



Tax news

September 2018

Privacy decree

On 4 September 2018 the awaited decree (Legislative Decree no. 101/2018) was published in the Official Gazette, adapting the national privacy regulation to the European Regulation 2016/679 (GDPR).

The text, in force starting from 19 September 2018, has modified the general provisions of the Italian regulation, adapting it especially in those parts concerning areas where the processing of personal data is particularly critical (e.g. genetic and health data) and in the most topical sectors (e.g. data relating to location and unsolicited communications).

Some of the most important innovations are summarised below.

Italian Data Protection Authority and MSME

The powers of the Italian Data Protection Authority have been extended. The Authority will mainly deal with the following activities:

- handle complaints;
- promote the adoption of ethical rules;
- report the facts that can be classified as crimes that can be prosecuted ex officio;
- adopt guidelines also for individual sectors;
- regulate possible simplifications for micro, small and medium enterprises.

Whistleblowing

The right to access the processed data cannot be exercised in the event that the confidentiality of those who, pursuant to Law no. 179/2017, report illicit events in the course of their duties, is infringed.

In this way, the identity of the whistleblower is protected.

Legitimate interest

Legislative Decree no. 101/2018 limits to repeating what is indicated in the GDPR in relation to "direct marketing", specifying that this purpose concerns the sending of advertising material, direct sales, the performance of market research or commercial communication.

Criminal offences

The Decree implements the provisions of the GDPR on administrative sanctions and introduces new forms of criminal offences.

The offences provided for in the Decree are: (i) unlawful data processing, communication, dissemination and (ii) fraudulent acquisition on a large scale for the purpose of taking a profit or causing damage.

Further crimes concern false declarations to the Italian Data Protection Authority, the interruption in the execution of tasks and powers of the Authority and the non-observance of the measures.

Penalties range from a minimum of 6 months to a maximum of 6 years' imprisonment, depending on the offence committed.

Even though the Decree has defined some legislative boundaries, there are still many open aspects to be clarified (period of grace, legitimate interest) which will hopefully be defined in the near future with ad hoc measures and codes of conduct.

Flash News

Tax credits and deductions for medical expenses - guide published

On 14 September 2018, the Italian Tax Authorities issued (in Italian) a guide on the available tax credits and deductions for medical expenses incurred both in Italy and abroad.

All published tax guides are available on the Italian Tax Authorities' website.

VAT grouping regime – form published

On 19 September 2018, the Italian Tax Authorities issued Protocol No. 215450/2018 approving the new form (Form AGI/1) to be used when opting for the application of the VAT grouping regime. This regime was introduced by Law No. 232 of 11 December 2016 (the Budget Law for 2017).

In order to exercise the option, the VAT group representative must electronically file the request by 30 September of the year preceding that in which the regime should apply.

However, for the current year only, the option may be exercised by 15 November 2018 (for a VAT grouping regime effective from 1 January 2019).

The form and related instructions are available on the Italian Tax Authorities' website.

Case-law: Tax residence

The Italian Constitutional Court ruled as follows: "...individuals registered with the registry of residents are deemed resident in any case and, thus, are subject to tax in Italy under the formal criteria contained in Section 2 of DPR 917/1986; further to the above, this means that the transfer of the residence abroad is irrelevant for tax purposes, as long as the residence is not deleted from the residents' registry of an Italian municipality, since such registration is preclusive of any further assessments".

Basically, the Italian Constitutional Court does not seem to attribute much importance to the provisions contained in the double taxation agreements. This means that an individual relocated abroad, who forgot to register with the Italian registry of Italians living abroad (AIRE), will continue to be deemed resident in Italy.



Contacts

Bernoni & Partners

Int. T + 39 02 7600 8751
E info@bgt.it.gt.com

Address: Via Melchiorre Gioia 8, 20124 Milano
Offices: Milan, Rome, Padua, Brescia, Arezzo,
Trento, Trieste, Turin

<http://www.bgt-grantthornton.it/>

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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:
alessandro.dragonetti@bgt.it.gt.com
gabriele.labombarda@bgt.it.gt.com

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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