



Tax news

February 2018

Patent box regime – new Ministerial Decree published

On 6 February 2018, Ministerial Decree dated 28 November 2017 was published in Official Gazette No. 30. The Ministerial Decree, issued by the Ministry of Economic Development and the Ministry of Economy and Finance, enacts implementing rules for the patent box regime introduced by Law No. 190 of 23 December 2014 (i.e. Stability Law 2015) and recently amended by Law Decree No. 50 of 24 April 2017.

Under the patent box regime, 50% of income derived from the exploitation or direct use of qualifying IP is exempt from corporate income tax (IRES) and regional tax on productive activities (IRAP). In addition, capital gains arising from the sale of qualifying IP are not included in taxable income if at least 90% of the proceeds is reinvested, within the following 2 tax years, in R&D

activities for the development, maintenance and improvement of other qualifying IP.

The option can be exercised by the person holding the right to economically exploit the qualifying IP.

The option applies for a period of 5 years and is irrevocable and renewable. The exercise of the option must be notified to the Italian Tax Authorities at the moment of submission of the tax return.

Under article 6 of the Ministerial Decree, qualifying IP includes:

- software protected by copyright;
- industrial patents, granted or in the process of being granted, including patents on inventions, including biotech inventions and related certificates, utility models, plant varieties and semiconductors' Topographies;

- designs and models, which can be legally protected;

- processes, formulas and information related to business, commercial or scientific knowledge, which can be legally protected; and

- two or more listed pieces of IP, where complementarily and jointly exploited for the realization of a product or process.

Under article 14 of the Ministerial Decree, the Italian Tax Authorities will exchange information on non-resident taxpayers who opted for the patent box regime in relation to trademarks with their countries of residence, provided that such countries are members of the inclusive framework for the global implementation of the Base Erosion and Profit Shifting (BEPS) Project and an international legal instrument allowing the exchange of information is in force.

“PIR” - Individual long-term savings.

Clarification issued

The Italian Tax Authorities clarified the fiscal treatment to apply to the individual long-term savings with Circular letter n.3/2018.

The last clarifications published by the Tax Authorities are specifically addressed to savers and operators working on individual long-term savings plans (hereinafter “PIR” - *Piani individuali di risparmio*). Essentially, the new Circular letter provides in-depth information on the main characteristics of the new regime and, at the same time, identifies the solutions to some critical issues emerged during the discussion between the Ministry, the Tax Authorities and the main financial trade associations.

What are PIR

Law n. 232/2016 introduced in Italy innovative tax-exempt long-term investment plans at no extra costs for individual retail investors. Income generated by these financial products are not subject to taxation, therefore they are not taxed as capital and other financial income and are not subject to inheritance tax.

The main purpose of this new regulation is to encourage individuals to invest their savings in long-term productive investment plans, thus favouring the growth of the Italian business system and, to some extent, also improving the individual saving rate of potential investors.

PIR main conditions

Noticeably, under the provisions of the new law, such PIR plans are exempt from the 26% substitute tax on capital gains and financial income (excluding those included in the taxable basis for the purposes of individual income tax and taxed at progressive rates) as long as:

- investment in such plans is held by individuals for more than five years;
- at least 70% of the investment portfolio consists of equity or debt securities issued by Italian companies (or EU companies having an Italian branch) or units or shares of UCITS complying with such requirements;
- 30% of the issuers of such securities are SMEs;
- each investor does not invest more than €30,000 per year or €150,000 in the aggregate through a professional investment manager or a life insurance wrapper or capitalization contract entered into with a professional financial intermediary and concentration risk in one single investment is limited to 10%.

Finally, it is also important to point out that the special tax treatment would not apply to financial income and capital gains to

investors holding “qualifying interests”.

As indicated above, the special tax treatment is conditioned on a minimum five-year holding period. Therefore, an individual taxpayer disinvesting prior to the five-year “vesting” period loses the tax exemption and the 26% substitute tax (plus interest) would be levied with retrospective effect but without penalties. In addition, each investor may only invest in one individual investment plan.

In case of disinvestment before the five-year period or non-compliance with the conditions established by law, income would be subject to taxation according to the ordinary rules and without the application of sanctions. If the asset is sold or reimbursed, it is possible to continue benefitting from the preferential regime provided by PIR if the reinvestment in other financial instruments is carried out within 90 days, in compliance with the investment restrictions provided by the regime. In the event of non-reinvestment, instead, the payment of taxes and interest must be performed by the 16th day of the month following that in which the deadline for reinvestment falls.

Flash News

IPA between Ecuador and Italy – update

On 25 February 2018, the government of Ecuador introduced a new bilateral investment protection agreement (IPA) model to be presented to Italy in the first week of March 2018. The 2001 Ecuador-Italy IPA was amended by Ecuador by way of Presidential Decree No. 1414 of 16 May 2017, replacing the IPA signed in Rome on 25 October 2001 and in force as of 26 May 2005. Negotiations for a new IPA based on the updated model are expected to be held in the near future.

Special economic zones – decree published

On 27 February 2018, the Decree of the President of the Council of Ministers No. 12 of 25 January 2018 entered into force, following its publication in Official Gazette No. 47 of 26 February 2018.

The Decree contains implementing rules with respect to special economic zones (*zone economiche speciali*, SEZ), as provided by Law Decree No. 91 of 20 June 2017. In particular, the Decree defines the rules for the establishment of SEZs, including interregional SEZs, their duration and the applicable criteria for the identification and delimitation of the SEZ area and for access of qualifying enterprises.

Annual VAT return – English form published

On 27 February 2018, the Italian Tax Authorities published the new annual VAT return form and related instructions in English.

Qualifying taxable persons must file the annual VAT return for fiscal year 2017 between 1 February 2018 and 30 April 2018. The form is available on the Italian Revenue Office website.



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Clients are encouraged to seek appropriate professional advice.

We will be pleased to discuss with you the particular application of the changes to your own circumstances. To this end please contact Alessandro Dragonetti or Gabriele Labombarda at their e-mail address below:
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Some pieces of news herein contained may be material to Advisory Services issues. Clients who are interested in delving into these items are encouraged to contact Stefano Salvadeo, Advisory Services specialist, at the following email address: stefano.salvadeo@bgt.it.gt.com

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