

# Tax news

OCTOBER 2017

## Simplification of Intrastat returns from 1 January 2018

The Italian Tax Authorities have taken the measure to reduce the amount of information that companies, involved in cross-border trade in the European Union, must submit when filing the Intrastat form. The changes were introduced on 25 September 2017, with the Decision n. 194409/2017, regarding simplifications to the mandatory information related to Intrastat returns. The simplifications were first scheduled for 2018 when a new, quarterly VAT reporting regime will be introduced.

Intrastat returns collect data related to supplies between Member States (intra-EU supplies). The simplification measures will enter into force with effect from 1 January 2018.

The changes include:

- The Intrastat return related to intra-EU acquisitions of goods

will be mandatory on a monthly basis only for statistical purposes and only if the total amount of acquisitions is greater than €200k in at least one of the four previous quarters.

- The Intrastat return related to intra-EU purchases of services will be mandatory on a monthly basis only for statistical purposes and only if the total amount of intra-EU purchases of services in at least one of the four previous quarters equals €100k or more
- The Intrastat return related to intra-EU dispatches of goods and intra-EU supplies of services will remain mandatory.

According to the Intrastat reporting requirements, Italian companies involved in intra-community supply and purchases of goods and services are required to file the new forms. Companies with less than €50k

supplied per year are required to file the Intrastat form on a quarterly basis, while Italian companies exceeding the €50k threshold must submit the forms on a monthly basis. Unlike in other member states, there are no Intrastat reporting thresholds for purchases made by Italian companies.

The Intrastat forms must be filed by the 25th of the month following the reporting period. Failure to submit the Intrastat declarations for more than three consecutive months will attract penalties. Intrastat was introduced in 1993 and it is present in all EU member states in order to track the movement of goods and services within the single market. One of the major roles of Intrastat is to help fight VAT frauds in EU member states.

# Italian Tax Authorities issue guidelines on tax treatment of carried interest

Italian Tax Authorities have released official guidelines on the new tax regime applicable to carried interest under Article 60 of Law Decree 24 April 2017, No. 50, converted into Law 21 June 2017, No. 96.

The guidelines provide important clarifications on the scope of, and on the requirements envisaged under, the new tax regime.

Carried interest is designed to motivate investment managers and improve the performance of the investment companies and similar entities under their direction. Agreements reward managers with additional remuneration—the so-called carried interest—payable on top of ordinary compensation, provided that certain performance targets are reached. In practice, classes of shares, units, or other instruments (collectively, "investment instruments") are issued to the managers for an amount that is not generally proportional to their actual funds invested. Such instruments then grant the managers preferential economic rights upon the occurrence of certain events, i.e., achieving defined investment goals. Under Article 60 of Law Decree 24 April 2017, No. 50, proceeds derived from the direct or indirect holding of investment instruments by "Eligible Beneficiaries"—an entity's

investment managers, advisors, or similar professionals—are treated as financial income for tax purposes under the following conditions:

- a. the investment instruments must relate to companies, entities, and/or undertakings resident or set up in Italy, or in a country that allows an adequate exchange of information with Italy (collectively referred to as the "Eligible Securities");
- b. the actual overall investment commitment of the Eligible Beneficiaries must be at least equal to 1 percent of, respectively: (i) the net equity of the issuer company or entity or (ii) the overall investment made by the undertaking. Such investment is determined by certain, pre-defined criteria;
- c. the proceeds deriving from Eligible Securities must accrue only after all the shareholders, unit holders, or investors have obtained a return equal to the invested capital plus a minimum yield; and
- d. the Eligible Securities must be held by the Eligible Beneficiaries or, in case of death of the Eligible Beneficiaries, by their heirs, for at least five years, or if earlier than this five-year period, until the occurrence of a change of control or a change of the management company of the undertaking.

The new tax regime on carried interest represents an interesting opportunity to implement management investment plans not only within the private equity field. Income derived from carried interest schemes - lacking any of the previously mentioned requirements - does not automatically qualify as income from employment as a case-by-case analysis would be required in order to verify the nature of the income. Italian Tax Authorities confirmed that under these circumstances taxpayers may apply for an advance ruling on the income characterization of the carried interest.

Italian Tax Authorities also confirmed that the new tax provision applies to subscriptions made (even) before 24 April 2017 from which employees /directors derived income that has been subsequently paid.

Furthermore, it was also confirmed that carried interest schemes approved before 24 April 2017 may be amended in order to benefit from the new regime.

Finally, the new tax regime has no retrospective effects, thus the income characterization of carried interest paid prior to 24 April 2017 would be subject to a case-by-case analysis to be performed also in the light of the guidelines provided by the Circular.

# Flash News

## **Exchange of information agreement between Costa Rica and Italy approved by Italian Senate**

On 4 October 2017, the Italian Senate has approved the Costa Rica - Italy Exchange of Information Agreement.



## **Treaty between Italy and Romania enters into force**

On 25 September 2017, the Italy - Romania Income Tax Treaty (2015) has entered into force. The treaty generally applies from 1 January 2018. From this date, the new treaty generally replaces the Italy - Romania Income and Capital Tax Treaty (1977).

## **Treaty between Barbados and Italy enters into force**

On 17 October 2017, the Barbados - Italy Income Tax Treaty (2015) has entered into force. The treaty generally applies from 1 January 2018.

## **Protocol to treaty between Italy and Philippines ratified by Italy**

On 11 October 2017, Italy has ratified the amending protocol, signed on 9 December 2013, to the Italy - Philippines Income Tax Treaty (1980), by way of Law No. 152, as published in the Official Gazette No. 248 of 23 October 2017.



**Contacts**

**Bernoni & Partners**

Int. T + 39 02 7600 8751  
E [info@bgt.it.gt.com](mailto:info@bgt.it.gt.com)

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

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

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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](mailto:alessandro.dragonetti@bgt.it.gt.com)  
[gabriele.labombarda@bgt.it.gt.com](mailto: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](mailto:stefano.salvadeo@bgt.it.gt.com)

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