

Italy: Guide to cross-border transactions, APAs, and exchange of information

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Federico Vincenti and Carola Valente Della Rovere of Valente Associati GEB Partners/Crowe Valente analyse Italy's cross-border tax and transfer pricing rules under DAC3 and DAC8

The automatic exchange of cross-border advance rulings and advance pricing agreements (APAs) is aimed at the acquisition of data relating to such agreements by the tax authorities and the concerned parties, so that all tax authorities potentially involved in the transactions of those parties become aware of their content.

The obligations concerning the automatic exchange of cross-border advance rulings and APAs are governed by [Article 8b of Council Directive 2011/16/EU](#), as introduced by [Council Directive \(EU\) 2015/2376 \(DAC3\)](#). This provision was amended, with effect from 2026, by [Council Directive \(EU\) 2023/2226 \(DAC8\)](#) to expand the scope of rulings subject to exchange when they concern individuals.

Italy implemented these rules through Legislative Decree No. 32 of 15 March 2017, which amended Legislative Decree No. 29 of 4 March 2014 to identify the rulings subject to automatic exchange and to set out the exchange procedures with other tax authorities, and amended articles 31-bis and 31-ter of Presidential Decree No. 600/1973, later rewritten by Legislative Decree No. 13 of 12 February 2024, governing certain procedural aspects.

The automatic exchange concerns the tax authorities only and therefore does not entail any obligations for taxpayers or for any intermediaries or withholding agents.

Scope of cross-border rulings and APAs

Cross-border advance rulings include:

- Advance agreements concluded under Article 31-ter(1) of Presidential Decree No. 600/1973 (so-called rulings for enterprises with international activities);
- Advance agreements relating to the use of intangible assets (the former “patent box”), where they concern cross-border transactions;
- Opinions issued in response to ordinary or anti-abuse ruling requests, concerning the interpretation or application of domestic or treaty tax rules to cross-border transactions;
- Opinions issued under the cooperative compliance regime (relating to the tax treatment of cross-border transactions);
- Opinions issued under the “new investments” ruling concerning cross-border transactions; and
- Any other agreements or rulings producing effects similar to those listed above.

A “cross-border transaction” is defined as a transaction or series of transactions in which, alternatively:

- Not all parties involved in the transaction or series of transactions are fiscally resident in Italy;
- One or more parties involved in the transaction or series of transactions are simultaneously fiscally resident in Italy and in one or more other jurisdictions;
- One of the parties involved operates in another jurisdiction through a permanent establishment, and the transaction or series of transactions is part of or constitutes the activities of that permanent establishment;
- It has a cross-border impact.

This definition covers a broad range of cross-border operations, including those involving different tax residencies or permanent establishments in multiple jurisdictions.

The following are not subject to automatic exchange:

- Cross-border advance rulings concerning the tax situation of one or more individuals; and
- Bilateral or multilateral APAs on transfer pricing concluded with non-EU countries, where the international agreement governing the APA prohibits disclosure to third parties (however, information related to the request that led to the agreement is exchanged).

Rulings and APAs not subject to exchange

From 2026, the exclusions will be amended by Article 8-bis(4) of Council Directive 2011/16/EU, as introduced by DAC8. Specifically, cross-border advance rulings concerning the tax situation of one or more individuals will be subject to exchange if the ruling is issued, amended, or renewed after January 1 2026, and if:

- The transaction or series of transactions in the ruling exceeds €1.5 million (or its equivalent in another currency); and
- The ruling determines whether a person is a tax resident in the issuing EU member state.

An exception is made for rulings related to source taxation on employment income, director fees, and pensions of non-residents, which are not subject to exchange.

Data to be exchanged

The data to be exchanged is listed below:

- Identification of the applicant;
- A summary of the ruling or APA;
- Dates of issuance, modification, or renewal of the ruling or APA;
- Start date of the validity period of the ruling or APA, if specified;
- End date of the validity period of the ruling or APA, if specified;
- Type of ruling or APA;
- Amount of the transaction or series of transactions covered by the ruling or APA, if referenced in the ruling or APA;
- A description of the criteria used to determine the transfer pricing method or the price itself in the case of an APA;
- Identification of the method used to determine transfer pricing or the price in the case of an APA;
- Identification of any other EU member states that may be affected by the ruling or APA;

- Identification of the individuals who may be affected by the cross-border ruling or the APA (indicating which member states the individuals are linked to); and
- Indication if the information provided is based on the same ruling or APA, or on the request that led to the issuance of the ruling or APA.

Under Article 8-bis(10) of Council Directive 2011/16/EU, member states may request additional information, including the full text of the ruling or request.

According to Article 8-bis(5), the information must be exchanged promptly after the ruling or APA is issued, modified, or renewed, and no later than three months after the end of the calendar half-year in which these rulings or APAs were issued, modified, or renewed.

Towards a future of tax transparency

The above-mentioned regulation aims to combat aggressive tax planning and abusive tax practices, which, as has emerged from recent cases under investigation by the European Commission, often seem to be linked to tax rulings concluded with certain jurisdictions and to the detriment of other involved European countries. This will allow all EU tax administrations to be promptly informed of potential aggressive tax planning schemes, in a framework increasingly focused on transparency, benefiting both businesses and the tax revenues of individual member states.



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