

## **Official bulletin on international tax ruling in Italy**

**March 25, 2013**

### **ITR Correspondent – Valente Associati GEB Partners**

On March 19 2013, the Italian Revenue Office published the second edition of the International Tax Ruling Bulletin (bulletin), about three years after its first edition (April 14 2010). **Piergiorgio Valente and Caterina Alagna of Valente Associati GEB Partners explain the bulletin's impact on the tax market.**

The international tax ruling procedure allows Italian businesses that carry out international activities to agree in advance with the Italian Tax Authorities on:

- the methods for calculating the arm's-length value of intercompany transactions;
- the tax treatment of dividends, interest and royalties paid to or collected from nonresident persons in specific cases, also based on applicable treaties;
- the application, in specific cases, of rules concerning the allocation of profits or losses to the permanent establishment in another Member State of a company resident in Italy, also based on applicable treaties.

With reference to transfer pricing, through the application of the international tax ruling procedure, advance pricing agreements (APAs) were introduced into Italian law. APAs are arrangements between the taxpayer and the competent tax authorities that allow, as a precautionary measure and for a given period of time, to identify the method of calculating the arm's-length price of the transactions subject to the agreement.

The Bulletin reports that from 2004 to 2012:

- 135 international tax ruling applications were submitted (as many as 83 of them were submitted from 2010 to 2012);
- 56 agreements were executed (as many as 37 of them were executed from 2010 to 2012);
- 89% of the agreements executed dealt with a transfer pricing matter;
- the average time it took to sign an agreement is 16 months (calculated as the simple average of the months altogether employed to execute each agreement).

Since the end of 2010, the Italian tax authorities have provided the opportunity to request bilateral or multilateral APAs - agreements by and between the competent authorities of all foreign jurisdictions involved.

According to the bulletin, as of December 31 2012, 19 bilateral APAs were underway. 79% of the agreements on transfer pricing involved income-based methods (10 profit split cases and 24 transactional net margin method cases), whereas 21% of them focused on traditional methods (four comparable uncontrolled price cases, three cost plus cases and two resale price cases).

In some cases the tax authorities - to eliminate any differences (in terms of functions performed, risks assumed and assets held) between the profile of the comparables identified during the investigation and the taxpayer's profile - carried out appropriate

adjustments of the financial statements data of the comparable companies.

With reference to the types of transactions covered by the agreements, it should be noted that:

- 22 agreements focus on transactions related to the functional profile of a producer;
- 19 agreements focus on transactions related to the functional profile of a distributor;
- 11 agreements focus on the intercompany supply of services;
- 5 agreements focus on the determination of the value of royalties paid or received;
- 2 agreements focus on cost sharing agreements.

Finally, the bulletin highlights the increase that the activity of pre-filing (in that the taxpayer's – also anonymous – request for clarifications on the international tax ruling procedure before its official beginning) registered over the last three years (2010 to 2012).

**Valente Associati GEB Partners**

Viale Bianca Maria, 45  
20122 Milano  
Tel 39 02 7626131  
Fax 39 02 76001091  
[www.gebpartners.it](http://www.gebpartners.it)