

Pirola
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studio di consulenza
tributaria e legale

TAX

NEWSLETTER / 16-31 JANUARY 2020

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LEGISLATION

1.1	4
Identification of information relevant for the purposes of applying reliability indices (<i>indici sintetici di affidabilità fiscale</i>) for FY 2020, approval of the 175 forms for notifying the information relevant for the purposes of applying them, to be used for FY 2019, identification of the procedures to collect the further information necessary for applying reliability indices for FY 2019 and plan for the processing of reliability indices applicable starting from FY 2020 – Ministerial enactment no. 27762 of 31 January 2020	
1.2	4
Approval of the form on domestic and global group taxation for 2020 (<i>Consolidato nazionale e mondiale 2020</i>), along with the related instructions, to be filed for FY 2020 for the purposes of the tax returns of entities which are allowed to adopt the group taxation of resident subsidiaries and of entities which are allowed to determine one single taxable base for the group of non-resident companies – Ministerial enactment no. 27764/2020	
1.3	5
Approval of the tax return form on 2020 income (<i>Redditi 2020-SC</i>), along with the related instructions, which the companies and commercial entities resident in the territory of the State and similar non-resident entities must file in 2020 for the purposes of income taxes – Ministerial Enactment no. 27765/2020	
1.4	5
Approval of the technical specification for electronically filing the information included in the annual 2020 VAT return for FY 2019 – Ministerial enactment no. 28312/2020	

GUIDANCE

2.1.....	6
Tax ruling requests (16-31 January 2020)	

CASE LAW

3.1.....	8
Dividends – Judgment of the Italian Court of Cassation no. 2313/2020	

LEGISLATION

1.1

Identification of information relevant for the purposes of applying reliability indices (*indici sintetici di affidabilità fiscale*) for FY 2020, approval of the 175 forms for notifying the information relevant for the purposes of applying them, to be used for FY 2019, identification of the procedures to collect the further information necessary for applying reliability indices for FY 2019 and plan for the processing of reliability indices applicable starting from FY 2020 – Ministerial enactment no. 27762 of 31 January 2020

Enactment no. 22762/2020 has approved the Forms which will have to be used by the taxpayers which in 2019 have mainly conducted one of the businesses subject to reliability indices at the time of filing the Income Tax Return.

In particular, the Enactment identifies the information relevant for the purposes of reliability indices for FY 2020 and clarifies the procedures to collect the 2020 pre-calculated variables for FY 2019 and the plan for the processing of reliability indices applicable starting from FY 2020.

1.2

Approval of the form on domestic and global group taxation for 2020 ("*Consolidato nazionale e mondiale 2020*"), along with the related instructions, to be filed for FY 2020 for the purposes of the tax returns of entities which are allowed to adopt the group taxation of resident subsidiaries and of entities which are allowed to determine one single taxable base for the group of non-resident companies – Ministerial enactment no. 27764/2020

The Enactment has approved the Form "*Consolidato nazionale e mondiale 2020*", and the related instructions for its filling-in, to be filed in 2020 for the purposes of the tax returns of entities allowed to adopt group taxation.

1.3

Approval of the tax return form on 2020 income (“*Redditi 2020-SC*”), along with the related instructions, which the companies and commercial entities resident in the territory of the State and similar non-resident entities must file in 2020 for the purposes of income taxes – Ministerial Enactment no. 27765/2020

Enactment no. 27765/2020 has approved the Form “*Redditi 2020-SC*”, along with the related instructions, to be filed in 2020 by the trade companies and entities resident in the territory of the State and similar non-resident entities. This Enactment explains how to obtain the Form and how to print it.

1.4

Approval of the technical specification for electronically filing the information included in the annual 2020 VAT return for FY 2019 – Ministerial enactment no. 28312/2020

The Enactment has approved the technical specification for electronically filing the information included in the 2020 VAT return for FY 2019. The related Form for the 2020 annual VAT return and the simplified Form for the 2020 annual VAT for FY 2019 have already been approved by Enactment no. 8938/2020 (see par. 4.1).

GUIDANCE

2.1

Tax ruling requests (16-31 January 2020)

In the reference period some Replies to Tax ruling requests related to VAT have been published.

Reply no. 6 of 17 January 2020, entitled "*Tax ruling request on article 11(1), a) of Law no. 212/2000, - refund of the VAT of a company in liquidation – issue of a guarantee*", has provided clarification on the VAT refund of a company in liquidation (with specific reference to the issue of a guarantee). The Tax authority has referred to Circular no. 32/E and has explained that the parent or controlling company, which can issue a guarantee by directly assuming the obligation, is in any case the ultimate company in charge of preparing the consolidated financial statements, provided the group's shareholders' equity is higher than the thresholds established by the law.

By Reply no. 10 of 23 January 2020, entitled "*Article 11(1) a) of Law no. 212/2000 – Tax treatment for VAT purposes of assets and services included in the corporate welfare, in the light of European Council Directive no. 2016/1056 and articles 6-bis, 6-ter and 6-quarter of Presidential Decree no. 633/1972*", the Tax authority has provided clarification on the tax regime to be adopted for assets and services included in a corporate welfare. In the case at issue, it has analysed the case of the documents issued pursuant to article 51(3-bis) of Italian Income Tax Code, having the characteristics of vouchers, as prescribed by European Directive no. 2016/1065. The Tax authority has specified that when issuing a voucher, the supplier must invoice the transaction to the principal which acts on behalf of the company adopting the corporate welfare.

In its Reply no. 15 of 24 January 2020, entitled "*Reply to the tax ruling request regarding the determination of the annual payment on account in the procedure for a Group's VAT settlement*", the Tax authority has referred to Ministerial Circular no. 52/1991 and has clarified that the controlling company, in charge of the calculation of the payment on account of the group's VAT settlement, must determine the related amount after offsetting the debt and credit items of the companies participating in the procedure of group's VAT settlement.

In its Reply no. 11 of 24 January 2020, entitled "*Tax ruling request on article 11(1) a) of Law no. 212/2000 – Application of the reverse charge system*" the Tax authority has provided clarification on the reverse charge system and its Reply no. 17 of 30 January 2020, entitled "*Tax ruling request on article 11(1) a) of Law no. 212/2000 – Decreasing adjusting note pursuant to article 26 of Presidential Decree no. 633/1972*" it has explained the regulations on decreasing adjusting notes prescribed by article 26 of VAT Decree.

By Reply no. 18 of 30 January 2020, entitled "*Tax ruling request on article 11(1)a) of Law no. 212/2000 – Assignment of the tax credit deriving from deferred tax assets*", the Tax authority has provided clarification on the assignment of the tax credit deriving from the deferred tax assets shown in the financial statements; such tax credit arising in the event of transformation is subject to the regulations prescribed by article 2(57) of Decree Law no. 225/2010, according to which the tax credit can be offset without any limit of amount, pursuant to article 17 of Legislative decree no. 241/1997, or can be assigned at the nominal value according to article 43-ter of Presidential decree no. 602/1973 [...]. The credit, if any, remaining after the offsetting prescribed by such provision can be refunded.

In its Reply no. 14 of 24 January 2020, entitled "*Hyper-depreciation – assets rented to customers which utilize them on a temporary basis in building sites abroad*", the Tax authority has provided clarification on hyper-depreciation and the renting of assets utilized in the building sector vis-à-vis Italian customers which utilized them in building sites abroad. It has specified that in the case at issue pursuant to article 7(1) of Decree no. 87/2018 the production facility located abroad cannot be identified since the assets had a functional connection with the business conducted in Italy.

CASE LAW

3.1

Dividends – Judgment of the Italian Court of Cassation no. 2313/2020

By its judgment no. 2313/2020, the Italian Court of Cassation provided its opinion on the relationship between European Directive no. 2011/96/EU (the parent-subsidiary directive) and the tax convention regime of the tax credit regarding the dividends paid by an Italian subsidiary to its parent company resident in the United Kingdom. With reference to the principles established by the European Court of Justice, it has also clarified the concept of double taxation from a legal and/or economic perspective and the service of a notice of deficiency.

TAX NEWSLETTER | 16-31 JANUARY 2020

LEGISLATION, MINISTERIAL GUIDANCE AND CASE LAW AT 31 JANUARY 2020.
THIS NEWSLETTER IS INTENDED AS A SUMMARY OF KEY TAX DEVELOPMENTS AND HIGHLIGHTS MATTERS OF GENERAL INTEREST, AND THEREFORE SHOULD NOT BE USED AS A BASIS FOR DECISION-MAKING.
FOR FURTHER DETAILS AND INFORMATION, PLEASE CONTACT YOUR RELATED PARTNER OR SEND AN EMAIL TO UFFICIOSTUDI@STUDIOPIROLA.COM