



Italy: Implementing decree for Digital Services Tax published

Tax & Legal Alert

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The Italian tax authority publishes the new Digital Services Tax ('DST') implementing decree

The Italian tax authority has published on its website the final text of the implementing decree published in draft on 17 December 2020 and subject to a consultation period which ended on 31 December 2020. The final text contains several changes to the draft document, and we list below the most significant ones.

- **Definition of 'multilateral digital interface':** this is an interface which "allows users to be in contact and to interact with each other, also for the purpose of facilitating the direct provision of goods and services". The new definition seems wider than the previous one, which referred to interfaces allowing users to "to upload and share digital content with other users, facilitating the underlying supplies of goods or services directly between users".
- **Tax thresholds:** the threshold of EUR5.5 million of digital services generated in Italy refers to revenue that is received rather than realized; therefore, the criterion is to be met on a cash basis rather than an accounting basis.
- **Liability of the group representative:** the group representative entity is jointly liable, together with the group companies which have appointed it, for their tax payments and reporting obligations. This is a major change to the original draft.
- **DST group representative:** the group representative must be one of the entities resident or established in Italy, if there are any. The previous draft stated that the chosen representative must be one of the 'taxable entities' resident or established in Italy. It is not clear whether the new wording means that there is an obligation to appoint an Italian entity of the group even if that entity is not liable to DST. A non-resident taxable entity, established in a country other than an uncooperative jurisdiction, could be appointed as DST group representative if there are no Italian resident or established entities.

- **Italian entity responsibility:** even if it is not a taxable entity for the purposes of DST, an entity resident in Italy and part of a group with non-resident taxable entities is jointly liable, together with those non-resident taxable entities that are established in a country other than an uncooperative jurisdiction, for the DST payments due from them. Again, this is a significant change to the previous draft.

The new text confirms the postponement of the 2021 deadlines: the new deadlines are now 16 March 2021 for payment of DST due for FY 2020 and 30 April 2021 for submission of the annual DST return.

The new text is final but we will update you if there are any further communications.

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