability in value confiscation (*confisca per equivalente*). Under Article 322-ter of the Italian Criminal Code, the state cannot target individual directors as surrogate financial guarantors without demonstrating actual personal enrichment (*arricchimento personale*), even where separate corporate administrative liability (*responsabilità amministrativa da reato*) is barred by statutory limitation.

01. INTRODUCTION: SUPREME COURT OF CASSATION JUDGMENT NO. 39655/2026

The judgment delivered by the Italian Supreme Court of Cassation, Criminal Division, no. 39655 of 11 November 2026[1], addresses with remarkable nomofilattic rigour the operative statutory framework of **preventive seizure** in offences against public assets. The decision establishes that **value-based confiscation of corporate crime proceeds** cannot translate into an undifferentiated asset deprivation against the physical perpetrator where the illicit proceeds were retained exclusively by the beneficiary corporate entity. Reviewing the case on cassation, the Court quashes the order of the Review Court of Lecce issued following a previous remand. The Supreme Court sanctions the illegality of any **precautionary automatism** operating independently of concrete individual enrichment. Real precautionary restraint requires rigorous and specific evidentiary demonstration.

The linchpin of this legal reasoning rests upon the transposition of the nomofilattic principle established by the Joint Divisions in Massini[2]. The Supreme Court redefined the nature of value confiscation by emphasizing its **strictly restorative function**. Real asset forfeiture aims exclusively to neutralize the **unjust enrichment** produced by the criminal offence. In the absence of an economic increment within the legal estate of the offender, the imposition of equivalent asset deprivation is precluded, as it would otherwise degenerate into an unlawful **punitive financial penalty**. This fundamental tenet governs both horizontal multi-party complicity among individuals and the vertical dynamic between natural persons and corporate entities.

From another perspective, the ruling navigates the procedural interplay between ordinary criminal proceedings and the **statutory limitation of corporate administrative offences**. The Court observes that the extinguishment of corporate charges under Legislative Decree no. 231 of 8 June 2001 does not extinguish the state's forfeiture claim. A company that gained direct economic advantage from the fraudulent scheme remains categorized as an **entity not stranger to the offence**. Accordingly, corporate assets remain directly liable to restraint under Article 322-ter of the Criminal Code. The ordinary criminal title survives corporate administrative prescription. This systematic inquiry demonstrates a coherent synthesis between the **strict legality of real precautionary measures** and the prohibition of duplicative punitive burdens, providing defense practitioners with authoritative parameters to challenge **excessive asset restraints**.

02. THE DEMISE OF THE JOINT LIABILITY DOCTRINE AND THE RESTORATIVE FUNCTION OF CONFISCATION

2.1 — From the Punitive Dogma of Joint and Several Liability to the Principle of Causal Attribution

The evolution of **value-based preventive seizure** was long influenced by the framework established by the Joint Divisions in Gubert[3]. That decision had permitted direct asset deprivation against money held by a non-innocent legal entity, while precluding equivalent confiscation against genuine, non-fictitious corporations. This doctrinal architecture generated an unfavourable practical regime for natural persons. Where direct proceeds could not be located in corporate accounts, precautionary restraint was redirected onto the personal assets of individual suspects. Courts characterized the measure as an **accessory afflictive sanction**. Asset attribution operated irrespective of the specific economic advantage actually secured.

Subsequent case law consolidated this approach through the application of the civil-law concept of **joint and several liability**. Under this doctrine, exemplified by the Supreme Court of Cassation, Criminal Division, judgment no. 42411 of 18 November 2021[4], real asset restraints could target each **co-participant in the offence** for the entire value of the illicit profits. The internal distribution of gains was relegated to an internal agreement between co-actors, incapable of

limiting judicial seizure. Asset freezing became disconnected from the offender's **concrete economic increment**. The civil-law fiction overshadowed the underlying economic reality.

This punitive construction, reaffirmed by the Supreme Court of Cassation, Criminal Division, judgment no. 1831 of 17 January 2020[5], stood in evident conflict with the **proportionality of real measures** and the constitutional principle of personal criminal responsibility. If confiscation must align with its **inherent rebalancing purpose**, indiscriminate expropriation lacks legitimate constitutional foundation. The dispositive criterion remains strictly causal. The reassertion of the **causal link** between criminal conduct and economic benefit necessitated the elimination of joint liability, demanding an analytical examination of the actual allocation of profits generated by the wrongdoing.

2.2 — The Nomofilattic Impact of the Massini Joint Divisions Judgment on Multi-Party Crimes

The nomofilattic milestone rendered by the Joint Divisions in Massini[2] established a decisive theoretical turning point. The ruling dismantles the legacy punitive dogma. The Supreme Court clarifies that the substitution of the physical asset does not modify the **genetic restorative function**: both in direct confiscation and in value-based deprivation, the measure pursues the exclusive objective of **neutralizing illicit enrichment**. The judicial intervention restores the economic status quo ante preceding the offence. A genuinely punitive character emerges solely where the asset restraint exceeds the actual economic benefit derived from the statutory infraction.

On the procedural terrain of multi-party complicity, the decision establishes strict **canons of adjudication**. In the first place, value-based confiscation may target an individual co-perpetrator exclusively **within the limits of the actual profit obtained**. This economic quantification constitutes a strict **burden of proof** resting upon the prosecution. In the second place, the default criterion of equal per capita division has a purely subsidiary nature. It operates solely when the state proves that the defendant received a portion of the illicit proceeds, while the exact financial amount remains unascertainable.

The procedural corollary is clear. An individual who received no fraction of the criminal proceeds cannot be subjected to an **unlawful asset expropriation**. Article 322-ter, paragraph 1, of the Criminal Code provides that “confiscation of the assets constituting the profit or price thereof is always ordered, unless they belong to a person stranger to the crime, or, when that is not possible, confiscation of assets available to the offender for a value corresponding to such price or profit”. This statutory mandate requires that the **targeted assets** correspond to an economic benefit concretely retained. Joint and several liability among co-defendants is thus excised from real precautionary measures. Provisional restraints cannot mutate into **strict property liability** premised upon mere criminal association.

2.3 — The Historical Precedents on the Nature of Asset Deprivation

A diachronic analysis of Supreme Court case law reveals a profound systemic transition, marked by the progressive abandonment of the punitive paradigm in favour of a **restitutory foundation** for real asset freezing. Even prior to the nomofilattic intervention, rulings such as Supreme Court of Cassation, Criminal Division, judgment no. 41626 of 10 October 2019[6] had recognized the necessity of conditioning value-based confiscation against natural persons on the prior, reasoned verification of the **insufficiency of corporate assets** directly augmented by the crime. Nonetheless, persistent reliance on joint liability generated fragmented rulings, culminating in the recent resistance observed in the **tax sector** by Supreme Court of Cassation, Criminal Division, judgment no. 7647 of 26 February 2026[7].

To clarify the contours of this judicial debate and illustrate the transition accomplished by the court of last resort, the following synoptic table outlines the milestone rulings concerning the legal nature and **subjective boundaries of real precautionary measures**:

Judgment / Authority	Jurisprudential Stance	Core Legal Principle
Italian Supreme Court of Cassation, Criminal Division, Joint Divisions, no. 10561/2014 (Gubert)	Overruled	Admissibility of direct confiscation only against non-screen legal entities; exclusion of value-based confiscation against corporations for offences outside Legislative Decree no. 231/2001.
Italian Supreme Court of Cassation, Criminal Division, no. 42411/2021	Overruled	Application of joint liability between natural person and corporation; value seizure ordered jointly and undifferentiatedly for the entire criminal proceeds.
Italian Supreme Court of Cassation, Criminal Division, Joint Divisions, no. 13783/2025 (Massini)	Evolutionary	Recognition of the restorative function of value confiscation; demise of joint liability and prohibition of asset deprivation against co-actors lacking enrichment.
Italian Supreme Court of Cassation, Criminal Division, no. 7647/2026	Sectoral	Retention of joint liability for the full tax debt on co-defendants in tax offences for corporate tax savings, departing from the general Massini framework.
Italian Supreme Court of Cassation, Criminal Division, no. 39655/2026	Aligned	Extension of Massini to beneficiary corporations: value restraint falls exclusively on the non-innocent entity even where corporate administrative proceedings under Decree 231/2001 are time-barred.

This comparative overview clearly illustrates the transition from the former punitive-solidary paradigm toward a model of **strict legality in asset measures**. The neutralization of economic advantage does not authorize a **multiplication of expropriative titles**, requiring the criminal court to confine the restraint to the estate of the party that actually retained the illicit proceeds.

03. THE SEVERANCE BETWEEN OFFENDER AND CORPORATE ENTITY IN VALUE CONFISCATION

3.1 — Overcoming the Gubert Doctrine and the Entity's Non-Stranger Status

The central core of the judgment under review[1] transposes the function of **economic restoration** to the dynamic between the physical actor and the **beneficiary corporate structure**. The nomofilattic foundation established by the Joint Divisions in Massini[2] finds full expression here. The Court rejects the notion that the lack of formal multi-party complicity between an individual and a corporation authorizes **cumulative precautionary burdens**. In the case at hand, concerning **offences against public disbursements** under Article 640-bis of the Criminal Code, the unlawfully obtained subsidies had flowed entirely into corporate bank accounts. The investigated director had retained zero personal profit.

Characterizing the legal entity as an **entity not stranger to the crime** transcends the rigid perimeter drawn by the Joint Divisions in Gubert[3]. In that legacy ruling, only **direct asset confiscation** was deemed admissible against corporations. Value-based forfeiture was rejected on the premise that it constituted an afflictive sanction. That dogma is now obsolete. Once value-based confiscation is recognized as a restorative remedy, dogmatic impediments dissolve: the non-innocent entity is accountable both in specific form and by equivalent. Consequently, the joint liability theories endorsed in Supreme Court of Cassation, Criminal Division, judgment no. 42411/2021[4] are permanently superseded.

> The restorative nature of real asset deprivation precludes sacrificing the estate of an offender devoid of enrichment: where criminal proceeds are retained exclusively by the corporation, precautionary measures must stop short of the defendant's personal assets.

The legitimate target of the measure is strictly the entity that absorbed the financial wealth. Deprivation must track actual proceeds. Unless the prosecution proves **indirect personal enrichment** or a covert kickback in favour of the director, asset freezing directed against individual property is fundamentally unlawful for **want of substantive statutory prerequisites**. The natural person cannot serve as a surrogate financial guarantor. Precautionary asset freezing cannot cure **corporate asset deficiencies** through improper economic substitution.

3.2 — Irrelevance of the Limitation Period of Corporate Administrative Offence under Legislative Decree no. 231/2001

Judgment no. 39655/2026 addresses an issue of profound systemic importance: the coordination between ordinary criminal proceedings and the **corporate administrative regime** under Legislative Decree no. 231 of 2001. In the proceedings below, the Review Court had sustained the **precautionary restraint against the physical person**. The territorial court held that corporate administrative charges were extinguished by **statutory limitation**. According to that reasoning, the impossibility of proceeding against the company eliminated the risk of duplicate asset recovery, thereby legitimizing total confiscation against the material perpetrator.

The Supreme Court firmly censures this paralogism. The extinction of corporate administrative proceedings bars only the specialized sanction governed by Article 19, paragraph 1, of Legislative Decree no. 231 of 2001. That provision specifies that “against the entity, confiscation of the price or profit of the crime is always ordered upon conviction, except for the portion that can be returned to the injured party”. Extinction of corporate administrative liability does not extinguish the state's underlying forfeiture title. The restraint may be ordered in ordinary criminal proceedings pursuant to Article 322-ter of the Criminal Code. The measure directly attaches the assets of the **non-innocent legal entity**.

Doctrinal & Precautionary Profile	Traditional Doctrine (Pre-Massini)	New Legal Framework (Cass. no. 39655/2026)
Perpetrator / Corporate Beneficiary Dynamic	Improper joint liability: joint or subsidiary seizure against the individual for the entire profit absorbed by the corporation.	**Strict separation: restraint attaches exclusively to the enriched entity; any asset deprivation against the unenriched actor is precluded.**
Prescription of Decree 231 Offence	Extinction of corporate action was deemed to justify shifting precautionary restraints onto the personal assets of the director.	**Irrelevance: extinction bars Article 19 Decree 231/2001 but leaves intact seizure under Article 322-ter Criminal Code against the non-innocent entity.**
Nature of Value Confiscation	Autonomous afflictive financial penalty uncoupled from the concrete profit retained by each individual co-participant.	**Strictly restorative measure aimed at economic rebalancing, conditioned upon proof of actual advantage received.**

Belated prosecutorial action against the entity cannot justify coercive aggression against the natural person. Constitutional guarantees are non-negotiable. Contending that corporate administrative prescription authorizes the expropriation of an unenriched co-actor would resurrect an unlawful **vicarious liability for the acts of another**, violating Article 27 of the Italian Constitution. The criminal justice system rejects communicative property vessels. Where actual enrichment is absent, **real precautionary jurisdiction** ceases to exist.

04. SYSTEMIC DIVERGENCE WITH THE TAX OFFENCES FORFEITURE REGIME

The legal principles established in Supreme Court of Cassation judgment no. 39655/2026 spark an inevitable comparative inquiry with criminal tax law. A prominent **systemic asymmetry** emerges. In ordinary offences against the public administration, the nomofilattic doctrine of Massini[2] dictates an exact correspondence between real precautionary measures and the individual defendant's actual personal advantage. Conversely, specialized tax jurisprudence frequently preserves an **indiscriminate joint and several liability**.

Exemplifying this doctrinal fracture is Supreme Court of Cassation, Criminal Division, judgment no. 7647 of 26 February 2026[7]. In that case, the Supreme Court upheld a freezing order for the full amount of **evaded tax** against a professional advisor acting as an **intellectual accessory**. The agreed professional fee was negligible and the financial tax savings belonged entirely to the corporate taxpayer. As observed in scholarly analysis concerning value-based confiscation in tax offences and multi-party complicity[D1], that jurisprudence categorizes **tax savings** as an indivisible economic entity. It therefore presumes that the criminal profit is attributable indiscriminately to all co-participants.

The Dichotomy Between Ordinary Crimes and Tax Offences

While in ordinary offences value-based confiscation requires proof of the offender's actual enrichment and bars joint restraints on the individual when the gain belongs to the corporation, tax jurisprudence maintains a

> sectoral doctrine allowing asset aggression for the full tax liability against all co-actors, treating tax savings as an etiologically indivisible benefit.

This conceptual bifurcation raises serious concerns regarding systematic coherence. The special tax statute mirrors the general criminal code provision. Indeed, Article 12-bis, paragraph 1, of Legislative Decree no. 74 of 2000 provides that "confiscation of the assets constituting the profit or price thereof is always ordered, unless they belong to a person stranger to the crime, or, when that is not possible, confiscation of assets available to the offender for a value corresponding to such price or profit". The statutory text is identical to Article 322-ter of the Criminal Code. If value confiscation pursues the economic restitution recognized by Massini and consolidated by the overcoming of the Joint Divisions ruling in Gubert[3], a **disproportionate real restraint** against an individual co-participant lacks justification. The ruling under examination sets the proper course. The fundamental function of asset deprivation cannot fluctuate depending upon the **specific legal interest protected**.

05. DEFENSE STRATEGIES AND BURDEN OF EVIDENTIARY SUBSTANTIATION

5.1 — Protecting the Unenriched Director in Precautionary Proceedings

To protect an unenriched corporate director targeted by preventive seizure for value-based confiscation, defense counsel must plead the absence of the statutory prerequisite by submitting the beneficiary company's bank statements, public disbursement invoices, and accounting documentation certifying the absence of fund retrocessions, seeking the immediate revocation of the asset restraint.

The doctrinal guidance provided by Supreme Court of Cassation judgment no. 39655/2026[1] equips defense practitioners with rigorous procedural parameters to paralyze **real preventive seizure** under Article 321, paragraph 2, of the Code of Criminal Procedure. The **burden of proof** rests entirely upon the prosecution. The public prosecutor must establish the specific quantum of profit concretely retained by the suspect. Where public disbursements flow into the corporate bank accounts of the entity, a presumption of **exclusive corporate retention** applies. Investigating authorities must prove specific **acts of asset diversion** before attaching the personal estate of the corporate officer.

On the terrain of **precautionary asset appeals**, defense counsel can mobilize a two-track strategy. In **review proceedings under Article 324 of the Code of Criminal Procedure**, within the **mandatory ten-day time limit**, documentary evidence of banking transfers allows counsel to argue **breach of law for failure of statutory prerequisites** under Article 322-ter of the Criminal Code. During preliminary investigations or trial, an application for revocation under Article 321, paragraph 3, of the Code of Criminal Procedure enables counsel to assert the same evidentiary elements. Precautionary asset freezing cannot degenerate into an **unjustified anticipation of punitive penalties**.

5.2 — Borderline Scenarios, Covert Kickbacks, and Distinguishing Parameters

The constitutional guarantee requires precise practical delimitation. The exercise of **systematic distinguishing** isolates cases where **asset protection for the suspect** does not apply. Immunity does not extend to scenarios where the corporation is reduced to a mere **fictitious corporate screen**. If the corporate entity is an empty paper vehicle devoid of **genuine operational autonomy**, established solely to channel criminal resources to the individual manager, separate corporate identity dissolves. In that scenario, precautionary asset freezing directly targets the suspect as the **effective beneficial owner**.

A second boundary involves the **partial economic retrocession** of criminal profits. Illicit proceeds may be siphoned to the natural person through **disproportionate executive compensation**, fictitious reimbursements, or simulated dividend distributions. Where such evidence emerges, value-based seizure against individual property becomes legitimate. Nevertheless, pursuant to the Massini principles, asset expropriation cannot engulf the entire volume of corporate profit. The restraint must be strictly calibrated to the **ascertained personal gain**. Evidentiary assessment tolerates no approximation.

Finally, the critical demarcation from tax offences remains vital. In tax criminal proceedings, qualifying evasion as an intangible **tax saving** sustains restrictive judicial trends. In ordinary criminal proceedings, by contrast, the rigorous focus on the **moment of actual financial receipt** bars punitive presumptions. Defense counsel must rigorously assert these **objective distinctions**. Real precautionary measures must reflect genuine financial flows rather than an automatic, indiscriminate joint liability.

06. CONCLUSIONS AND NOMOFILATTIC PERSPECTIVES

Judgment no. 39655/2026 of the Italian Supreme Court of Cassation (Criminal Division) marks an essential milestone in the **rationalization of real precautionary measures**. The ruling reconciles the divide between general criminal law and the corporate compliance regime under Decree 231. The court of last resort restores **value-based confiscation of corporate crime proceeds** to its true **restorative foundation**. Asset deprivation neutralizes illicit economic gains precisely where they have taken root. It cannot mutate into a **punitive financial penalty** visited upon the individual.

The dismantling of the joint liability fiction reasserts the **principle of strict legality in asset forfeiture**. A defendant who derived no economic gain cannot serve as a **surrogate financial guarantor** for the state. This prohibition holds firm even where corporate administrative proceedings under Legislative Decree no. 231/2001 are barred by statutory limitation. The classification of the company as an **entity not stranger to the crime** justifies direct asset recovery against the legal person. In this manner, individual personal guilt and restorative asset reclamation remain conceptually and procedurally distinct.

It will ultimately fall upon the Joint Divisions to resolve the persisting asymmetry with criminal tax offences. The doctrinal path is nevertheless clearly delineated. Real asset restraints must invariably be calibrated to the **profit personally obtained**. This constitutes an inviolable **standard of legal civilization**, indispensable for guiding **defense litigation strategy** and barring arbitrary transfers of financial liability.

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- Article 322-ter Italian Criminal Code — Direct and value-based confiscation in offences against public administration and reference under Article 640-quater Criminal Code.
- Article 640-bis Italian Criminal Code — Aggravated fraud for the obtaining of public disbursements.
- Article 321 Italian Code of Criminal Procedure — Scope and statutory prerequisites of preventive seizure for confiscation.

Article 19 Legislative Decree no. 231 of 8 June 2001 — Sanction of confiscation of crime profit against legal entities.

Article 12-bis Legislative Decree no. 74 of 10 March 2000 — Statutory regime of direct and value-based seizure and confiscation in criminal tax offences.

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1. **Italian Supreme Court of Cassation, Criminal Division, Judgment no. 39655 of 11 November 2026** — Outcome: quashed and remanded the contested order. Para.: regarding public disbursement fraud, value-based preventive seizure under Article 322-ter Criminal Code cannot target a natural person where criminal profits were retained exclusively by a non-innocent company.

2. **Italian Supreme Court of Cassation, Criminal Division, Joint Divisions, Judgment no. 13783/2025 (filed 8 April 2025, Massini)** — Outcome: quashed and remanded the contested judgment. Para.: rejection of joint and several liability in value-based confiscation and affirmation of the strictly restorative nature of asset deprivation against an individual limited to actual enrichment.

3. **Italian Supreme Court of Cassation, Criminal Division, Joint Divisions, Judgment no. 10561 of 30 January 2014 (filed 5 March 2014, Gubert)** — Outcome: declared the appeal inadmissible. Para.: admissibility of direct preventive seizure of profits remaining available to a non-innocent legal entity and exclusion of value-based confiscation against corporations.

4. **Italian Supreme Court of Cassation, Criminal Division, Judgment no. 42411 of 18 November 2021** — Outcome: dismissed the appeal. Para.: application of joint liability doctrine and admissibility of joint and undifferentiated value seizure against natural persons and legal entities for the full proceeds.

5. **Italian Supreme Court of Cassation, Criminal Division, Judgment no. 1831 of 17 January 2020** — Outcome: dismissed the appeal. Para.: enforcement of joint liability in value-based confiscation against a co-perpetrator even in the absence of personal economic enrichment.

6. **Italian Supreme Court of Cassation, Criminal Division, Judgment no. 41626 of 10 October 2019** — Outcome: dismissed the Public Prosecutor's appeal. Para.: subsidiary nature of value seizure against a natural person subject to prior verification of the insufficiency of corporate assets.

7. **Italian Supreme Court of Cassation, Criminal Division, Judgment no. 7647 of 26 February 2026** — Outcome: declared the appeal inadmissible. Para.: maintenance of precautionary value aggression for the entire tax debt against individual co-actors for corporate tax savings.

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