

Italy

Italy has met all aspects of the terms of reference (OECD, 2017^[3]) (ToR) for the calendar year 2019 (year in review), and no recommendations are made.

In the prior year report, as well as in the 2016 and 2017 peer reviews, Italy had received two recommendations. Italy has resolved these issues and therefore none of the prior year recommendations remain.

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:

- 58 past rulings;
- For the period 1 April 2016 - 31 December 2016: 39 future rulings;
- For the calendar year 2017: 123 future rulings,
- For the calendar year 2018: 308 future rulings, and
- For the year in review: 206 future rulings.

Rulings other than APAs and ad hoc Patent Box may be published, in an anonymised form, as a general ruling (Resolutions)¹ when the underlying issue is new and relevant, or the response to the query may apply to groups or types of taxpayers in the same situation, providing guidance on the position of the Italian tax administration on the matters of the query. Moreover, as of September 2018 the so called “Art. 11 rulings”, i.e. the replies given to a single taxpayer by the Central Directorates pursuant to Art. 11 of the Charter of Taxpayers’ Rights, are published on the Revenue Agency website (either the complete text or only the basic principles, depending on the case).²

Peer input was received from eight 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. A small number of peers noted that the summaries were complete, although they expressed interest in having increased detail in the summary section, and Italy will consider this feedback.

A. The information gathering process

573. Italy can legally issue the following three types of rulings within the scope of the transparency framework: (i) preferential regimes;³ (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.

574. 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.

575. 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.

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

B. The exchange of information

Legal basis for spontaneous exchange of information (ToR II.5.1, II.5.2)

577. Italy has the necessary domestic legal basis to exchange information spontaneously. Italy notes that there are no legal or practical impediments that prevent the spontaneous exchange of information on rulings as contemplated in the Action 5 minimum standard.

578. Italy has international agreements permitting spontaneous exchange of information, including being a party to the (i) *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011^[4]) ("the Convention"), (ii) the Directive 2011/16/EU with all other European Union Member States and (iii) bilateral agreements in force with 99 jurisdictions.⁴

Completion and exchange of templates (ToR II.5.3, II.5.4, II.5.5, II.5.6, II.5.7)

579. In the prior years' peer review reports, it was determined that Italy's process for the completion and exchange of templates met all the ToR, except for providing the information on future rulings to the Competent Authority in a timely manner (ToR II.5.5). With respect to past rulings, no further action was required. Therefore, Italy was recommended to continue its efforts to apply reduced timelines for providing the information on future rulings to the Competent Authority.

580. During the year in review, Italy issued new internal guidelines requiring that information on rulings is made available to the Competent Authority on a quarterly basis to ensure a quarterly exchange of information with relevant jurisdictions. The new guidelines also specify that the summary section of the template has to be completed in line with the internal FHTP suggested guidance. In addition, the Revenue Agency has implemented an IT application, currently being tested, intended to allow an automatic download of the information on rulings from relevant databases and its subsequent transmission to the Competent Authority. Therefore, the recommendation is now removed.

581. 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
	1 456	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
	0	N/A	N/A

582. The 1 456 exchanges performed in 2019 refer to future rulings issued in the last months of 2018 and exchanged by the end of March 2019, as well as to future rulings issued in 2019 and exchanged on a quarterly basis according to the internal guidelines. Italy also clarified that according to the current practice, most of the rulings issued in a given year are actually issued to the taxpayer in the last months of that year and, therefore, generally exchanged within the first quarter of the following year.

Conclusion on section B

583. 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)

584. 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	1 341	Argentina, Aruba, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, China (People's Republic of), Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Hong Kong (China), Hungary, India, Indonesia, Ireland, Israel, Japan, Kazakhstan, Korea, Luxembourg, Macao (China), Malaysia, Malta, Morocco, Mexico, Monaco, Netherlands, New Zealand, Nigeria, Norway, Panama, Peru, Poland, Portugal, Qatar, Romania, Russia, San Marino, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Saudi Arabia, Spain, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukraine, United Kingdom, United States, Viet Nam
Cross-border unilateral advance pricing agreements (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	103	Argentina, Australia, Austria, Belgium, Brazil, Canada, China (People's Republic of), Denmark, France, Germany, Greece, Hong Kong (China), Hungary, India, Indonesia, Ireland, Japan, Kazakhstan, Korea, Liechtenstein, Luxembourg, Macao

		(China), Malaysia, Mexico, Monaco, Netherlands, Poland, Portugal, Qatar, Russia, Singapore, Slovak Republic, South Africa, Spain, Sweden, Switzerland, Ukraine, United Kingdom
Permanent establishment rulings	12	France, Germany, Ireland, Luxembourg, United Kingdom
IP regimes: total exchanges on taxpayers benefitting from the third category of IP assets, new entrants benefitting from grandfathered IP regimes; and taxpayers making use of the option to treat the nexus ratio as a rebuttable presumption	423	Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, China (People's Republic of), Colombia, Croatia, Czech Republic, Egypt, Estonia, Finland, France, Germany, Greece, Guernsey, Hong Kong (China), Hungary, India, Indonesia, Ireland, Israel, Jamaica, Japan, Kazakhstan, Korea, Lebanon, Lithuania, Luxembourg, Malaysia, Mexico, Monaco, Morocco, Netherlands, New Zealand, Norway, Panama, Poland, Portugal, Russia, Saudi Arabia, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Turkey, Ukraine, United Kingdom, United States, Viet Nam
Total	1 879⁵	

D. Matters related to intellectual property regimes (ToR I.4.1.3)

585. Italy offered an intellectual property regime (IP regime)⁶ 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^[1]). It states that the identification of the benefitting taxpayers will occur as follows:

- **New entrants benefitting from the grandfathered IP regime:** In the prior years' peer review reports, Italy was recommended to continue its efforts to identify and exchange information on new entrants to the grandfathered IP regime. In 2018, Italy issued an Inter-Ministerial Decree to enforce this requirement. The Decree included a notification requirement in the annual tax return for every taxpayer who has benefitted as a new entrant from the grandfathered IP regime as well a filing obligation including information on the type and the number of eligible assets to which the benefit applies, the amount of the eligible income resulting from the use of the assets, and as regards benefits for trademarks, information on relevant jurisdictions where related parties are fiscally resident.

The first tax return containing this information was filed at the end of 2018 and the information was gathered in early 2019. During the year in review, Italy has completed the exchange of information on new entrants to the grandfathered IP regime that obtained benefits with respect to trademarks. Therefore, the recommendation is now removed.
- **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

- OECD (2017), *BEPS Action 5 on Harmful Tax Practices - Terms of Reference and Methodology for the Conduct of the Peer Reviews of the Action 5 Transparency Framework*, OECD Publishing, Paris, <http://www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf>. [3]
- OECD (2015), *Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, Action 5 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264241190-en>. [1]
- OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264115606-en>. [4]

Notes

¹ Available here: <https://www.agenziaentrate.gov.it/portale/web/guest/normativa-e-prassi/risoluzioni>.

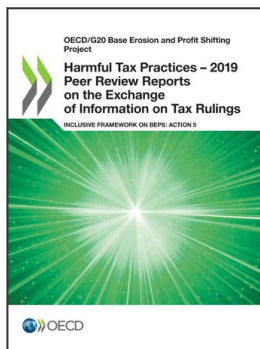
² Available here: <https://www.agenziaentrate.gov.it/wps/content/nsilib/insi/normativa+e+prassi/risposte+agli+interpelli>.

³ With respect to the following preferential regimes: 1) International shipping and 2) Patent Box.

⁴ Parties to the Convention are available here: 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, Former Yugoslav Republic of 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, Uzbekistan, Venezuela, Viet Nam and Zambia.

⁵ Exchanges on new entrants benefitting from the grandfathered Patent box are not performed on the basis of a ruling. Therefore, the total number of exchanges performed in 2019 is different, i.e. higher, than the total number of exchanges of tax rulings performed in 2019.

⁶ Partial exemption for income/gains derived from certain IP rights.



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