ITALY: Personal Income Tax Rates 2013

Taxation of an individual’s income in Italy is progressive. The tax rate for an individual is between 23%-43%. In addition to direct taxation (IRPEF), there is also a regional tax of 1.2%-2.03% and a municipal tax of 0.1%-0.8%. There are reduced rates of tax and tax exemptions available to certain income earners.

An individual is liable for tax on his income as an employee and on income as a self-employed person. Tax will be payable on income earned in Italy and overseas by an individual who meets the test of a "permanent resident" of Italy. A foreign resident who is employed in Italy pays tax only on income earned in Italy.

One of two tests must be passed to be considered an Italian resident: a life centered in Italy, or being registered in the Population Registry as living more than 183 days a year in Italy. It is important to point out as regards taxable income from outside Italy, a "tax credit" is granted for tax deducted outside Italy. In the case of income from a salary, the employer is obligated to deduct the amount of tax payable on a monthly basis. A self-employed person must prepay income tax that will be offset on filing an annual return. The advance payment is determined on the basis of the return made for the previous year. In the event of a new business, the advance will be calculated on the basis of estimates made by the owner of the business.

Italy individual income tax rates 2013

<table>
<thead>
<tr>
<th>Tax (%)</th>
<th>Tax Base (EUR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>23%</td>
<td>0 - 15,000</td>
</tr>
<tr>
<td>27%</td>
<td>15,001-28,000</td>
</tr>
<tr>
<td>38%</td>
<td>28,001-55,00</td>
</tr>
<tr>
<td>41%</td>
<td>55,001-75,000</td>
</tr>
<tr>
<td>43%</td>
<td>75,001 and over</td>
</tr>
</tbody>
</table>

Note: An additional 3% solidarity tax is imposed on all personal income exceeding EUR 300,000.

Italy Capital gains: capital gains are generally added to the regular income.

- The rate of tax payable on capital gains interest and dividend from shareholding is 20% for non-qualifying shareholding of up to 25% in an unlisted company.
- For the purpose of calculating a capital gain, the gain is decreased in line with the rate of increase in inflation, from the date of purchase to the date of sale.

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SPAIN: Interest on related party debt disallowed for tax purposes

Interest on related party debt would be disallowed for tax purposes when the funds borrowed are used to finance investments in other group companies (contributions to capital) or to internal acquisitions (i.e. acquire shares of a group company from other group company). This anti-fraud measure aims to tackle the recent abuses of multinational groups using leveraged Spanish Holding Companies to channelize investments in nonresident subsidiaries; Under Spanish the participation exemption system, dividends from qualifying foreign subs are tax exempt, but (until the legal change) interest used to finance the equity of such subs was tax deductible, even if it was related party debt. The combination of these rules led to an erosion of the Spanish taxable base, which has been corrected now.

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UK: Recent UK personal tax developments

Since last month’s Tax Flash there have been further draft Finance Bill 2013 clauses released regarding the abolition of ordinary residence status from 6th April, 2013.

- The 2013 UK Budget will be on 20th March, 2013 at which time we should have confirmation of the final changes to the above, the new statutory residency rules and overseas workdays relief (OWR) for newly UK resident but not UK domiciled employees with overseas workdays.

- The Upper Tribunal has overturned a First-tier Tribunal decision on Inheritance Tax (IHT) business property relief (BPR) in CRC v Lockyer and Robertson (as the personal representatives of Pawson, deceased) ruling that BPR was not available on the deceased’s holiday bungalow as it had been held ‘mainly as an investment’. A fighting fund is being raised to challenge this under appeal as it potentially affects thousands of people in the UK.

- Not a week goes by without another development/commentary/challenge to the tax avoidance industry and UK taxpayers who take advantage of marketed plans and/or those UK taxpayers who either by accident or design are not declaring all their UK taxable income and gains. The UK Government seem to be on a crusade to challenge all forms of illegal and legal tax avoidance that have not been Government approved to increase UK tax collection. In addition HMRC are increasing their investigation task forces on both a regional and industry specific basis.

- The UK 2011/12 tax return filing “season” officially ended on 31st January, 2013. If anyone was issued a 2011/12 UK tax return to file by HMRC and has not done so HMRC will automatically charge a £100 late filing penalty plus penalties on both a daily basis and at certain key dates based on a minimum amount or a percentage of tax due if higher as per the link aside www.hmrc.gov.uk/sa/deadlines-penalties.htm.

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NL: One-tier Board now possible, Abdication of HM the Queen

1. New Dutch legislation

As from January 1, 2013 new company law opens a new option for Dutch NVs and BVs to change from a two-tier board system with a supervisory board and a management board into a one-tier board.

Other new rules include the limiting of functions of a supervisor and an equal spreading of men and women in the board and supervisory boards.

2. Her Majesty the Queen announces abdication

Her Majesty the Queen has announced her abdication. His Royal Highness the Prince of Orange is the successor to the throne.

The cabinet has decided that the abdication of the Queen will take place at the Royal Palace in Amsterdam on 30 April 2013.

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EGYPT: Double Tax Treaty (DTT) with Ethiopia signed

Taken the form of OECD Model, the following are main features of the DTT:

**Dividends**

Attracts 5% Withholding taxes (WHT) for the participation over 25% at the source of income company and 10% WHT for the participation of less than 25%.

**Interest**

Attracts WHT at 10% of the gross amount of Interest at the source of income state.

**Royalty**

Attracts WHT at 10% of the gross amount of Royalty at the source of income state.

**Independent Personal Services**

Is taxable only at the State of the Independent Personal.

**Consulting Service Contract**

Is considered as a Permanent Establishment (PE) and therefore be taxable at the other contracting state if it lasts for more than 12 months.

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MAURITIUS: ATMC’s comment on India’s controversial Anti Avoidance Rules

The Association of Trust and Management Companies (“ATMC”) in Mauritius, headed by its President, Global Wealth Management Solutions Ltd (“GWMS”) represented by Kamal Hawabhay (a member of AITC) comments, in a press release, dated 09 February 2013 on the announcement by the Government of India (“GOI”), in late January 2013, on the implementation of its controversial General Anti Avoidance Rules (GAAR).

The acceptance of the recommendations of the Expert Committee on GAAR that was set up by the GOI in 2012 continues to cause confusion among investors globally and has given rise to wild speculations mainly because the Indian Minister of Finance did not explicitly comment on the validity of the Tax Residence Certificate (“TRC”) issued by the Mauritius Revenue Authority. Furthermore, the GOI has postponed the application of its controversial GAAR Rules to 1 April 2016.

The Expert Committee had recommended, in relation to Mauritius, that the Circular 789 (issued by the Central Board of Direct Taxes of India in 2000) which upholds the validity of the Mauritius TRC be maintained. The Mauritius TRC is required to benefit under the Double Tax Avoidance Treaty between India and Mauritius.

A special committee was set up by the ATMC to look at the general implications of GAAR and also considered the Expert Committee recommendation relating to the CBDT circular 789. The ATMC takes the view that the acceptance of the major recommendations by GOI of the Report of the Expert Committee unequivocally includes the recommendations relating to the CBDT circular 789. There has been no statement by any competent authority to contradict or to reject this particular recommendation.

The ATMC is the single most substantial representative body with the highest number of Management Companies and Trustees operating in the offshore industry in Mauritius. Click here for the full text of the ATMC press release.

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CHINA: Construction Industry Sees Taxation Burden Rise after VAT Reform

Should the business tax rate of 3 per cent change to the valued-added tax rate of 11 per cent for the industry, the average taxation burden will be lowered by 83% theoretically, while it is more likely to be higher by over 90 per cent practically. These findings are based on survey of 66 construction companies conducted by the China Construction Accounting Institute. The Institute believes the situation is caused by the fact that it is difficult for construction companies to obtain enough input VAT invoices to deduct their output VAT.

Property Tax Reform Stalls
The pilot property tax reform in Shanghai and Chongqing has not advanced well as expected, encountering difficulties in taxation scope, taxation standard and other areas. As a result, the Ministry of Finance has suspended the preparation works for the reform in Hunan and Hubei.

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CHINA: New Tax Incentive In Qianhai For Qualified Individuals

Qianhai, a district located in Shenzhen, China, has been designated by the China central government as the “Pilot District” for the development of the modern services industries. During the past few months, the Shenzhen local government authorities have promulgated a number of local policies to attract foreign investments as well as qualified individuals who are willing to work in Qianhai. Recently, the relevant Shenzhen authorities have issued the “Provisional Measures on the PRC Individual Income Tax Subsidy for Overseas High-End Talents and Professionals in Short Supply in Qianhai”:

- The Relevant Tax Incentive: For qualified individuals, working for a local entity located in Qianhai, subject to certain conditions, they would be entitled to a “tax-exempt” subsidy provided by the Shenzhen local government on the portion of their IIT payments, in particular, when such IIT payments exceed 15% of their taxable income from employment. In other words, a flat IIT rate of 15% would be applied to all qualified individuals.

- The Definition of “Qualified Individuals”
  - Individuals who possess foreign nationalities (including Hong Kong, Macau and Taiwan Residences), or PRC nationals/graduates who holds overseas permanent resident status;
  - The enterprises or institutions that they work for should be registered and located in Qianhai.
  In addition, these should be classified as “encouraged industries” in Qianhai under the Provisional Measures, namely, financial services, modern logistics, information services, technology services and other professional services;
  - Individuals should pay tax in Qianhai according to the current PRC IIT law and regulations.

- The Effective Date: January 1, 2013 / Location of the Enforcement: Qianhai district only.

- The Application Procedures: Qualified individuals should make official applications to the Qianhai Administration Bureau (“QAB”) for the tax subsidy through their employers during the period from March 1 to March 30 of the following year. Upon approval by the QAB and the Finance Commission of Shenzhen Municipality (“FCSM”), under the Provisional Measures, the tax subsidy would be released to the employers’ designated bank accounts by FCSM. Thereafter, the tax subsidy would be transferred to the qualified individuals’ personal bank accounts by the employers within 10 working days accordingly.


OECD: Report issued on Tax Base Erosion and Profit Shifting

The Organization for Economic Cooperation and Development (OECD) released its first report on base erosion and profit shifting (BEPS) on 12 February 2013. The report is responding to the growing perception of high-taxation governments that they lose substantial corporate tax revenue because profits are shifted to favorable tax locations and that traditional international tax principles may no longer be adequate.
The areas of concern for the OECD working group are:

- International mismatches (double non-taxation);
- OECD model treaty concepts in the field of digital delivery of goods and services;
- Tax treatment of related-party debt, insurance and other intragroup financial arrangements;
- Transfer pricing, in particular, the shifting of risks and intangibles, the artificial splitting of assets between different legal owners, and transactions within a group that rarely would take place with third parties;
- The effectiveness of domestic anti-avoidance measures (e.g., general anti-avoidance rules, and controlled foreign company and thin capitalization regimes) to prevent treaty abuse; and
- The availability of harmful preferential regimes.

The report wishes to create a problem both globally and in a holistic manner, leading to consideration of matters such as source-based and residence-based taxation, which modification would minimize tax competition and clearly leads to higher effective business taxation on the long run.

The goals of the OECD BEPS group are to:

-Neutralize the effect of mismatches;
-Improve or clarify transfer pricing rules to address specific areas where the current rules produce undesirable results;
-Update solutions to the question of tax jurisdiction, particularly in relation to digital goods and services;
-Propose more effective anti-avoidance measures to be included in domestic law or international guidance;
-Draw up rules on the treatment of intragroup finance transactions, including deductibility and withholding taxes; and
-Propose solutions to counter harmful regimes more effectively, taking into account transparency and substance.


**EU: End of Your Tax Privacy - Cooperation in Direct Taxation in Force**

As already presented in previous Tax-Flash issues, the revised EU Directive on Administrative Cooperation in Taxation has come into force on 1 January 2013, laying the basis for stronger cooperation and greater information exchange between tax authorities in the EU. This relates to information that is of 'foreseeable relevance' to the administration. In practice this is meaning any information which employees of tax administration find interesting for taxation of EU taxpayers.

One of the main points is the abolition of bank secrecy for cross-border information requests: one member state cannot refuse to give information to another just because it is held by a financial institution. This aligns EU law to OECD standards. Tax officials may be authorized to participate in administrative enquiries in another member state. They will also be able to request that their tax documents and decisions are notified elsewhere in the EU.

Deadlines are introduced to accelerate exchange of information on request and spontaneous exchange of information.

The Directive covers all taxpayers and all taxes except those already covered under specific EU legislation (i.e. VAT and excise duties) and compulsory social contributions.

The Directive also contains a most favoured nation clause. This automatically raises the level of data exchange towards all EU member states to the level of the most 'open' agreement one country has in force (read overseas territories, crown dependencies).

As of 2015, automatic exchange of information will be introduced for five categories of income and capital (income from employment, director's fees, life insurance products, pensions, ownership of and income from immovable property). The Directive also provides for future extension of this list to dividends, capital gains and royalties.


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