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New Italian Tax on Foreign Real Estate

08 MARCH 2012

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CATEGORY:
ARTICLE

(cliccare qui per la versione Italiana)

A new Italian real estate tax was recently introduced on property located outside of Italy, owned by individuals who are resident in Italy for Italian tax purposes, regardless of the use of the property.(Law Decree 6 December 2011 no. 201 – the so-called "Decreto Salva Italia").

This tax does not apply if the property owner is a corporate entity or an entity treated as akin to a corporate entity for tax purposes (e.g. a company, foundation; trust, etc.).

The annual tax is 0.76% of the value of the property. For these purposes, the 'value' is deemed to be equal to the purchase price as shown on the purchase agreement (as is customary e.g. in the UK). If a purchase agreement does not exist, the 'value' is deemed to be equal to the fair market value determined by appropriate criteria applicable in the country where the real estate is located.

When a purchase price is not provided, it is unclear what it is intended by 'value' i.e. if it is the cadastral (i.e. rateable or assessed) value (where one exists in the foreign country) or if instead it is necessary to carry out a valuation on the property in order to assess its current value.

The law also allows the Italian taxpayer to claim a foreign tax credit against the Italian real estate tax in the event he/she has already paid tax under the tax legislation of the country in which the property is located.

It is still unclear which documents must be filed with the Italian Tax Authority in order to obtain the abovementioned tax credit.

This tax applies from 2011 and therefore must be paid in 2012 by the deadline for payment of the Individual income tax return (IRPEF) (i.e. 20th of June, if not extended).

For the time being, no circulars or opinions have been issued by the Italian Tax Authority. It is likely (and desirable) that in the coming weeks the Italian Tax Authority will issue a circular clarifying the practical details of the application of this new tax.

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