

New update of the Italian White List

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The Italian Government has continued to extend and update its white list of States and territories, adding a number of new states to the total of more than 130 States and territories. The Decree, published on 3 April 2017, follows the agreement of exchange of information with these new states.

The new 'white list' now includes also:

- The State of Vatican City and Monte Carlo, which have recently reached an agreement with Italy on exchange of information procedures (Monte Carlo has also recently reached a specific agreement with the European Union on the so called 'Savings directive' – Council Directive no. 2003/48/CE),
- The Republic of Chile, that has recently reached an agreement with Italy for the avoidance of double taxation based on the OECD model (that also includes standard exchange of information procedures),
- Jurisdictions that recently signed the OECD multilateral convention on exchange of information (of which Italy is party), such as Andorra, Barbados, Narau, Niue, Saint Kitts and Nevis, Saint Vincent and Grenadine, Samoa and Uruguay.

This update to the white list follows the previous one in August 2016 (which included other key jurisdictions such as Hong Kong, Taiwan, Channel Islands, Switzerland, etc.) and confirms the Italian tax administration's commitment to attracting foreign investments (in fact, applicable laws require that this white list is to be updated every six months).

TAX EXEMPTIONS ON FINANCIAL INSTRUMENTS DERIVING FROM THE WHITE LIST REGIME

The Italian white list has a great impact on foreign investments into Italian entities as investors based in a State or territory included on the list fall within the scope of several exemptions from Italian withholding/substitutive taxes (generally applied at the 26% rate), mainly on financial incomes, such as the following:

- interest deriving from certain security lending transactions;
- interest deriving from certain medium/long term loans to Italian enterprises;
- proceeds deriving from investments into Italian investment funds;
- interest deriving from bonds issued by the Italian Treasury, by Italian banks or listed companies and similar securities;
- capital gains arising from several Italian securities (including 'non-qualified' shares of Italian companies and obligations held in Italy).

Finally, with particular regard to investments into Italian investment funds, the new white list simplifies the most common investment structures based on the recent AIFM EU Directive.

The entitlement to the aforementioned exemptions remains subject to several subjective and procedural conditions that Italian withholding agents still have to carefully assess (e.g. beneficial ownership).

The effects of such amendments to ongoing investments will have to be carefully assessed and will require some clarifications from the Italian tax authorities (since tax exemptions are often also granted on an accrual basis).

FOCUS ON MONTE CARLO

The addition of Monte Carlo to the Italian white list from August 2016 is to be welcomed from investors' perspectives, such as high net worth individuals currently living in the jurisdiction.

Nonetheless, it is worth mentioning that Monte Carlo still:

- remains 'black listed' for Italian citizens willing to transfer their residence to the state (i.e. they will be deemed as resident in Italy for tax purposes unless they prove their actual residence in Monte Carlo),
- may fall within the Italian CFC rules, due to its generally low level of taxation on business activities (unless exonerating evidence is provided).

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