Private Client Tax

Jurisdictional comparisons **Third edition 2015**

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Foreword

John Rhodes Stonehage Law Ltd

Welcome to the third edition of *Private Client Tax* in the European Lawyer Reference Series. In the foreword to the first edition in 2010, I recounted how, against the advice of my peers, I had opted for a career on the private client side of the City of London law firm I joined after studying law at Cambridge. This proved to be an immensely stimulating choice, opening a world of challenging clients and problems with which I am still engaged some 47 years later.

Anyone opening this volume needs no convincing about the relevance and excitement of acting for wealthy private clients. Amongst them we count the wealth and job creators, whose role in our societies has never been more important than today.

Politicians spend at least as much time in aeroplanes as private client lawyers, but swept along in their motorcades from one meeting to another they fail to pick up the essential message that what western economies need at this stage of the cycle is less government interference, regulation and taxation and more stimulus from entrepreneurs. This is despite the clear evidence of history that countries adopting a tax-cutting, smaller government approach by and large provide more choice and a better standard of living for their citizens. In the foreword to the second edition in 2012, I questioned whether the policies advocated by François Hollande would serve his country well. The outcome is clear whatever statistics you choose – the French economy, his popularity rankings, or the number of his countrymen who have recently brought their families and their ingenuity across the Channel to England.

The simple truth is that western governments have become addicted to spending more than they raise in taxes. This, combined with dramatic increases in longevity, is a toxic brew, leaving them with two obvious solutions: increasing taxes or cutting expenditure, neither of which appeal to their electorates. But whatever combination of these two main policy strands governments adopt, the third weapon in their arsenal is making dramatic improvements in tax collection. In the years since our first edition was published, the focus on this last subject has been unrelenting, with the US authorities taking the lead after finally and very publicly losing patience with those who brokered the "banking secrecy" model. A new era of transparency has been ushered in via multiple Tax Information Exchange Agreements, complex Foreign Account Tax Compliance Act regulations and headline-grabbing penalty settlements paid by Swiss and other banks for encouraging past tax evasions.

All this was predictable, and indeed predicted by me and others from the early 1990s onwards. Some banks have responded by significantly reducing the services provided for wealthy international families. All such families have to rethink their objectives and their strategies depending where they and their assets are located. One function of this volume is to enable such families and those who advise them to keep abreast of developments in this respect.

One general comment I would make is that, whilst it is still possible for families to organise their affairs so they quite legitimately pay well under the standard level of tax levied on permanent residents of the main western jurisdictions, it will undoubtedly become increasingly difficult to maintain such a lifestyle. This is a result not only of the greater transparency I have already mentioned, but also of hardening attitudes even in those jurisdictions which have traditionally welcomed foreign wealth, such as the UK and Switzerland. In the 2014 UK Autumn Statement, the cost of the Remittance Basis Charge for non-UK domiciled taxpayers was increased, for those who have been resident in 17 of the past 20 years to £90,000 a year. Already we see clear evidence that only the extremely rich are prepared to pay such an annual levy. In Switzerland, the November 2014 referendum on the forfait has allowed cantons to continue that regime if they so wish, but the mere fact that the question was ever put to a country-wide vote underlines a general perception that too much wealth has become concentrated in the hands of too few. This same theme was highlighted by President Obama in a recent major speech and I am told also lies behind current political unrest in Hong Kong, where wage earners can no longer afford to live centrally.

Does all this mean that if the very wealthy are to head-off a concerted attack they should willingly contribute more generously towards their share of the social contract?

As before, the authors of our different chapters are all experts in their own jurisdictions. One sure sign of competence is an ability to distil a complex subject down to its essentials. That you will find here. None of the chapters however is intended to provide more than an overview: any detailed case will have to be analysed on its own facts. But the list of authors here provides a ready guide to those who are well able to undertake that task, jurisdiction by jurisdiction and across jurisdictions too.

The publishers and I were delighted with the enthusiastic reaction received to the first and second volumes, which has given us the confidence to move ahead with the third. I have no doubt it will be similarly well received. Thanks are due to all our contributors for making time in their busy schedules to enable us to do this.

John Rhodes
London
March 2015

Italy

Carnelutti Studio Legale Associato
Luca Arnaboldi & Gilberto Comi

1. NON-TAX ISSUES

1.1 Domestic law

1.1.1 Briefly describe your legal system and origins

The Italian legal system is a continental legal system based on Roman legal tradition, particularly its civil law, revived with the Justinian Codex during the 12th century through the Glossators' and Commentators' interpretative efforts and inspired by French Napoleonic law through 19th century codification and 18th century compilations.

The Italian law-making process relies on a bicameral legislation established by the 1948 Constitution, which set forth exclusive legislative matters subject to the state. The law-making process also involves regional laws on the basis of a federal model of legislative powers' devolution to local entities such as constituting the republic and including districts (*provincie*) and municipalities (*comuni*).

Civil and criminal substantial and procedural laws are mainly codified. Besides the codes, there are innumerable statutes that integrate, repeal and amend their provisions, as well as regulate areas of law for which no codes exist, such as public and administrative law. Notwithstanding effort on the part of the legislator to organise and consolidate the statutes in force in certain fields, the Italian legal system is still inordinately complicated and baffled by the conflicts between different laws, many dating back centuries. EU regulations complicate matters further.

Under the Italian constitution, the judiciary is independent of the legislature and the executive and is not a source of law. However, since legislation is often broad-brush in its approach and the legislative agenda is very crowded, statutes often require judicial clarification. The Italian judicial system consists of a series of courts and a body of judges who are civil servants. The judicial system is unified, with every court a part of the national network.

The legal system grinds slowly and court decisions take years. Therefore, it is advisable to avoid litigation by taking every conceivable precaution when doing business in Italy, that is, by obtaining expert legal advice in advance. If things go wrong, it can again take years to achieve satisfaction and, in the case of fraud, the chances are that those responsible will have become insolvent, disappeared or even died, by the time the case is decided. Even when you have a cast-iron case there is no guarantee of winning and it may be better to write off a loss as experience.

1.1.2 What is the scope of your succession law?

The Italian law of succession focuses on safeguarding family members' interest in an estate. There are limits to the extent of testamentary freedom, which also applies in the case of intestacy, and which allows certain applicants to challenge the provisions in a will, as well as the rules regarding forced heirship. In particular, the son (or parents, if there is no son) and their spouse are entitled to be the assignee of a share of the estate. This percentage may reach up to three-quarters of the estate where there is the existence of sons and spouses. Donations that occurred before the death are also taken into account when calculating the shares.

1.1.3 When are individuals and their property subject to succession rules?

Forced heirship rules apply to safeguard beneficiaries and heirs of the deceased's estate, who must be Italian citizens resident in Italy at the time of the death. Succession upon death is also regulated by Italian law in the event of an Italian citizen's death (unless the latter is resident in another country and chooses the law of that country for inheritance), or when the testator expressly chooses Italian law to govern the will and is resident in Italy at the time of death. An Italian citizen not resident in Italy could also choose not to apply Italian law but this will not prevent heirs – if Italian citizens and resident in Italy – from enforcing the applicable heirship rules.

1.2 Private international law

1.2.1 What is the jurisdiction of local courts in international disputes?

Italian international private law is mainly regulated by Private International Law 218/95, which sets forth, without prejudice, the applicable international conventions enforced in Italy; the EU regulations which are directly enforceable; the criteria concerning Italian jurisdiction in the event of international disputes; and the applicable law in the event of a conflict of laws.

The general principle is that Italian jurisdiction exists when a defendant is domiciled in Italy but it does not apply when a dispute relates to real estate properties outside Italian territory.

Italian jurisdiction also exists:

- In the event that the defendant does not object to the lack of jurisdiction, for any reason whatsoever, in its first deed during the proceeding.
- If the parties agreed in writing that the Italian courts are the competent jurisdiction.

Should the jurisdiction be Italian, parties can also agree to assign dispute resolutions to another court or to an arbitration hearing, to the extent that the dispute concerns rights which can be waived. In addition, the criteria setting out Italian jurisdiction also apply in the event of voluntary jurisdiction, precautionary/protective measures and preliminary/prejudicial questions.

1.2.2 What approach do local courts take to conflict of laws?

Local courts approach conflict of laws by applying the material law singled out by the relevant criteria set forth by Law 218/95. Operation rules regulating the approach of the local courts are also provided for by that law. In particular, it is assumed that the judge knows the applicable law in the event of conflict. However, the judge can, as is often the case, require parties' support to identify the applicable foreign law. In the event that the judge fails to identify the applicable law, Italian law applies.

Foreign law is applied to the extent that it does not conflict with public order or cause effects contrary to the public order and that it does not conflict with public policy rules, which are always deemed applicable, notwithstanding any conflict of laws. Italian public policy rules include a set of rules for several matters (for example, constitutional rights and freedom, family and succession). The meaning of "public order", however, is wider than the meaning of public policy rules and it operates by way of reference to a set of rules which aim to safeguard the basic domestic principles of the legal system (by way of example, under this limit, application of Sharia law is hindered).

2. TAXATION

2.1 What are the criteria for liability to main taxes?

Italian law sets forth criteria for liability to Italian direct and indirect taxes. International tax treaties might set forth different criteria superseding Italian domestic provisions, should the former be more favourable for taxpayers than the latter.

Income tax

A distinction must be made between Italian resident subjects, such as individuals and legal entities, and non-resident subjects.

Italian resident taxpayers are subject to Italian income taxes: personal income tax and corporate income tax, as the case may be, on a worldwide principle (that is, on any taxable item of income wherever produced).

Non-resident taxpayers are subject to personal income tax or corporate income tax, as the case may be, on Italian-source items of income (that is, on taxable items of income produced in Italy).

Italian-resident and non-resident taxpayers are subject to local income tax on a taxable basis derived from business carried within one or more Italian regions.

Capital gains tax

Capital gains are subject to corporate income tax, personal income tax and local income tax, depending on the status of the taxpayer, as the case may be.

Inheritance tax/estate tax/gift tax

Inheritance/estate tax/gift tax applies to the transfer of rights/estates and *mortis causa* (gifts in contemplation of death)/gift transfers governed by Italian civil law. In the case where the testator/donor is an Italian resident, inheritance/estate tax/gift tax applies on any right or estate wherever located in the world. In the case where the testator/donor is a non-resident, inheritance/estate tax/gift tax applies only on the right or estate which is located in Italy.

Corporation tax
See income tax.

Property tax
Municipal taxes (including council tax and services tax) apply on real estate properties located in Italy, regardless of the owners' tax residence.

Specific real estate tax applies on real estate properties located abroad owned by Italian tax residents.

Value added tax
VAT applies in conditions where, among other things, the sale of goods or supply of services are performed in Italy.

Registration tax – stamp tax – stamp duty
Registration tax and stamp tax apply on deeds and agreements executed within the Italian territory.

Stamp duty applies on securities, bank accounts.

Mortgage and cadastral taxes
Mortgage and cadastral taxes apply on real estate properties located in Italy.

Tax on the financial assets owned abroad
Specific tax applies on financial assets and liquidity owned abroad by Italian tax residents.

2.2 What are the relevant main taxes in your jurisdiction?

Income tax
Personal income tax ordinary rates apply as follows:

- 23% up to EUR15,000 taxable basis.
- 27% on the portion exceeding the previous threshold up to EUR28,000.
- 38% on the portion exceeding the previous threshold up to EUR55,000.
- 41% on the portion exceeding the previous threshold up to EUR75,000.
- 43% on the portion exceeding the previous threshold.

The ordinary rates might be increased by municipal and regional surcharges up to 2%.

Corporate income tax applies at 27.5% ordinary rate. Local income tax applies at 3.9% ordinary rate.

Capital gains tax
On financial capital gains, personal income tax applies: at 26% flat rate on gains on non-qualified participations on companies (that is, granting no more than 20% voting rights in the ordinary shareholders meeting – 2% in

listed companies; or granting no more than 25% administrative rights in the case of non-Italian companies lacking in a shareholders meeting – 5% in the case of listed companies); and at the ordinary rates on 49.72% of their taxable amount in the case of gains on qualified participations (that is, the ones exceeding the above-mentioned thresholds).

For corporation tax purposes, 95% of capital gains are exempted from corporate income tax under the participation exemption regime.

Inheritance tax/estate tax/gift tax

Italian inheritance and gift taxes were abolished in October 2001, in respect of gifts made or succession proceedings starting after October 2001. Since then inheritance and gift taxes were reintroduced by law on 3 October 2006, subsequently amended and supplemented by the Budget Law 2007.

On the basis of the Budget Law 2007, the transfer by inheritance of the notes in respect of succession proceedings started on 3 October 2006 is subject to inheritance tax at the following rates:

- Where the beneficiary is the spouse or a relative in direct lineage, the value of goods transferred to each beneficiary exceeding EUR1 million is subject to 4% inheritance tax.
- Where the beneficiary is the brother or sister, the value of goods transferred to each beneficiary exceeding EUR100,000 is subject to 6% inheritance tax.
- When the beneficiary is a relative within the fourth degree or a relative-in-law in direct line with other relatives-in-law in a collateral lineage up to the third degree, the value of goods transferred to each beneficiary is subject to 6% inheritance tax.
- When the beneficiary is a person not listed under the previous points, the value of goods transferred to each beneficiary is subject to 8% inheritance tax.

The transfer of goods by reason of a gift from 29 November 2006 is subject to gift tax at the following rates:

- When the donee is the spouse or a relative in direct lineage, the value of goods gifted to each beneficiary exceeding EUR1 million is subject to 4% gift tax.
- When the donee is a relative within the fourth degree or is a relative-in-law in direct line and other relatives-in-law in collateral lineage up to the third degree, the value of goods gifted to each beneficial is subject to 6% gift tax.
- When the donee is a person not listed under the previous points, the value of goods gifted to each beneficiary is subject to 8% gift tax.
- When the donee is the spouse or a relative in direct lineage and the transfer of the notes by reason of gift occurs from 3 October 2006 to 28 November 2006, the value of goods gifted to each beneficiary exceeding EUR100,000 is subject to 4% gift tax. When (i) the beneficiary is the brother or sister, and (ii) the agreement through which the notes are transferred by reason of gift is filed for registration starting from

1 January 2007, the value of goods transferred to each beneficiary exceeding EUR100,000 is subject to 6% gift tax.

Corporation tax
See income taxes.

Property tax
Council tax ordinary rates range from 0.4% up to 0.76%, depending on the municipal territory in which taxable real estate properties are located. An additional 0.3% may be added by municipalities in certain cases.

Services tax rates range from 0 up to 0.33%, depending on the municipal territory in which taxable real estate properties are located. For council tax and services tax the taxable basis is the cadastrial value of the properties. Specific real estate tax applies on real estate properties located abroad at a rate of 0.76% (real estate tax).

Value added tax
VAT applies at 22% ordinary rate; with 10% and 4% rates applying to specific transactions.

Other taxes
Proportional registration tax applies at rates ranging from 0.5% to 15%; flat registration tax may also apply in some cases.

Proportional mortgage tax applies at proportional rates ranging from 1% to 3%. Proportional cadastral tax applies at 1%. Flat mortgage and cadastral tax may also apply in some cases.

Specific tax applies on financial assets owned abroad at a rate of 0.2%. For the liquidity owned abroad, a flat fee is due for EUR34.

2.3 Enforcement/collection of taxes

2.3.1 What are the basic procedures for collection and enforcement?

Personal income tax/corporate income tax/local income tax
As a general rule, personal income tax/corporate income tax/local income tax shall be paid in three instalments (two advance payments during the “t” tax period, plus settlement, if any, in the “t+1” tax period).

For personal income tax purposes, Italian tax law provides that source withholding taxes, on a final basis or on an advance basis, source substitute tax shall be levied on the main categories of income (for example, income derived from the investment of capital, income from subordinated employment and income derived from professional activities).

For corporate income tax purposes, Italian tax law provides that source withholding taxes shall be levied only on specific items of business income (for example, bank interest commission) or on specific items of Italian source business income earned by non-resident enterprises (for example, financial proceeds, royalties).

VAT
VAT taxpayers shall settle on a periodical basis output VAT against input VAT and pay the balance or carry forward the credit, as the case may be.

Municipal tax
Council and service taxes are due on a yearly basis and shall be self-liquidated by taxpayers and paid in two instalments per year.

2.3.2 To what extent is non-compliance an issue?

Personal income tax/corporate income tax/local income tax/VAT
Tax authorities carry out automatic check procedures and subsequent forced collection procedures to collect income taxes and VAT which have been duly and timely reported in the relevant tax returns by taxpayers and which have not been paid at the due time.

Tax authorities are entitled to carry out tax inspections in order to challenge income tax yearly returns and VAT yearly returns filed by taxpayers.

The deadline to carry out automatic check procedures and subsequent forced collection procedures, as well as tax inspections, expires on December 31 of the fourth year, subsequent to the year in which the challenged tax return has been filed.

Tax authorities entrust special entities with the collection of unpaid income tax. Special collection entities carry out seizure procedures on the amounts unpaid.

2.3.3 In which circumstances can default result in imprisonment?

Criminal penalties apply to the following infringements as detailed below:

- The deduction of expenses and VAT for tax avoidance purposes based on invoices and papers related to fictitious transactions (imprisonment from 18 months up to six years).
- Misrepresentation in bookkeeping aimed to avoid income tax or VAT on amounts exceeding EUR30,000 in respect of each tax (imprisonment from 18 months up to six years), together with misrepresentation in bookkeeping aimed at hidden taxable income or taxable VAT transactions in aggregate amounts higher by 5% than taxable income or taxable VAT transactions reported in the relevant tax returns or exceeding EUR1 million (imprisonment from 18 months up to six years).
- Misrepresentation in filling in tax returns aimed at avoiding income taxes or VAT in amounts exceeding EUR50,000 in respect of each tax (imprisonment from 12 months up to three years), together with misrepresentation in bookkeeping aimed at hidden taxable income or taxable VAT transactions in aggregate amounts higher by 10% than taxable income or taxable VAT transactions reported in the relevant tax returns or exceeding EUR2 million (imprisonment from 12 months up to three years).

- Failing to file any of the income tax returns or VAT returns, in the case of the relevant taxes avoided exceeding EUR30,000 (imprisonment from 12 months up to three years).
- Failing to pay to the Inland Revenue by the withholding agent withholding taxes levied in amounts exceeding EUR50,000 in respect of one tax period (imprisonment from six months up to two years).

In the case of tax infringements triggering criminal penalties, the deadline to carry out tax inspections expires on December 31 of the eighth year subsequent to the one in which the challenged tax return has been filed.

2.3.4 What are your laws on extradition for tax offences?
Italy signed the European Convention on extradition on 13 December 1957, which provides extradition for tax offences, provided that the contracting states allow it. Extradition is implemented through Law 755/1984.

2.3.5 Have there been any recent changes of behaviour by tax authorities?
Italian tax authorities are now more focused on international tax issues, such as transfer price and permanent establishments of foreign entities.

2.3.6 Are there any voluntary disclosure or amnesty programmes?
The Italian Government has introduced for the fiscal year 2015 an option for voluntary disclosure, which allows Italian tax residents to regularise their positions with regard to undisclosed property held abroad and to undisclosed income, by paying the taxes due (corporate income tax, personal income tax, local income tax, VAT) and reduced penalties provided for by the law.

3. EXEMPTIONS AND/OR EXIT TAXES FOR NEW IMMIGRANTS AND EMIGRANTS

3.1 Which taxes are relevant in your jurisdiction?
Italy does not have any tax exemptions for new immigrants, nor any exit taxes for emigrants.

4. USE OF ASSET HOLDING VEHICLES

4.1 Which vehicles are available in your jurisdiction and how are they treated by the courts?

Trusts

Trusts having disclosed beneficiaries are tax transparent for corporate income tax purposes and relevant profits shall be subject to personal income tax in the hands of beneficiaries. In the case where beneficiaries are undisclosed, trusts are subject to corporate income tax.

Companies

Italian stock companies and limited liability companies are subject to corporate income tax and local income tax.

Anti-avoidance rules apply to sham companies.

Life insurance

Life insurance, in principle, can generate profits falling into the following income categories: financial income and miscellaneous income (that is, a catch-all category). As a general rule such profits are in the hands of Italian-resident individuals to source withholding tax and/or substitute tax (at 26%) and, consequently, must not be reported in the relevant taxpayers' tax returns.

Foundations

Non-profit organisations are not subject to corporation tax on income produced under specific conditions deriving from activities falling within the scope of such entities. Other profits shall be subject to corporation tax. A gift made in the favour of a non-profit organisation is tax deductible from the taxable income under certain limits, either for the individual or for companies. Furthermore, a gift in favour of non-profit organisations, with specific characteristics, is not subject to gift or registration tax.

Partnerships

Taxable income produced by partnerships is subject to income tax in the hands of the relevant partners pursuant to the tax transparency principle.

5. PHILANTHROPIC AND CHARITABLE OPTIONS

5.1 Is there a compulsory registration system for charities?

Under Italian law, associations are non-profitable entities and are not required to be registered since freedom of association is established by the Italian constitution.

On the contrary, foundations are required to be registered in view of their different legal structure, such as managing assets for philanthropic purposes only.

The registration of associations is required in order to obtain legal personality and limit the liability of their members.

Registration in the local authorities register is also required to be legally qualified as a non-profit entity and will be entitled to tax relief. There are several nuances in the requirements for registration according to each foundation and association and their purpose and area of activity.

Socially useful non-profit organisations (ONLUS) may benefit from a preferential tax system. ONLUS does not indicate the legal status of the entity, but rather it is a title which organisations achieve by respecting certain conditions and by registering with the ONLUS list of the Ministry of Finance.

The ONLUS title allows institutional activities not to be considered as commercial activities and also disallows activities connected directly with institutional activities from forming taxable income.

The requirements to qualify as an ONLUS (Article 10 of Legislative Decree number 460/1997) are briefly outlined below:

- Personal requirements: legal status must be compatible with the ONLUS title (that is, recognised associations, unrecognised associations, committees, foundations, co-operative societies).

- Material requirements: articles of association, or similar documents, of organisations applying for the ONLUS title must have specific form and contents.

5.2 Are there any tax reliefs available?

Non-profit organisations are not subject to corporation tax on business income produced under specific conditions derived from activities falling within the scope of such entities. However, other profits shall be subject to corporation tax.

5.3 Are there any particular distribution requirements and can domestic charities apply funds outside your jurisdiction?

Non-profit organisations are not allowed to make distributions in favour of their founding members. Charities can look for funds and use them outside Italy.

6. REGULATORY ENVIRONMENT

6.1 What is the financial environment like for funds and other investment vehicles?

The Italian regulatory environment for investment funds and services in Italy is set out by Legislative Decree 58/1998, which provides for the main rules and principles (as detailed further in the resolutions and regulations of Consob and Banca d'Italia – the two independent authorities responsible for supervising and monitoring investment vehicles and services).

The collective investment vehicles which may be established under Italian law are:

- Investment funds: an independent pool of assets, divided into units, pertaining to a plurality of participants and managed on a collective basis by a company (Società di gestione del risparmio or SGR) is authorised to provide the service of collective portfolio management. The assets of investment funds, whether open or closed, may be derived from one or more issues of units. However, only real estate investment funds can be open-ended.
- SICAV: an open-ended investment company, limited by shares with the exclusive purpose of the collective investment of capital raised by offering its shares to the public. The assets of the SICAV may also be managed by an SGR.

Decree 58/1998 and Consob regulations set out rules concerning:

- The conduct and exercise of voting rights in the SGR.
- The requirements of entities and persons carrying out investment services.
- The performance of the said services (including door-to-door services and distance marketing).
- Out-of-court settlement of disputes between investors and authorised persons.
- Collective measures to protect the investor, brought by consumer associations.

- Injunctive remedies towards intermediaries and the suspension of the administrative bodies of investment companies (SGR/SICAV) in the event of the breach of applicable laws and regulations.
- A compensation system for the protection of investors.

6.2 What is the impact of anti-money laundering legislation on professional/banking confidentiality?

Anti-money laundering legislation requires professionals and credit institutions (including banks and intermediaries) to notify the relevant public authority of any suspected or questionable transaction carried out by their client. The legislation sets out the criteria on the basis of which a certain transaction is deemed as suspicious, by evaluating the behaviour of the client and the objective parameters, such as an incongruence with previous transactions, cash payments or the involvement of entities operating in tax havens).

With reference to professionals, however, the duty to notify the relevant authority does not apply exclusively in the event of information concerning a dispute, whether actual or potential, involving their clients, or to information used for the purpose of filing a tax return.

6.3 Is it necessary to comply with tax and other information exchanges?

The Italian Government has implemented the Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments (EU Tax Savings Directive) by approving Legislative Decree 84 of 18 April 2005. This decree's provisions apply to interest payments made as of 1 July 2005. Pursuant to the EU Tax Savings Directive, each member state of the European Union will, ultimately, be expected to provide information to other member states on the interest paid from that member state to individual savers resident in those other member states. For a transitional period, Belgium, Luxembourg and Austria, were allowed to apply a withholding tax instead of providing information at a rate of 15% for the first three years (1 July 2005-30 June 2008), 20% for the subsequent three years (1 July 2008-30 June 2011) and 35% from 1 July 2011 onwards. These three member states will implement automatic exchange of information as follows:

- If and when the EU enters into a unanimous agreement in the Council with Switzerland, Liechtenstein, San Marino, Monaco and Andorra on the exchange of information, upon request, as defined in the Organisation for Economic Co-operation and Development (OECD) Agreement on Exchange of Information on Tax Matters (developed by the OECD global forum working group on the effective exchange of information in 2002) in relation to interest payments, and to continue to apply the simultaneous withholding tax.
- If, and when, the Council unanimously agrees that the United States is committed to exchanging information, upon request, as defined in the 2002 OECD agreement in relation to interest payments.

Italy executed a number of tax treaties against double taxation on income with the following countries:

Albania, Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Belgium, Belarus, Brazil, Bulgaria, Canada, China, Cyprus, South Korea, Cote d'Ivoire, Croatia, Denmark, Ecuador, Egypt, United Arab Emirates, Estonia, Ethiopia, Russian Federation, Philippines, Finland, France, Georgia, Ghana, Germany, Japan, Jordan, Greece, India, Indonesia, Ireland, Island, Israel, countries deriving from ex-Yugoslavia, Kazakhstan, Kuwait, Latvia, Lebanese Republic, Lithuania, Luxembourg, Macedonia, Malaysia, Malta, Morocco, Mauritius, Mexico, Moldova, Mozambique, Norway, New Zealand, Oman, Netherlands, Pakistan, Poland, Portugal, Qatar, United Kingdom, Czech Republic, Saudi Arabia, Slovakia, Romania, Senegal, Syria, Singapore, Slovenia, Spain, Sri Lanka, United States of America, countries deriving from ex USSR, South Africa, Sweden, Switzerland, Tanzania, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, Uganda, Hungary, Uzbekistan, Venezuela, Vietnam and Zambia.

7. KEY PLANNING POINTS FOR LONG TERM RESIDENT FAMILIES

The family business approach generally deals with three areas: family, company and estate.

Families

Families should evaluate the tax impact of their income, considering the specific rules that apply for each category of income (land income, self-employment income, income from employment, capital income, other income, business income); they need to consider the relationships existing among the components of the family and the different marginal tax rates. There are special tax allowances for dependant relatives and other deductions relating to social security contributions, donations for religious institutions, health care costs, insurance premiums, expenses for attending courses and university, interest expenses on the mortgage for the purchase of a principal house. It should also be aware of the rules that relate to the legal community of property between spouses.

Company

Business items generally involve the efficient construction of a business contest and need to be personalised in accordance with individual situations (see sections 2.1 and 2.2 above).

Estate

Apart from inheritance/estate tax/gift tax, the protection of the estate is another key consideration to defend assets from tax impacts. For business purposes a specific kind of agreement for the generational change in entrepreneurial business, called "family pacts" have been introduced by Law 55 of 14 February 2006. Another institute generally evaluated for defence purposes is a trust that can be an effective tool for protecting assets. In this case the tax impact should be carefully considered.

8. KEY POINTS FOR MIGRATING AND TEMPORARILY RESIDENT FAMILIES

Individuals having the headquarters of their business interests or usual home within the territory of the state for more than half of the calendar year are considered tax resident in Italy. In cases of double residence, there are specific rules in international tax treaties against double taxation. The condition of a resident or non-resident is central because it determines the application of a worldwide or local tax for each tax period.

9. FORTHCOMING LEGISLATION AND OTHER CHANGES

The Italian Government has introduced for the fiscal year 2015 an option for voluntary disclosure, which allows Italian tax residents to regularise their positions with regard to property held abroad and not disclosed and to income never disclosed, by paying the taxes due (corporate income tax, personal income tax, local income tax, VAT) and the reduced penalties provided for by the enacted law.

Furthermore, taxation of dividends cashed by trust will increase from 1.375% to 21.37%.

In addition, in order to simplify the complex tax system, the abolition of local income tax is anticipated.

10. USEFUL REFERENCES

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Useful website for professional articles and doctrine
– *www.cameratributariamilano.it*.
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