

From black-list to white-list: latest developments

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The Italian map of tax havens has changed. On 2 March 2015, the special window offered by Italian Law n. 186/2014 for the signature of exchange of information agreements was officially closed. Several countries previously considered as 'black-list' by the Italian Government have already signed such an agreement: Switzerland, Liechtenstein and Monaco.

As a consequence, for the purposes of the new Italian Voluntary Disclosure procedure, taxpayers in these jurisdictions will benefit from, amongst other things, reduced penalties. These recent agreements follow in the footsteps of San Marino and Luxembourg now being considered white-list. It is therefore likely that the geography of the new Italian Voluntary Disclosure procedure and, more generally, the use of tax havens, may change considerably.

As a result of the combination of the signing of the agreements and the regulatory change stipulated under Law Decree 'Milleproroghe', countries hitherto considered as black-list become 'black-list countries with agreement' and, consequently, face equivalent sanctions to white-list jurisdictions. Formal Protocols are due to be approved which will provide more detailed guidance as to how the system will work, although for voluntary disclosure purposes, they are already deemed to be in force.

Jurisdictions which did not sign such an agreement in time will now be considered as black-list for the purposes of the Voluntary Disclosure procedure. Therefore, taxpayers with assets held in countries with no agreement in place will face higher penalties and less beneficial terms.

The status of those countries which signed a Tax Information Exchange Agreement (TIEA) with Italy (e.g. Bermuda, Cayman Islands, Gibraltar, Cook Islands, Guernsey, Isle of Man and Jersey) but have not signed a double tax convention in accordance with OECD guidelines is currently in limbo. Three of these agreements (Gibraltar, Cook Islands and Jersey) have been ratified by the Italian Parliament. Further clarification concerning their treatment will be necessary because they do not include Article 26, as required by the Italian Voluntary Disclosure Law. It is evident that the status of black-list countries, with or without agreement, will have a significant impact on the cost of regularisation for taxpayers who are based there.

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