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Italian tax news

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SEVERAL CROSS-BORDER RELEVANT PROVISIONS IMPLEMENTED THROUGH THE OMNIBUS DECREE

The Legislative Decree no. 148 of 7 August 2026 (the so-called “Omnibus” Legislative Decree) contains supplementary and corrective provisions on income tax, inheritance and gift tax, value added tax, excise duties, as well as on controls and assessment. From the point of view of cross-border relations, the main provisions of interest are the following:

- the accounts of the Italian permanent establishments of non-resident companies must be time-stamped with suitable tools according to the law;
- it is provided that, if a company resident in a State belonging to the EU or party to the EEA (Iceland, Norway and Liechtenstein) is merged into a company resident in Italy, the losses of the non-resident company may be carried forward by the Italian company, to the extent that the merged companies are part of the same group and the losses are final;
- the so-called Side-by-Side Regime, the UPE Safe Harbour and the so-called Substance-Based Tax Incentive Safe Harbour have been implemented in Italy in the framework of the Italian Pillar Two legislation;
- the withholding tax rate applied on dividends paid by Italian tax resident companies to European pension funds has been increased from 11% to 20%. This is to align the outbound foreign tax burden to the tax burden suffered by Italian pension funds.

BANK OF ITALY’S EMPLOYEES DOES NOT QUALIFY AS A STATE EMPLOYEE UNDER TAX TREATY LAW

With the answer to ruling no. 154 of 6 August 2026, the Italian Tax Authorities clarified that income deriving from the employment activity carried out in favour of the Bank of Italy by a French resident falls within the scope of Art. 15 of the Italy-France tax treaty (with shared taxing rights between both contracting States), instead of Art. 19 concerning public employment (with exclusive taxing rights of the State paying the remuneration).

This is due to the fact that the Bank of Italy is an institution governed by public law which, however, due to the autonomy and independence of its Statute, cannot be traced back to the typical organisational model of the State administration.

This nature precludes the possibility of being able to refer to the concepts of “State”, “political or administrative subdivision” and “local authority” provided for in the aforementioned Article 19.

GERMAN PENSION PAYMENTS TO BE EXEMPTED IN ITALY ARE TO BE DETERMINED UNDER GERMAN RULES

Ruling no. 164 of 24 August 2026 clarified that Italian citizens who have transferred their tax residency to Italy after having worked in Germany (and having been tax resident there) and derive pension income from German social security pensions are only taxed in Italy on that income. The Italian income to be exempted is determined based on German law (pursuant to Article 14(e), of the Protocol to the Italy-Germany tax treaty). For the purposes of determining such amount, the relevant office of the German

Tax Authorities will issue a certificate indicating the portion of the social security pension that is exempt under German legislation.

PROVISIONS TO AVOID ADDITIONAL LEVIES ON CERTAIN BONUSES FINALLY IMPLEMENTED

The Ordinance of the Italian Tax Authorities no. 223895 of 30 July 2026 has implemented the provisions that allow to avoid the IRPEF surcharge levy for managers and directors of the financial sector who receive variable compensation as bonuses or stock options.

The levy might be avoided if the employer pays a sum equal to at least twice the surcharge due in favor of non-profit entities. This new provision applies as 1 January 2026. According to the Ordinance:

- the payment must be made by bank transfer;
- payments made before the issuance of the Ordinance with instruments other than bank transfers are considered valid, provided that they were made with traceable means of payment and are accounted for by the beneficiary entity;
- if, after having finally determined the income derived by the employees, the payment made is not at least equal to twice the amount of the additional tax due, in order not to forfeit the benefit, the employer needs to pay the difference to non-profit entities within 60 days from the deadline for delivery of the annual employer income certification;
- in the annual employer income certification to be issued to the relevant employees, the withholding agent certifies that it has not applied the surcharge.

ITALIAN TAX AUTHORITIES CLARIFIES THAT A SERBIAN REGIME QUALIFIES AS A SPECIAL BLACK-LIST REGIME

Ruling no. 135 of 8 July 2026 analyzed the qualification of a company, resident in a non-European Union State (Serbia), in light of the Italian black-list provision related to privileged regimes for the purposes of taxation on dividends and capital gains.

The company benefits in Serbia from a special regime that allows the exemption of corporate profits corresponding to the amounts invested in fixed assets.

According to the Italian Tax Authorities, the duration of the exemption over time (10 years), the minimum investment limit (1 billion Serbian dinars), the obligation to hire at least 100 employees, means that this regime has to be characterized as a “special regime”.

Therefore, unless any special exemptions applies, the company qualifies as a black-listed company for the purpose of Art. 47-bis of the TUIR.

Accordingly, dividends distributed by that company and the capital gains linked to the sale of its shareholdings are fully taxable in Italy (i.e. the Italian dividend exemption and Italian participation exemption regime).

ASSETS ATTRIBUTED BY A PRE-EXISTING TRUST DO NO QUALIFY AS INCOME IN THE HANDS OF THE BENEFICIARY

In its answer to ruling no. 165 of 31 August 2026, the Italian Tax Authorities examined the following fact pattern related to trusts taxation. Two settlors (a married couple) residing in the United States had established an US trust. Such settlors were both trustees and beneficiaries of the income of trust. Upon the death of one of them, the trust deed provided that two other trusts were to be established and the surviving spouse was the sole beneficiary of such trusts.

Upon the death of the surviving spouse (the mother), in 2025, the assets in trust were equally devolved to the three children of the couple. One of the three assignees was resident in Italy for tax purposes and filed the ruling at stake to receive clarifications on whether the assets attributed to him were to be qualified as capital (and not income) distribution are not subject to income taxation.

According to the Italian Tax Authorities, the person, having had no powers to manage the fund, nor having been an identified beneficiary of the trust income, until the death of the mother, must declare the income derived by the trust, attributable to him for transparency, only starting from 2025.

The income produced by the two trusts before the death of the mother, on the other hand, constitutes capital for the daughter who receives it in devolution.

MERGERS BETWEEN IRISH AND LUXEMBOURGISH FUNDS DOES NOT TRIGGER TAXATION IN ITALY

With ruling no. 149 of 20 July 2026, the Italian Tax Authorities analysed the effects on Italian resident investors of the merger by incorporation between Irish UCITS funds and Luxembourg UCITS funds. According to the Italian Tax Authorities, the merger does not fall in any of the events that might trigger taxation in the hands of the participants in the funds, namely:

- distribution of proceeds;
- redemption or liquidation of units or shares;
- sale of units or shares;
- transfer of units or shares to a different person;
- conversion of units or shares from one sub-fund to another of the same fund (so-called “switch”).

Consequently, Italian investors are not subject to tax in Italy as a consequence of the allocation of units in the fund resulting from the merger.

EU COMMISSION ISSUES A FORMAL NOTICE FOR THE POTENTIAL INFRINGEMENT OF THE PAR-SUB DIRECTIVE

On 8 July 2026, Italy received a letter of formal notice as part of the infringement procedure INFR(2026)2088 for the improper transposition of Parent-subsidiary Directive, as it imposes a taxation of dividends that a parent company receives from subsidiaries established in other Member States that is repeated more times than allowed by the Directive itself. Italy has two months to respond to the notice

issued by the European Commission; in the absence of a satisfactory response, the Commission will issue a reasoned opinion.

OECD PUBLISHES A REPORT ON THE REVENUES IMPACTS OF PILLAR TWO

On 15 July 2026 the OECD has 2026 Economic Impact Assessment of the Global Minimum Tax (GMT). The document contains new estimates of the expected effects Pillar Two taxes and also preliminary evidence from its first year of implementation. It examines the expected effects of the GMT on effective tax rates, tax rate differentials, profit shifting and tax revenues. The OECD also released an initial assessment of 2024 effects of the Pillar Two implementation. The analysis shows an increase in effective tax rates among the inscope groups, while there was no evidence of reductions in investment or employment among the same group.



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