



Italy: Recent clarification of the tax treatment of interest from loans

Tax Alert

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The Italian Revenue Agency has published a statement of practice, in the form of a tax ruling, which describes the tax treatment of income earned by a non-resident taxpayer from a loan granted to an individual resident in Italy.

Interest paid by an Italian withholding tax (WHT) agent⁽¹⁾ (e.g. a company) to a non-resident enterprise without a permanent establishment in Italy is subject to a 26 percent final WHT. Exemptions and reduced WHT may apply by virtue of certain domestic regimes, the EU Interest & Royalties Directive (as implemented in Italian tax law) and double tax treaties (DTTs), where applicable.

For example, if the recipient of the interest is a resident of Switzerland and is entitled to use and enjoy the income, the WHT charged in Italy may not - under article 11 of the Italy-Switzerland DTT - exceed 12.5 percent of the amount of interest paid.

However, Italian tax law and the DTT do not specify what happens when the payer is not a WHT agent and is, for instance, an individual.

The Italian Revenue Agency⁽²⁾, in reply to a ruling application⁽³⁾, has clarified that the interest on a loan paid by a private individual resident in Italy to a bank resident in Switzerland must be declared in the income tax return of the bank and benefits from the 12.5 percent rate set in the Italy-Switzerland DTT (instead of the standard 27.5 percent IRES rate⁽⁴⁾).

(1) The withholding tax agent is the business person - established in Italy and subject to Italian corporate income tax - that pays the income and must levy and remit the final WHT to the tax authorities.

(2) Tax ruling no. 41 of 23 October 2018.

(3) Since 1 September 2018, replies to tax ruling applications have been published in a specific section of the Italian Revenue Agency's website.

(4) The Italian corporate income tax (IRES) rate is 24 percent, but for banks there is a surcharge of 3.5 percent.

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