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Exchange of information and Italians with overseas tax residence: Italian tax authorities gain significant new tax audit powers

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Italy's tax authorities have taken steps to increase the volume of tax investigations it conducts by issuing new guidelines on 'selected lists' of Italians who have relocated their tax residency to a foreign jurisdiction.

This new measure coincides with the relaunch (until 31 July 2017) of the Voluntary Disclosure programme.

The measure outlines how the Italian Tax Authorities will collect information on taxpayers and defines its new tax investigation powers.

SCOPE OF THE NEW TAX AUDIT

The Italian Tax Authorities will verify the information of Italian tax resident individuals who moved their tax residence abroad starting from 1 January 2010.

Tax audits will be performed on the basis of 'selected lists' of individuals who have been identified though information which suggests that they substantially remain Italian tax residents (despite the relocation) and have undeclared foreign assets.

As a consequence of the new measure, any requests to move tax residence to foreign jurisdictions will be passed on to the Italian Tax Authorities every six months, or even more frequently. The first stage of the new provision will see the Italian Tax Authorities focusing on Italian taxpayers who changed their tax residence from 2010 to the present, and did not apply to the Voluntary Disclosure procedure.

TAX AUDIT GUIDELINES

The Italian Tax Authorities have set out key elements which will be considered as indicators of sham tax relocations.

Firstly, the Italian Tax Authorities will investigate if the taxpayer has disclosed his/her foreign assets, since non-application to the Voluntary Disclosure programme could be an indication of fictitious foreign tax residence.

The Tax Authorities will also consider the following elements:

a. tax residence relocation to favourable tax jurisdictions;
b. the presence of financial transactions to and from a foreign jurisdiction;
c. information on real estate or financial assets held abroad, transmitted by foreign Tax Authorities pursuant to new agreements on the automatic exchange of tax information (EU directive 2014/107/UE, CRS and FATCA);
d. the taxpayer's family's presence in Italy;
e. Italian real estate information stored in public registries;
f. the presence of active utility bills and phone accounts in Italy;
g. ownership of cars, motorbikes or boats in Italy;
h. ownership of an active VAT Identification number in Italy;
i. ownership of shares in Italian companies or performance of management roles;
j. payment of domestic workers;
k. information exchanged by employers;
l. all other data or documentation acquired from the Italian Tax Authorities.

These new tax assessment rights significantly increase the enforcement powers of the Italian Tax Authorities within the international context of tax transparency and global collaboration between tax authorities.

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