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Tax news

JANUARY 2018

Foreign branch exemption – resolution published

On 15 January 2018, the Italian Tax Authority has issued Resolution No. 4/E providing clarification on the filing obligations of taxpayers opting for the foreign branch exemption introduced by Legislative Decree No. 147 of 14 September 2015.

A number of inconsistencies were found between the content of the instructions related to the corporate income tax return to be used for fiscal year 2016 and the subsequent Italian Tax Authorities Protocol No. 2017/165138 of 28 August 2017 providing implementing rules with respect to the option. In the Resolution, the Italian Tax Authority provide specific guidance with respect to the correct compilation of the relevant returns.

Under article 14 of the Legislative Decree, with effects from tax year 2016, resident enterprises may opt for a foreign branch exemption. The option is irrevocable and it applies to all foreign PEs. However, the following PEs will not qualify for the exemption and CFC rules will apply (unless a safe harbour rule can be involved):

- PEs located in a jurisdiction that does not allow an adequate exchange of information with the Italian Tax Authority and applies a level of taxation which is lower than 50% of that applied in Italy; and
- PEs which are actually subject to an amount of foreign tax which is lower than 50% of the income tax that would be applicable in Italy and derive more than 50% of their proceeds from:
  - ✓ the managing, holding or investment in securities, shares, receivables or other financial assets;
  - ✓ the transfer or licensing of patents or copyrights; or
  - ✓ the supply of intra-group services, including financial services.

Specific recapture rules apply with respect to losses realized through a PE in the 5 tax years preceding the exercise of the option.

Italy recovered over 20 billion record tax evasion revenue in 2017

The Italian Tax Authority has matched encouraging results last year, both about controls and services for citizens.
The fight against tax evasion in Italy generated a record 20.1 billion euros for the State finance-coffer in 2017, signing an increase of 5.8% with respect to 2016. Particularly, the head of Italian Tax Authority, Director General Ernesto Maria Ruffini, explained the results achieved in 2017 stressing, in particular, how the “facilitated definition” scheme elaborated to make it easier for people to pay off tax disputes generated a total of 6.5 billion euros in the same period.

The Director General has also highlighted the work performed by the employees of the two bodies of the Italian Tax Authority as well as the importance of the simplification measures implemented in recent years under the banner of a new way of understanding the relationship between the Financial Administration and citizens.

The Director also recalled the increasingly strong synergies put in place by the two bodies, the Italian Tax Authority and the Revenue Agency-Collection Office, and the constant and close collaboration fostered with the MEF and the Guardia di Finanza, or Tax Police.

Control and compliance promotion activity carried out by the Revenue Agency in 2017 has allowed the reporting of over 20 billion euro in the State coffers, with an overall 5.8% increase compared to 2016. In detail: 11 billion derive from direct payments by taxpayers following controls (+ 14.6%); 7.4 billion derive from the payment of tax debts, also called “*ruoli*” (+ 54.2%); 1.3 billion is the sum collected thanks to the compliance letters sent to taxpayers (+ 160%); 400 million have been recovered thanks to the first version of the voluntary disclosure. It is also important to stress that as regards to tax litigations the number of appeals to the Provincial Tax Commissions has continued to decline to 70 thousand in 2017 (-15% compared to 2016).

Another sector in which the Revenue Agency was significantly committed looks at the application of the tools introduced by the legislator to encourage investments in our country. In particular, 431 were the agreements concluded under the preferential taxation system for income deriving from the use of certain intangible assets, also called the Patent Box law. In the same period, the call for new investments led to the signing of 25 agreements, with significant employment effects, while the co-operative compliance, or the collaborative compliance regime, has registered the adhesion of 10 large entrepreneurial companies each with a turnover exceeding 10 billion euro.

Flash News

Treaty between Colombia and Italy signed

On 26 January 2018, Colombia and Italy have signed a Tax Treaty for the avoidance of double taxation and the prevention of fiscal evasion with respect to income taxes, in Rome.

Treaty between Italy and Panama enters into force

On 1 June 2017, the Italy - Panama Income Tax Treaty (2010) has entered into force. The treaty generally applies from 1 June 2014 with regard to article 25 (Exchange of Information) and from 1 January 2018 with regard to all other provisions.

Treaty between Italy and Jamaica signed

On 19 January 2018, Italy and Jamaica has signed a Tax Treaty for the avoidance of double taxation and the prevention of fiscal evasion with respect to income taxes in Kingston.

Statutory interest rate – Ministerial Decree published

Under article 1 of the Ministerial Decree of 13 December 2017 issued by the Ministry of Economy and Finance and published in Official Gazette No. 292 of 15 December 2017, the statutory interest rate is 0.3% on a yearly basis with effect from 1 January 2018 (previously, 0.1%).

Corporate tax return – forms published

On 30 January 2018, the Italian Tax Authorities issued the following Protocols:

- Protocol No. 24824/2018 approving the corporate income tax return form to be used for tax year 2017;
- Protocol No. 24865/2018 approving the regional tax on productive activities return form to be used for tax year 2017; and
- Protocol No. 24875/2018 approving the form to be used for the election of the tax consolidation regimes in 2018.

The forms are available on the website of the Italian Revenue Agency.

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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.
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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