



DEPRECIATION IN A BUSINESS LEASE

Who is entitled to deduct it? — Ruling No. 19129/2026 | Art. 2561 Italian Civil Code

QUICK SUMMARY

**Art.
2561**

Italian Civil Code
maintenance
obligation

**Ord.
19129**

Court of Cassation
11 June
2026

**Les-
see**

Entitled to
depreciation
deduction

100%

Deterioration
cost borne
by lessee

TRANSACTION FLOW: HOW THE TRANSFER WORKS

- Lessor** — Transfers business for use — retains legal ownership
- Lessee** — Steps into lessor's tax position — uses the assets every day
- Deterioration** — Wear, physical decay, technological obsolescence → real cost
- Deduction** — Depreciation belongs to the lessee (Cass. No. 19129/2026)

KEY PRINCIPLE: the economic risk of deterioration follows use — whoever uses the assets depreciates them

WHO DEDUCTS DEPRECIATION AND WHO DOES NOT

✓ LESSEE	Deducts depreciation instalments
✓ LESSEE	Steps into the fiscally recognised values of the assets
✓ LESSEE	Assumes the risk of asset deterioration
✓ LESSEE	Continues the depreciation schedule started by the lessor
✗ LESSOR	Does NOT deduct depreciation
✗ LESSOR	Does not bear the deterioration risk during the lease
✗ LESSOR	Is taxed only on the lease payments received

COMPARISON: LESSOR vs LESSEE

ASPECT	LESSOR	LESSEE
Ownership of assets	<input type="checkbox"/> Remains the owner	<input type="checkbox"/> Not the owner
Use of assets	<input type="checkbox"/> Does not use the assets	<input type="checkbox"/> Uses assets every day
Risk of deterioration	<input type="checkbox"/> Transferred to lessee	<input type="checkbox"/> Borne by lessee
Maintenance obligation	<input type="checkbox"/> Transferred to lessee	<input type="checkbox"/> Borne by lessee
Depreciation deduction	<input type="checkbox"/> Not entitled	<input type="checkbox"/> Entitled
Relevant taxable income	Lease payments	Business income

MISTAKES TO AVOID — RISK OF TAX CHALLENGE

No.	MISTAKE	CONSEQUENCE
1	Lessor keeps deducting after signing the lease	No legal basis after transfer
2	Lessee fails to record depreciation	Inaccurate picture of business income
3	Lessee restarts schedule from zero	Must continue at recognised values
4	Contract not registered or incomplete	Written form and registration required

COURT OF CASSATION PRINCIPLE — RULING No. 19129/2026

The right to deduct depreciation belongs to the party obliged to ensure the conservation and efficiency of the business complex: the lessee, not the lessor.
Court of Cassation, Ruling 11 June 2026, No. 19129