

Italian 2014 stability law: Amendments to international tax ruling provisions

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The Italian stability law has been amended in relation to international tax ruling provisions

The international tax ruling is a legal institution introduced into the Italian tax system by Art. 8 of Leg. Dec. No. 269/2003, available to enterprises carrying out international business activities, intended as any enterprise residing in the Italian territory, that may be qualified as such, in accordance with the provisions in force on income tax matters, which, alternatively or jointly:

- fulfills, with respect to non-resident companies, one or more of the conditions set forth under par. 7 of Art. 110 (transfer pricing regulations) of the Italian Income Tax Code;
- participates in the equity, fund or capital of non-resident entities or rather, which equity, fund or capital is participated by non-resident entities;
- may have paid out to (or received from) non-resident entities dividends, interests or royalties;
- namely, any non-resident enterprise that carries out its activity in the Italian territory through a permanent establishment, which may be qualified as such, pursuant to income tax provisions in force.

The international tax ruling as detailed above is available to enterprises carrying out international activities which intend to define the following aspects with the Italian Tax Authorities, and more precisely:

- calculation methods of the normal value (*arm's length value*) of transactions set forth under Art. 110, par. 7 of the Italian Income Tax Code (transactions included within the transfer pricing scope);
- application of rules – also treaty-sourced – to a concrete case, involving the distribution to non-resident entities, or rather, the receipt by non-resident entities, of dividends, interests, royalties or other income components;
- application of rules – also treaty-sourced – to a concrete case, concerning the attribution of profits or losses to a permanent establishment in Italy of a non-resident entity, or rather, to the permanent establishment in another State of an Italian resident enterprise.

Law No. 145/2013 (2014 Stability Law) amended the international tax ruling regime setting forth:

- that the legal provision is extended to the preliminary assessment of whether or not the requirements to determine the existence of a permanent establishment in the Italian territory actually exist;
- the extension of the term from three to five tax periods of the legal validity of the ruling agreement: during such period, the Tax Authorities carry out their auditing activities to ascertain compliance with the terms of the signed agreement and to verify whether any amendments were made to the *de facto* and *de iure* conditions that constitute the basis for the agreement.

The second edition of the *Bulletin of the International Tax Ruling*, published by the Tax Authorities on 19 March, 2013 reveals that the last few years saw an increased adoption of the said legal institution, in particular with reference to the prior determination of transfer pricing methods (89% of signed agreements).

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