

How the Apple settlement reflects Italian focus on TP

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[Apple is also under investigation by the European Commission \(EC\) for its tax dealings in Ireland](#) where its headquarters are situated. While the Italian dispute is separate from the EC's investigation in Ireland, both cases show the growing pressure on multinational enterprises' (MNE's) tax practices in Europe over recent years.

It is likely that the state aid investigations encouraged Apple to settle the matter with the Italian authorities.

"The European Commission investigations may have helped the Italian Revenue to convince Apple to pay €318 million as settlement," said Gaetano Pizzitola, tax partner at Crowe Horwarth Italy.

The more aggressive stance from Europe on tax planning both reflects and influences further how aggressive individual countries within Europe are becoming in their audits.

"Never before has the international tax arena assumed such relevance," said Piergiorgio Valente, managing partner of Valente Associati GEB Partners. "International and European tax policy have contributed to a change of behaviours, with an impact that affects both tax authorities and taxpayers."

Aggressive audits

Italy has demonstrated this influence with aggressive audits on foreign and Italian multinationals, especially in the past three years. These have been prompted by government targets for audit collection.

"Revenue collections in Italy have more than tripled in the last three years compared to ten years ago. To a certain extent, they have been pioneering a number of aggressive and, in my view, questionable positions, such as on PE," said Pizzitola.

The Italian authorities have been through a slow period recently after a high court investigation found the appointment of 800 of the revenue service's directors to be illegal. These directors were downgraded and meant all significant activities in the revenue were paused.

However as the government demands more income from audits, despite the slowdown, the revenue agency must act to match the government's plans.

As the revenue agency starts to work again, with new directors in place, the plan they will work along has been laid out by a recent package of new rules. These rules include the cooperative compliance programme which will open a constant dialogue between large companies and the revenue agency.

"The attitude of both the Italian Government and tax authority is to establish a more cooperative approach towards tax payer that is based on transparency and fairness. At the same time, the intention is to counter, in light of the OECD developments, very aggressive tax schemes that can erode the Italian tax base," said Stefano Simontacchi, co-managing partner at BonelliErede.

Even with a push for greater transparency, disputes on transfer pricing are set to continue in Italy. The Apple settlement will more likely be notable for its size than what the dispute centred on.

"In the next couple of years, and due to the implementation BEPS measures, we expect an increase on TP related audits. We foresee that the Italian tax authorities will most likely focus on intercompany financial flows, treaty shopping and deemed permanent establishment, among other topics," said Valente.

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