

Italy

Parliament sets forth guidelines for broad tax reform



Giuliano Foglia and Marco Emma, Tremonti Vitali Romagnoli Piccardi e Associati

A new project for an extensive reform of the tax system has been officially launched in Italy. With Law no. 23 of March 11 2014, in fact, the Italian Parliament appointed the government with the responsibility to significantly reform and reorganise within one year the overall Italian tax system according to certain guidelines set forth therein.

The envisaged tax reform is wide and grounded on purposes and principles which generally can be agreed with.

On one hand it is aimed at combating tax evasion strategies and reducing tax base erosion, through (i) stronger assessment measures in respect of, *inter alia*, transfer pricing, carousel frauds and fictitious residences and (ii) a wider cooperation with foreign tax authorities. Such measures should be implemented together with a reorganisation of certain cross-border and international tax regimes (for example, tax residence determination, CFC legislation, permanent establishment rules, black-listed countries' costs deduction, withholding taxes, tax losses of non-Italian resident group companies and so on).

On the other hand the reform intends to address the urgent need to (i) widely simplify and rationalise Italian tax system (for example, dropping useless formalities and obligations) and (ii) improve considerably certainty and stability of Italian fiscal legislation in order to attract foreign investors. In this respect, the Italian Government is empowered, *inter alia*, to deeply reform assessment procedures (based on the pillars of simplification, efficacy and guarantees for taxpayers) and tax litigation (for example, improving the technical skills of tax judges), and to rebalance the tax criminal penalties according to proportionality criteria. Moreover, decrees should be adopted to simplify and speed up the tax ruling procedures and introduce an effective cooperative compliance among certain selected departments of tax authorities and large enterprises (to be incentivised by a reduction of tax formalities and penalties).

In this scenario, probably the most anticipated measure is the review of the current anti-avoidance rules on the basis of the so-called "abuse of law" principle so far developed by the European Court of

Justice (for example, the *Halifax* and the *Cadbury Schweppes* cases) and the Italian Supreme Court (*Corte di Cassazione*). In a nutshell, the Italian Government is now appointed to codify in an *ad hoc* provision the abuse-of-law principle which currently remains uncertain and subject to interpretative instability. The envisaged general anti-avoidance rule should basically consist in a prohibition to obtain undue tax advantages from a distorted use, even if not in breach of any specific provision, of juridical instruments which are suitable to grant a tax saving, provided there is a lack of sound economic reasons, not merely marginal, other than the expectation of that tax saving. The possibility for the taxpayer to select the less onerous alternative among various transactions equally practicable should, in any case, be granted.

In conclusion, a quite ambitious reform providing for several measures which, if correctly blended, could effectively lead to a more efficient, simple and steady tax system, which foreign investors could definitely appreciate.

Giuliano Foglia (foglia@virtax.it) and Marco Emma (emma@virtax.it)

Tremonti Vitali Romagnoli Piccardi e Associati
Tel: +39 06 3218022 (Rome) +39 02 58313707 (Milan)
Website: www.virtax.it

Luxembourg

Luxembourg signs FATCA agreement with the US



Samantha Merle, ATOZ – Taxand

Having agreed on its content by the end of February, Luxembourg and the US signed an intergovernmental agreement (IGA) implementing the Foreign Account Tax Compliance Act (FATCA) on March 28. Luxembourg and the US negotiated a Model 1 IGA, requiring the Luxembourg tax authorities and the US Internal Revenue Service (IRS) to exchange information automatically on accounts held by US citizens and by persons resident in the US in financial institutions resident in Luxembourg. The IGA is reciprocal, which means the US will also have to report account information about Luxembourg individuals and entities in the US to the Luxembourg tax authorities.

The IGA will enter into force either on the date of Luxembourg's written notification to the US that Luxembourg has completed its necessary internal procedures for the entry into force of the IGA, or on the

date of the US written notification to Luxembourg that its applicable procedures for ratification of the amending protocol to the 1996 income tax treaty, signed on May 20 2009, have been satisfied, whichever date comes last.

To date, most of the agreements concluded by the US are Model 1 IGAs. Under the Model 1 IGA, the information transits from the foreign financial institution to the IRS via its domestic authorities whereas the Model 2 IGA provides for a direct communication of the information from the foreign financial institution to the IRS and implies the adoption into domestic law of the extensive and complex Final Regulations. In May 2013 Luxembourg announced that a Model 1 would be chosen for the adoption of an IGA.

Following the signature of the IGA, the Luxembourg tax authorities released a newsletter which announces the practical modalities of information exchange under FATCA. The tax authorities have put in place two working groups including different actors from the public and private sectors who will work together on the implementation of automatic exchange of information under the IGA. While the first working group will have to deal with general implementation issues, the second working group will address more practical and technical issues regarding electronic communication of information between the reporting financial institutions and the tax authorities. In a next step, the Luxembourg tax authorities will provide some more detailed information in circulars to be released.

Samantha Merle (samantha.merle@atoz.lu)

ATOZ – Taxand
Tel: +352 26 940 235
Website: www.atoz.lu

FYR Macedonia

FYR Macedonia introduces reverse charge mechanism for select categories of services



Elena Kostovska, Eurofast Global

A decision defining the categories of supply of goods and services for which the VAT responsible taxpayer is considered to be the entity to which the supply is being provided by another VAT-registered company was published in the Official Gazette 45/2014 and is applicable as of March 5 2014.