

# Italy

Italy has met all aspects of the terms of reference (OECD, 2021<sup>[3]</sup>) (ToR) for the calendar year 2020 (year in review), and no recommendations are made.

Italy can legally issue three types of rulings within the scope of the transparency framework.

In practice, Italy issued rulings within the scope of the transparency framework as follows:

Type of ruling	Number of rulings
Past rulings	58
Future rulings in the period 1 April 2016 – 31 December 2016	39
Future rulings in the calendar year 2017	123
Future rulings in the calendar year 2018	308
Future rulings in the calendar year 2019	206
Future rulings in the year of review	224

Peer input was received from eleven jurisdictions in respect of the exchanges of information on rulings received from Italy. The input was generally positive, noting that information, was complete, in a correct format and received in a timely manner. In general, the information provided in the summary section was considered complete and sufficient for risk assessment purposes and there was no need to request further information. One peer noted that the information was too general to perform risk assessment analysis, and Italy will consider this feedback.

## A. The information gathering process (ToR I.A)

629. Italy can legally issue the following three types of rulings within the scope of the transparency framework: (i) preferential regimes;<sup>1</sup> (ii) cross-border unilateral APAs and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles; and (iii) permanent establishment rulings.

630. For Italy, past rulings are any tax rulings within scope that are issued either: (i) on or after 1 January 2014 but before 1 April 2016; or (ii) on or after 1 January 2010 but before 1 January 2014, provided they were still in effect as at 1 January 2014. Future rulings are any tax rulings within scope that are issued on or after 1 April 2016.

631. In the prior years' peer review reports, it was determined that Italy's undertakings to identify past and future rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. In addition, it was determined that Italy's review and supervision mechanism was sufficient to meet the minimum standard. Italy's implementation remains unchanged, and therefore continues to meet the minimum standard.

632. Italy has met all of the ToR for the information gathering process and no recommendations are made.

## B. The exchange of information (ToR II.B)

633. Italy has international agreements permitting spontaneous exchange of information, including being a party to (i) the Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol (OECD/Council of Europe, 2011<sup>[4]</sup>) ("the Convention"), (ii) the Directive 2011/16/EU with all other European Union Member States and (iii) bilateral agreements in force with 100 jurisdictions.<sup>2</sup>

634. For the year in review, the timeliness of exchanges is as follows:

Future rulings in the scope of the transparency framework	Number of exchanges transmitted within three months of the information becoming available to the competent authority or immediately after legal impediments have been lifted	Delayed exchanges		
		Number of exchanges transmitted later than three months of the information on rulings becoming available to the competent authority	Reasons for the delays	Any other comments
	1073	0	N/A	N/A

Follow up requests received for exchange of the ruling	Number	Average time to provide response	Number of requests not answered
	2	105 days	0

635. The average response time to follow up requests has suffered delays due to the effects of the lockdown imposed by the Italian Government to deal with the COVID-19 pandemic emergency during the first quarter of 2020. The teleworking situation was stabilised towards the end of 2020 and indeed the reply to the second follow up request was provided within 40 days. As this delay was a direct result of the COVID-19 pandemic it is not expected to be a recurring problem once normal conditions resume, and therefore no recommendation is given in this regard. This issue will be reviewed again in the subsequent year's peer review to monitor whether there is a persistent issue.

636. In the prior years' peer review reports, it was determined that Italy's process for the completion and exchange of templates were sufficient to meet the minimum standard. With respect to past rulings, no further action was required. In addition, the Revenue Agency has developed an IT application which will permit automatic downloads of information on rulings from relevant databases and its subsequent transmission to the Competent Authority. This application is currently in an experimental phase and allows for a partial automation of the process. Italy's implementation in this regard remains unchanged and therefore continues to meet the minimum standard. Italy has the necessary legal basis for spontaneous exchange of information, a process for completing the templates in a timely way and has completed all exchanges. Italy has met all of the ToR for the exchange of information process and no recommendations are made.

## C. Statistics (ToR IV)

637. The statistics for the year in review are as follows:

Category of ruling	Number of exchanges	Jurisdictions exchanged with
Ruling related to a preferential regime	955	Albania, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Cameroon, Canada, Chile, China (People's Republic of), Colombia, Côte d'Ivoire, Croatia, Czech Republic, Denmark, Egypt, Estonia, Philippines, Finland, France, Georgia, Germany, Hungary, Japan, Jordan, Greece, Guernsey, Hong Kong (China), India, Indonesia, Ireland, Israel, Kazakhstan, Kenya, Korea, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Morocco, Mauritius, Mexico, Moldova, Montenegro, Nigeria, Norway, New Zealand, Netherlands, Pakistan, Panama, Peru, Poland, Portugal, , Romania, Russia, San Marino, Saudi Arabia, Senegal, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukraine, United Kingdom, United States, Viet Nam
Cross-border unilateral APAs and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles	111	Argentina, Austria, Belgium, Brazil, China (People's Republic of), Croatia, Czech Republic, Finland, France, Germany, Greece, Hong Kong (China), Hungary, India, Ireland, Japan, Korea, Luxembourg, Morocco, Netherlands, Poland, Portugal, Romania, Russia, Serbia, Singapore, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States
Permanent establishment rulings	7	Belgium, Ireland, Luxembourg, Netherlands, United States
<b>Total</b>	<b>1073</b>	

## D. Matters related to intellectual property regimes (ToR I.A.1.3)

638. Italy offered an intellectual property regime (IP regime)<sup>3</sup> that was amended with effect as of 1 January 2017 to the extent it was not nexus compliant (i.e. for benefits for trademarks) and is subject to transparency requirements under the Action 5 Report (OECD, 2015<sup>[1]</sup>). It states that the identification of the benefitting taxpayers will occur as follows:

- **New entrants benefitting from the grandfathered IP regime:** not applicable as Italy has completed the exchange of information on new entrants to the grandfathered IP regime that obtained benefits with respect to trademarks.
- **Third category of IP assets:** not applicable as the regime does not allow the third category of IP assets to qualify for the benefits.
- **Taxpayers making use of the option to treat the nexus ratio as a rebuttable presumption:** not applicable as the regime does not allow the nexus ratio to be treated as a rebuttable presumption.

## Summary of recommendations on implementation of the transparency framework

Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
	No recommendations are made.

## References

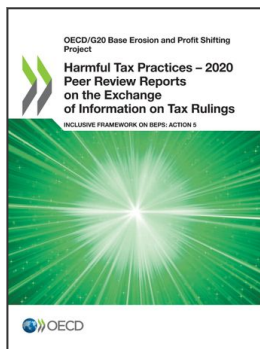
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- OECD (ed.) (2017b), *Harmful Tax Practices - 2017 Progress Report on Preferential Regimes*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264283954-en>. [2]
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## Notes

<sup>1</sup> With respect to the following preferential regimes: 1) International shipping and 2) Patent Box.

<sup>2</sup> Participating jurisdictions to the Convention are available here: [www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm](http://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm). Italy also has bilateral agreements with Albania, Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Barbados, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, China (People's Republic of), Congo, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, Estonia, Ethiopia, Finland, North Macedonia, France, Georgia, Germany, Ghana, Greece, Hong Kong (China), Hungary, Iceland, India, Indonesia, Ireland, Israel, Japan, Jordan, Kazakhstan, Korea, Kuwait, Kyrgyzstan, Latvia, Lebanon, Lithuania, Luxembourg, Malaysia, Malta, Mauritius, Mexico, Moldova, Montenegro, Morocco, Mozambique, Netherlands, New Zealand, Norway, Oman, Pakistan, Philippines, Poland, Portugal, Qatar, Romania, Russia, San Marino, Saudi Arabia, Senegal, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Chinese Taipei, Tajikistan, Tanzania, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay, Uzbekistan, Venezuela, Viet Nam and Zambia.

<sup>3</sup> Partial exemption for income/gains derived from certain IP rights.



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