



Tax news

November 2017

Italy prepares to introduce a “web tax”

The Italian budget law for 2018 is expected to be adopted by 31 December 2017.

The draft law introduces tax measures applicable to companies involved in the digital economy.

These measures mainly consist of:

- A new tax on digital transactions, also so-called “web tax”,
- A revised domestic definition for permanent establishment;
- An obligatory discussion with the Tax Authorities about the possible presence of an Italian permanent establishment for non-resident companies;

Web Tax

The draft Budget Law for 2018 introduces, starting from 1 January 2019, a new “tax on digital transactions related to the performance of services carried out through electronic means” rendered by resident and non-

resident companies to Italian businesses and other entities qualifying as withholding agents under the Italian tax law, different from Italian permanent establishments of non-resident companies.

A 6% tax, net of VAT, will apply to services carried out through electronic means, i.e. services supplied through the Internet or an electronic network, the nature of which makes the performance completely automatic, with minimum human intervention and for which the information technology component is essential.

The Web Tax would be due through the same modalities provided for income taxes.

For non-resident companies, the Web Tax would be due by service suppliers through a withholding tax applied by the financial intermediaries.

The revised domestic definition of permanent establishment

The draft Budget Law for 2018 also introduces a different domestic definition of permanent establishment according with that provided by BEPS Action 7.

Presence of an Italian permanent establishment for non-resident digital suppliers

If a non-resident entity without a permanent establishment in Italy performs more than 1500 qualifying digital transactions for a value of at least EUR 1.5M in a six-month period, Italian Tax Authorities, within the following 30 days, will notify the non-resident entity to discuss and verify whether the activity carried out may be considered as performed through an Italian company/permanent establishment. If that is believed to be the case, the non-resident company will be given the chance to regularize its position having access to the so-called “procedure for cooperation and enhanced collaboration,” with a penalty reduction.

Country-by-country reporting – implementing rules issued

The Italian Tax Authorities have issued Protocol No. 275956 dated 28 November 2017, providing further implementing rules and instructions with respect to the country-by-country reporting obligation introduced by Law No. 208 dated 28 December 2015.

A country-by-country reporting obligation has been introduced in accordance with action point 13 of the OECD Base Erosion and Profit Shifting project. In particular for:

- parent companies resident in Italy for tax purposes, which are required to submit group consolidated financial statements and having consolidated revenues of at least EUR 750M in the previous tax year; and
- subsidiaries resident in Italy for tax purposes and controlled by a foreign entity resident in a country in which a country-by-country reporting obligation has not been implemented or in a country which does not allow an actual exchange of information with Italy.

In general, resident companies controlling a multinational

enterprise group having at least EUR 750M consolidated revenue in the fiscal year prior to the reporting period are required to submit country-by-country reports within 12 months after the last day of the relevant fiscal year.

However, under certain circumstances, the reporting obligation may also be shifted to a resident subsidiary of the multinational enterprise group. For country-by-country reports related to 2016, the deadline is 31 December 2017.

Reporting entities must electronically submit the country-by-country reports in both the Italian and English languages, through the Italian Tax Authorities portal. Relevant information to be provided in the country-by-country report includes:

1. Summary information with regard to each jurisdiction in which the entities of the multinational enterprise group are resident for tax purposes or the permanent establishments are located, including:

- revenues;
- profits (or losses) before tax;
- income tax paid;
- income tax accrued;
- stated capital;
- undistributed profits;
- number of employees; and
- value of tangible assets.

2. Summary information with regard to each entity of the multinational enterprise group, including:
 - the name of the entity and the jurisdiction where the entity is resident for tax purposes;
 - the jurisdiction where the entity was incorporated, in case it differs from the jurisdiction of the tax residency; and
 - the main business activity (or activities) carried out by the entity.
3. additional information, including the relevant fiscal year and the source of data reported.

Flash News

Law decree on urgent tax measures approved by parliament

On 30 November 2017, the Chamber of Deputies approved the final draft Law converting Law Decree No. 148 dated 16 October 2017, adopting the text previously approved by the Senate on 16 November 2017.

Further details on the new measures, which include the introduction of a tax credit for advertising investment, the extension of the split payment system, amendments to the transmission of data on invoices, and the introduction of a new voluntary disclosure procedure and a procedure for the settlement of tax liabilities, will be reported upon publication of the Law in the Official Gazette.

Deadline for the communication of data on invoices – decree published

On 6 November 2017, the Decree of the President of the Council of Ministers dated 5 October 2017 was published in the Official Gazette No. 259. Under the Decree, the deadline for the electronic transmission of data on invoices related to the first semester 2017 is postponed to 16 October 2017, as already announced by the Ministry of Economy and Finance.

Exchange of information agreement between Costa Rica and Italy ratified by Italy

On 11 October 2017, Italy ratified the Costa Rica - Italy Exchange of Information Agreement (2016), by way of Law No. 160, as published in Official Gazette No. 257 of 3 November 2017.

Protocol to treaty between India and Italy – negotiations ongoing

According to a joint statement dated 30 October 2017, published by the Indian government following a meeting between officials from India and Italy, negotiations for an additional amending protocol to the India - Italy Income Tax Treaty (1993) are ongoing. An initial amending protocol to the treaty was signed on 13 January 2006 but has yet to enter into force.



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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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