



Italy: Law Decree no. 193 of 22 October 2016 - Tax measures

Tax Alert 27 October 2016



Offices

Milan

Via Vittor Pisani 27, 20124
T: +39 02 676441 - F: +39 02 67644758

Ancona

Via I° Maggio 150/a, 60131
T: +39 071 2916378 - F: +39 071 2916221

Bologna

Via Innocenzo Malvasia 6, 40131
T: +39 051 4392711 - F: +39 051 4392799

Florence

Viale Niccolò Machiavelli 29, 50125
T: +39 055 261961 - F: +39 055 2619666

Genoa

P.zza della Vittoria 15/12, 16121
T: +39 010 5702225 - F: +39 010 584670

Naples

Via F. Caracciolo 17, 80122
T: +39 081 662617 - F: +39 081 2488373

Padua

Piazza Salvemini 2, 35131
T: +39 049 8239611 - F: +39 049 8239666

Perugia

Via Campo di Marte 19, 06124
T: +39 075 5734518 - F: +39 075 5723783

Pescara

P.zza Duca D'Aosta 34, 65121
T: +39 085 4210479 - F: +39 085 4429900

Rome

Piazza delle Muse 8, 00197
T: +39 06 809631 - F: +39 06 8077459

Turin

C.so Vittorio Emanuele II 48, 10123
T: +39 011 883166 - F: +39 011 8395865

Verona

Via Leone Pancaldo 68, 37138
T: +39 045 8114111 - F: +39 045 8114390

The Italian Government has approved Law Decree no. 193 of 22 October 2016 (the 'Decree') - containing '*Urgent measures on taxation and for the financing of non deferrable needs*' - which entered into force upon its publication in Official Gazette no. 249 on 24 October 2016⁽¹⁾.

Tax collection activities transferred from Equitalia S.p.A. to the Collection Department of the Revenue Agency (articles 1 to 3 of the Decree)

As of 1 July 2017, Equitalia S.p.A. will be dissolved and all its functions related to the collection of taxes transferred to the Collection Department of the Revenue Agency, which is governed and supervised by the Ministry of Economy and Finance. Starting from 1 January 2017, the Revenue Agency will be entitled to extend the use its databases and information also for the purposes of tax collection.

Amending annual tax returns (article 5 of the Decree)

The Decree introduces relevant changes to the legal framework for amending annual tax returns for IRES (Corporate Income Tax), IRAP (Regional Income Tax) and WHT (Withholding Tax) purposes.

The taxpayer may now file an amending tax return to correct any mistakes and/or omissions and to adjust (reduce or increase) taxable income and give a more accurate calculation of their tax liability or credit, before the expiration of the statute of limitations of the year for which the original return was filed⁽²⁾.

Penalties for correcting mistakes and filing amending annual returns apply, but could be reduced under the voluntary self-disclosure mechanism (the reduction of penalties depends on when disclosure takes place).

⁽¹⁾ The Decree is already effective, but must be ratified (i.e. confirmed) in 60 days.

⁽²⁾ A tax year becomes time-barred for Corporate Income Tax purposes on 31 December of the fourth year following that in which the tax return for that year is filed. Starting with assessments on the 2016 tax year, a tax year will become time-barred on 31 December of the fifth year following that in which the tax return for that year is filed.

The Decree stipulates that if the amending tax return gives rise to a tax credit (with the amending tax return reducing the tax liability resulting from the original tax return), the taxpayer may offset this tax credit against any tax liability incurred in subsequent years, under certain conditions⁽³⁾.

It should be noted that before the new Decree came into effect, the taxpayer was not entitled to file an amending annual return to reduce an incorrect tax liability declared to the Italian tax authorities once two tax years had passed. To do so, the taxpayer was required to file a separate refund claim with the tax authorities.

Special procedure for settling certain tax liabilities (article 6 of the Decree)

Under this special procedure, the taxpayer may settle certain tax liabilities currently pending with tax collection agents (the liabilities need to be for financial years between 2000 and 2015) by paying - in a lump sum payment or in four instalments - just the taxes owed, the interest on those taxes and collection fees. Penalties and other interest for late payment are discounted.

Voluntary Disclosure-bis (article 8 of the Decree)

The Decree re-opens the terms of the so-called Voluntary Disclosure procedure (please refer to the Tax Alert of 22 December 2014: 'Italy approves the Voluntary Disclosure provisions' for a general overview). Taxpayers that have already taken advantage of the 'first window' will not have access to the procedure.

To benefit from the Voluntary Disclosure-bis, the taxpayer must:

- submit an application to the Italian Revenue Agency correcting violations made up until 30 September 2016 (*i.e.* for the 2015 tax year) by 31 July 2017;
- complete the application with further documentation or relevant information by 30 September 2017.

⁽³⁾ The taxpayer is required to give separate indication of the tax credit resulting from the amending tax return, with the relevant offset amount, in the annual tax return for the tax year in which the amending tax return is filed.

Self-assessment

In contrast to the first Voluntary Disclosure programme, the taxpayer may self-assess taxes, penalties and interest, and pay the amount due by 30 September 2017 (three equal monthly instalments are also allowed).

If the taxpayer does not self-assess, the Revenue Agency sends the taxpayer an 'invite to attend a meeting with the Revenue Agency' for all years and violations related to the procedure, and the reduction penalties is decreased.

Penalties

Penalties are graduated depending on the level of cooperation of the taxpayer. Therefore, if the taxpayer does not self-assess or calculates their liabilities incorrectly, the reduction in penalties for voluntary disclosure decreases accordingly.

Statute of limitations for tax assessment

The statute of limitations for taxpayers that have applied for the Voluntary Disclosure-bis programme has been pushed back to expire on 30 December 2018. For applications submitted within the scope of the first Voluntary Disclosure programme, the statute of limitations has been pushed back to expire on 30 June 2017.

Other provisions for cash 'regularisation'

Special provisions apply if the Voluntary Disclosure-bis programme concerns cash or *cheques*.

Contatti

Studio Associato - Consulenza legale e tributaria

Fabio Avenale

KPMG, Tax & Legal
T: +39 011 883166
E: favenale@kpmg.it

kpmg.com/it

kpmg.com/socialmedia



Giorgio Dal Corso

KPMG, Tax & Legal
T: +39 045 811 4111
E: gdalcorso@kpmg.it

kpmg.com/app



Tax Alert / KPMG in Italy / 27 October 2016

© 2016 Studio Associato - Consulenza legale e tributaria, an Italian professional partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ('KPMG International'), a Swiss entity. All rights reserved.

The KPMG name, logo are registered trademarks or trademarks of KPMG International Cooperative ("KPMG International").

Studio Associato - Consulenza legale e tributaria is a leading Italian law firm and a member firm of KPMG International for tax and legal services.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.