

Tax news

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Italians working abroad: a new guidebook to manage tax issues

The Italian Tax Authorities recently published on their website an online guidebook to clarify the doubts of Italian citizens living abroad concerning the correct way to declare and pay taxes in relation to income earned abroad. In particular, this publication provides instructions on how to avoid double taxation, how to benefit from the tax credit for taxes already paid in a foreign Country and how and when it is necessary to register in Aire, the Registry of Italians Resident Abroad.

The worldwide taxation principle

In general, to determine whether a citizen has to pay income taxes, it is necessary to consider the concept of “residence” included in the Worldwide Taxation Principle, on which tax systems of many European Countries, including Italy, are based. If an Italian citizen is working abroad but is still maintaining the Italian

residence, he has to pay taxes in Italy also on income earned abroad, unless International Conventions for the avoidance of double taxation contain different provisions. In any case, taxpayers in most cases may deduct taxes paid abroad from taxes paid in Italy, in the form of tax credit.

Residence for tax purposes

Under Italian Law, an individual is considered resident for tax purposes in Italy if he/she is recorded in the Italian register of resident population for more than 183 days, if he/she is domiciled or resident in Italy, or if he/she has moved to a tax heaven, unless proven otherwise. This principle is applied more or less in the same way in many Countries and it is an hint for Italian citizens moving abroad, to understand if it is necessary the Aire enrolment. In particular, the registration is mandatory for

citizens who take up residence in a foreign Country for more than 12 months and for citizens residing abroad, either as a result of being born there, or having obtained Italian citizenship for any reason.

International Conventions for the avoidance of double taxation

Italy has bilateral agreements in place with many foreign Countries to avoid double taxation in all cases where an individual pays taxes both in the Country of income production and in the Country of residence. The Italian law provides for tax credit in relation to taxes paid abroad. In particular, double taxation is avoided by applying art. 165 of Italian Income Tax Code, according to which Italian taxpayers can deduct taxes already paid in a foreign Country from the net tax due in Italy.

Allowance for Corporate Equity (ACE) - Anti-avoidance measures

The Decree of the Ministry of Economics and Finance published in the Official Gazette dated 11 August 2017 provides for the extension of the anti-avoidance rules applicable to the Allowance for Corporate Equity (ACE) regime. Since fiscal year 2011, Italian companies (and permanent establishments of non-resident companies) have been able to benefit from the ACE regime, which provides for the deduction of the notional yield on the net (qualifying) equity increases that an Italian resident company (or a permanent establishment of a non-resident entity) made after 31 December 2010. In particular, the yield is calculated by applying a defined rate to the increase in a company's net equity as compared to its accounting net equity as at 31 December 2010. The rates were recently reduced to 1.6% in 2017 and will be equal to 1.5% from 2018.



The equity increases relevant for ACE purposes (qualifying increases) derive from cash equity contributions, waivers of financial receivables that the shareholders had towards the company or undistributed profits set aside to reserves other than non-

disposable reserves. Increases must be netted of equity decreases originating from distributions or assignments to the shareholders.

The Decree aims to redefine the ACE anti-avoidance rules, in order to exclude duplications of ACE benefit within a group of companies.

The anti-avoidance rules apply to the following intragroup transactions between both Italian and non-resident related parties:

- any cash contribution that the company may have made to its subsidiaries or to its sister companies;
- the price paid to acquire (or increase) equity interests in subsidiaries which were already held by subsidiaries or sister companies;
- the price paid to acquire business units already held by subsidiaries or sister companies;
- financing granted to other companies within the group;
- any cash equity injection made by individuals resident in countries not included in the white list under art. 11(4)(c) of Legislative Decree n. 239/1996; and
- the increase in the amount of loan (financing) receivables from subsidiaries and sister companies as compared to the amount of such receivables in the company's financial statements at 31 December 2010.

Taxpayers may apply for a tax ruling with the Tax Authorities in order to obtain the non-application of these adjustments. Taxpayers seeking the non-application of these adjustments must prove that there has not been any duplication of the ACE benefit. In case of cash contributions from taxpayers

domiciled in countries not on the list of countries that guarantee an adequate exchange of information with Italy, evidence must be provided that cash contribution come from a country in that list. The new rules will come into effect from fiscal year 2018 for calendar-year taxpayers. However, intra-group transactions subject to the anti-avoidance rules may have occurred in previous years and taxpayers must therefore begin to monitor their group transactions now, and if necessary, file an application for a tax ruling.

Flash News

Arrangement on exchange of country-by-country reports between Italy and United States – negotiations

According to a recent update, published by the US Internal Revenue Service (IRS), negotiations for an arrangement on exchange of country-by-country (CbC) reports between Italy and the United States are ongoing.



Amending protocol to treaty between Italy and Philippines approved by the Italian Chamber of Deputies

On 27 September 2017, the Italian Chamber of Deputies has approved the draft law ratifying the amending protocol, signed on 9 December 2013, to the Italy - Philippines Income Tax Treaty of 1980.

The protocol was concluded in Italian and English, both languages having equal validity. Article I of the protocol amends article 2 (Taxes covered) of the treaty to include the regional tax

on productive activities (i.e. *imposta regionale sulle attività produttive*, IRAP) in the list of Italian taxes covered.

Article II of the protocol amends article 3 (General definitions) of the treaty in respect of the definition of the Italian competent authority, which will be the Ministry of Economics and Finance.

Article III of the protocol amends article 22 (Method for elimination of double taxation) of the treaty, specifying that, in the case of Italy, the tax paid in the Philippines for which credit is granted is only the pro-rata amount corresponding to the foreign income which is included in aggregate income.

Furthermore, article 22(4) (matching credit) has been deleted.

Finally, article IV of the protocol entirely replaces article 25 (Exchange of information) of the treaty, providing for an exchange of information in line with article 26 of the UN Model (2011).

Revision to treaty between Italy and Pakistan – authorization for negotiations by Pakistan

On 7 September 2017, the Cabinet of Pakistan has authorized the start of negotiations to update the Italy - Pakistan Income Tax Treaty (1984).



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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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