Italy: hybrid mismatches - extra time to prepare penalty-protection documentation for FYs 2020-2022

Tax & Legal Alert
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Under rules introduced in 2023 and 2024 (see our previous Tax Alert of 18 December 2024), taxpayers can prepare documentary evidence of analyses conducted in order to apply hybrid mismatch rules and obtain protection against penalties for incorrect income tax returns.

The Implementation Decree of 6 December 2024 specified that calendar-year taxpayers would have until 30 June 2025 to prepare such documentation for FYs 2020-2022 and until 31 October 2025 for FYs 2023 and 2024.

The first of these deadlines has been revised by Decree Law no. 84 of 17 June 2025.

Calendar-year taxpayers now have until 31 October 2025 to prepare and report appropriate penalty-protection documentation for FYs 2020-2024, i.e. the 30 June 2025 deadline for FYs 2020-2022 has been eliminated.

The anti-hybrid rules in a nutshell

Who:

- **All parties liable to IRES corporate income tax** (both residents and - if they have a PE in Italy - non-residents) that have **cross-border transactions**

What:

- Hybrid financial instruments (AT1s, perpetual subordinated loans, IFLs, etc.)
- Hybrid transfers of financial instruments (repos, equity loans, stock lending, etc.)
- Substitute payments
- PEs and hybrid entities

Penalty protection:

- Preparation and reporting of documentation to the Italian Revenue Agency **protects the taxpayer**, with respect to the relevant transactions or sets of transactions, **against penalties for an incorrect return**

Cooperative compliance taxpayers:

- Preparation and reporting becomes “compulsory” when relevant transactions above the materiality threshold are detected. The Tax Risk & Control Matrix (TRCM) must include suitable mechanisms to identify, measure and manage the risks associated with relevant transactions

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