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Transfer Pricing 2022
News from Italian side

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STATUTORY RULES/LAWS

a. Law

1. Article 110 – paragraph 7 – Italian Income Tax Law (Presidential Decree n. 917 dated 1986), as recently modified by article 59 Decree Law n. 50 issued on April 24, 2017: taxable income deriving from cross border transactions with related companies belonging to the same multinational group are determined at arm's length that is at same conditions and price agreed upon between independent parties acting in comparable situations. This is true both in case of increasing and in case of decreasing amendments to the declared income consequent to TP issues by the Italian TA.

2. Article 26 – Decree Law n. 78 dated 2010: introducing a sort of allowance consisting in the cancellation of penalties deriving from TP disputes with the Italian TA for businesses having at their disposal proper documentation on TP showing the way and the method duly followed to set up prices in cross transactions with abroad related parties.

3. Financial Law n. 147 – paragraphs 281 and following – issued on December 27, 2013: TA's income adjustments for TP are relevant also for the Regional Tax (IRAP) for financial years after 31st December 2007, even if only with limit to financial years from 2008 to 2012 the penalty (from 100 percent up to 200 percent of the higher tax) is not due for IRAP. Moreover, it has to be noted that the penalty from unfaithful Income Tax Returns referred to financial period 2016 and subsequent has been lowered from a minimum of 90 percent up to the maximum of 180 percent of the higher tax due both as Income Tax (so called IRES) and as IRAP.

4. Financial Law n. 208 dated December 28, 2015 – paragraphs 145 and 146 and consequent Ministerial Decree dated 2017 February 23rd, introducing with effect from year 2016 the Country-by-Country reporting in application of Action 13 of BEPS.

5. Art. 31-quater added with effect from April 2017 to Presidential Decree n. 600/73 giving the possibility to grant decreasing adjustments to the Italian company's taxable income in application of the arm's length principle further to:

a. a MAP duly set-up with foreign TAs.

b. the conclusion of tax assessments within the international cooperation whose

results have been duly shared between the different States involved;

c. A claim the company may apply to the foreign TA after definitive increasing tax adjustments made abroad in compliance with the arm's length principle in a State with which there is a DTT in force or a proper tax information exchange agreement.

b. Statutory ordinances

The Italian TA's Measures n. 0360494, dated 2020, November 23rd: detailing the content and the structure of the proper TP documentation to be set-up, in order to avoid penalties.
Ministerial Decree dated 14th May 2018: giving guidelines to apply the arm's length principle as per article 110 – paragraph 7 – Italian Income Tax Law and applying the 2017 OECD's TP guidelines.

c. Administrative circulars

1. Principles relating to TP in the determination of the taxable income of Italian businesses under control of foreign mother companies, as of September 22, 1980.
2. Principles relating to the choice among different methods of the most suitable one to the specific case in order to fix the proper transfer price, as of December 12, 1981.
3. Principles relating to the setting-up of proper TP Documentation to be safe from penalties in case of issues by Italian TA, as of December 15, 2010, recently completely renewed and replaced by The Italian TA's Measures n. 0360494, dated 2020, November 23rd as far as the content and the structure of the proper TP documentation is concerning.
4. Administration Circular number 21/E dated June 5, 2012, ruling Mutual Agreements and Arbitration Procedures.
5. Administration Circular number 15/E dated 26th November 2021, by which Italian Revenue Agency gave further clarifications to the news in force after the publication of Italian TA's Measures n. 0360494, dated 2020, November 23rd about the proper TP documentation.
6. Administration Circular number 16/E dated 24th May 2022, by which Italian Revenue Agency described the process of the benchmark analysis with clarifications and examples on the ranges the profit level indicators chosen have to fall within, in order to be compliant with the arm's length principle.

DEFINITION OF RELATED PARTY

Related Parties are defined by the Ministerial Decree dated 14th May 2018 as follows:

a. associated enterprises: a resident company in the territory of the State and non-resident companies where:

1. one of them, directly or indirectly, takes part to the management, control or capital of the other, or

2. the same entity, directly or indirectly, takes part to the management, control or capital of both companies;

b. participation in management, control or capital:

1. more than 50% of the shareholding in the capital, voting rights, or profits of another company; or

2. the dominant influence on the management of another business, on the basis of share or contractual ties;

The 'control' definition is borrowed by article 2359 of Italian Civil Code, according to which controlled companies are those:

1. in whose Shareholders' meetings, another entity can exercise the most voting rights;

2. in whose Shareholders' meetings, another entity can use a sufficient number of voting rights to exert its dominant influence;

3. under dominant influence of another entity, in force of particular contractual ties;

4. If a company can exert its remarkable influence on another, both companies are related. A remarkable influence is presumed when in the Shareholders' meeting at least 20 percent of the voting rights can be exercised (10 percent in case shares are listed at the Stock Exchange or other regulated markets).

TREATMENT OF THE OECD GUIDELINES

The Italian TA adopted the OECD Guidelines to a large extend, being the above listed Statutory rules the Italian translation of OECD Guidelines. In particular:

- Article 110 of Italian Income Tax Law provides the Italian version of the OECD's Arm's Length Principle in application of article 9 of OECD Model.
- The Italian TA's Measures n. 0360494, dated 2020, November 23rd: detailing the content and the structure of the proper TP documentation to be set-up, in order to avoid penalties.
- Ministerial Decree dated 14th May 2018: giving guidelines to apply the arm's length principle as per article 110 – paragraph 7 – Italian Income Tax Law and applying the 2017 OECD's TP guidelines to a large extend.

The circulars are under revision from time to time, to follow-up the updating of the OECD standards.
On 20th January 2022, the OECD published the updated version of the TP Guidelines. The new edition of the TP Guidelines updates the previous one published in July 2017 by adding the guidance provided by the OECD on the following topics:
- **Transactional Profit Split Method** ("Profit Split"): the Guidelines provide indications aimed to identify the situations in which the method in question may be deemed the most appropriate. In particular, it is highlighted how the same is considered the most appropriate method whenever:
- each of the parties makes unique and valuable contributions (i.e., functions performed or assets used) which are not comparable to those contributed by independent third parties or representatives key profit factors in the transactions in question;
- the transactions are highly integrated in such a way that the contributions of the parties cannot be assessed individually;
- the parties share the assumption of economically significant risks, or assume separately closely related risks.
It is specified that, although the absence of comparables is, in itself, not sufficient to justify the use of the Profit Split method, if, on the contrary, there are reliable comparables, it is unlikely that this method can be considered as the most appropriate one.
- **Hard-to-Value Intangibles**: they have the aim to outline a common practice among the financial administrations for application of the adjustments deriving from the use of this approach, also in order to reduce the risk of double taxation.
The new Guidelines include several examples with the aim of clarifying the concrete application of the principles related to HTVI to the different scenarios and grant the chance of access to mutual agreement procedures, provided for in the Double Taxation Conventions.
- **Financial Transactions:** this update introduced specific information on financial transactions and related matters, such as cash pooling, financial guarantees and bonded insurance. The principles outlined in the 2022 TP Guidelines with respect to financial transactions allow to:
- evaluate the circumstances in which a transaction can be considered intra-group financing or may fall under other types of unpaid payments (e.g. contributions to share capital);
- correctly outline the factors which, in the light of the arm's length principle, can influence

intra-group relations of multinational groups, with the aim of identifying the operations that must be considered commercial from those financial, instead. The contractual conditions of the transaction must take into consideration: the functions performed by the parties and the risks assumed;
- prepare a functional analysis of the economically relevant characteristics of the financial transactions. Factors to be evaluated include: the contractual agreement that regulates the transaction between the parties, the context in which the financial transaction is placed in, as well as the behaviour assumed by the parties involved in the transaction with reference to the nature, the purpose, the amount of the loan and the related repayment plan.
Given the innovations made in the new edition of the TP Guidelines, an element from evaluating pertains to timing. More in details, in order to assess whether a controlled transaction may or may not comply with the principles of arm's length will need to be kept in mind consideration of the principles in force at the time this transaction was entered into.

ACCEPTED TP METHODS AND PRIORITY

In Italy, the CUP Method, RPM, and Cost Plus Method, in order of preference, are the accepted TP basic methods, if comparable arm's length data can be determined, which are to be qualified as fully comparable with the transaction under review, after making appropriate adjustments with reference to functions performed, risks assumed and assets employed.
In case fully comparable arm's length data cannot be determined, limited comparable data shall be used after making appropriate adjustments under the application of auxiliary and/or alternative profit TP methods, such as TNMM and PSM. As per article 4 of Ministerial Decree dated 14th May 2018, if one of the TP basic methods and one of the profit TP methods may be applied with equal degree of reliability, one of the TP basic methods described shall be preferable. In any case, if, applying the CUP method and any other TP basic or profit method leads to the same degree of reliability, the CUP method is to be preferred.
Anyway, the taxpayer may apply a method other than the above mentioned basic and profit methods if he proves that none of these methods can be applied reliably in order to

enhance a controlled operation on the basis of the arm's length principle and that the different method applied leads to a result in line with that achieved by independent businesses with third non related parties.

DOCUMENTATION REQUIREMENTS

a. In general

Article 26 of Italian Decree Law n. 78/2010 introduced a sort of allowance consisting in the cancellation of penalties for businesses which have at their disposal proper TP Documentation, showing the way and the method duly followed to set up prices in cross border transactions with foreign parent companies.
According to the very recently introduced Italian TA's Measures n. 0360494, dated 2020, November 23rd, a proper TPD is articulated in a 'Master File' and a 'Domestic File'.
The Master File has to collect and show information about the multinational group following this scheme in terms of paragraphs and sub-paragraphs: **1. the Organisational Structure**; 2. **Activities carried on**: 2.1 main profit-generating factors, 2.2 flows of transactions, 2.3 agreements for intragroup services, 2.4 main markets, 2.5 operational structure and value chain, 2.6 corporate reorganisation operations; **3. Intangible assets of the multi-national group**: 3.1 group's strategy, 3.2 intangibles, 3.3 agreements referred to intangibles, 3.4 TP policies about R&D, 3.5 relevant transactions; **4. Intra-group financial transactions:**
4.1 financing method, 4.2 centralised financing functions, 4.5 TP policies about financing transactions;
5. Financial reports of the multinational group: 5.1 consolidated accounts, 5.2 APAs and cross-border advanced rulings
The Domestic File, focused on the local entity, has to collect and show information construed in paragraphs and sub-paragraphs as follows: **1. General Description of the local entity**: 1.1 operational structure,
1.2 business activity and strategy pursued; 2. Intra-group transactions duly distinguished in such sub- paragraphs (from 2.1 to 2.n) as the number of transactions made with related parties is. For each operation 2.1, the following details are required: 2.1.1 Description of transactions, 2.1.2 comparability analysis, 2.1.3 eligible TP method and reasons why it gives compliant results to the arm's length principle, 2.1.4 results by the application of the chosen TP method, 2.1.5 critical assumptions applied in the choice of the TP method.

The documentation is mandatory to be yearly duly set-up, digitally signed by the company's Legal Representative and electronically sent to TAs within the expiration date of the Internet sending of the Income Tax Return, currently 30th November of the year following that the Income Tax Return is referred to. In the Income Tax Return the TP documentation's possession has to be duly communicated to the Italian TA by filling with a tick an *ad hoc* space where profits and costs related to intra-group transactions have to be shown. According to the new very recently introduced Italian TA's Measures n. 0360494 dated 2020, November 23rd, this term is so mandatory that it has to be timestamped and the TP set of documents (mandatory Masterfile also for controlled local companies plus Domestic File and annexes) has to be digitally signed by the company's Legal Representative, even if the Masterfile of the foreign mother company is already signed by its foreign Legal Representative.

b. Filing deadline

Generally, in case of accesses and inspections by the Italian TA, the Italian company can avoid penalties if within 20 days from the Italian TA's request, a TPD is submitted as well as, in case of further deepening by the Italian TA, further TP information is added within 7 days after the Italian TA's request.

c. Mandatory language

Master File and Domestic File are required to be written in Italian language; however, the Master File can be also accepted written into English language.

d. Alignment with new Ch. V of OECD Guidelines/BEPS Action 13

In terms of additional TP documentation have been introduced by Italian Financial Law n. 208/2015 – paragraphs 145 and 146 and consequent Ministerial Decree dated February 23, 2017 requiring the CbCR with effect from year 2016 to:

a. Italian resident controlling companies not controlled in their turn by shareholders other than persons, obliged to consolidated financial statements, with total consolidated revenues amounting to at least €750 million earned within the whole multinational group in the taxable period before the reporting period.

b. Italian resident controlled companies only in the case the controller foreign company obliged to the

consolidation of financial accounts is resident in a state which has not introduced the CbCR or has no/is not compliant with exchange of information with Italy about CbCR.
The CbCR must be sent to Italian Tax Office within 12 months of the last day of the multinational group's taxable period under reporting.
In case of no or of incomplete/wrong data in the CbCR, the administrative penalty provided for can range from €10,000 to €50,000.
With reference to a multinational group, the CbCR has to report aggregated data of all companies belonging to the group for each involved country and in details: revenues; gross profits/losses before income taxes; income taxes due and definitively paid in each jurisdiction; the declared stock capital; not distributed profits; the number of employees; tangible assets different from cash or equivalent means; necessary information to identify each entity belonging to the multinational group; their state of incorporation and of management, in case of difference from the state of their tax residence; the nature of activities run. PE must be reported with reference to the state where they are located duly specifying the entity they are referred to.

TAX AUDIT PROCEDURE

The Italian TAs usually examine the adequateness of intercompany TP only during the regular tax audits. The open term for the Italian TA's inspections with effect from year 2016 is 31st December after 6 years from the year the Income Tax Return is referred to. In case of a tax audit, the taxpayer is generally obliged to cooperate with the tax auditors.
The final audit report, including suggestions for any tax adjustments, is presented to the local tax office where the revised tax assessments are to be prepared. The local tax office usually follows the recommendations of the tax auditors.
If the taxpayer does not agree with the revised assessments, within 60 days after the notified results of the audit, he has the possibility to fight against them by applying for an appeal procedure.

INCOME ADJUSTMENT, SURCHARGES, AND PENALTIES

In case of disputes on TP, the Italian TAs are allowed:
1. To submit to Italian taxation the higher income discovered as moved abroad by TP incorrect habits used by the domestic company, not complying with

the arm's length principle. The higher income than the one declared is put under 24 percent tax rate for IRES (the companies' Income Tax which up until the year 2016 was at 27.50 percent rate), as well as to IRAP's (the Regional Tax) tax rate varying from 3.90 percent to 4.82 percent (according to the sector of the activity and the region where it is carried on) calculated on the net value of the output; and

2. To apply on the domestic company's shoulders a penalty for unfaithful Income Tax Return amounting **from a minimum of 90 percent to a maximum of 180 percent** of the higher income tax. Of course, the before mentioned penalty can be saved in case of the company's possession of proper TP documentation.

ADVANCE PRICING AGREEMENTS

According to article 31-ter Presidential Decree n. 600/1973 which, starting from 2016 replaced article 8 of Decree Law n. 269/2003 and the old procedure ruled by it, Italian companies with international business can apply for an APA also for the definition in advance of the more suitable method to be compliant with the arm's length principle in the pricing of cross border transaction within the multinational group. An APA ties both the claiming company and the Italian TA involved for the period when it is agreed and for the four, years further, of course if situations and conditions at the basis of the APA will not change during the five years it is in force. In case they come in force after further friendly procedures set-up with foreign TAs as provided for by the Tax Treaties, they are binding also according to what agreed with the involved foreign TAs.

An APA is formally started by the taxpayer submitting an ad hoc claim. The sending of the claim is free of charge. Before submission, both the taxpayer and or its tax consultants can have a couple of no name and pre-filing meetings with the tax office in order to have a draft of the claim unofficially examined and to receive suggestions to improve/integrate it with any further required information.

The sole office entrusted to receive APA claims is the International Ruling Office – Central Department of Tax Assessments with one seat in Rome and another in Milan.

Within 30 days after receiving the claim, if everything is OK with documents and information provided, the tax office notifies the taxpayer the APA is in force; otherwise it gives the taxpayer a proper time to integrate it.

After the conclusion of the above first stage, the APA procedure opens with a cross-examination between the

taxpayer and the tax office: they can set up the terms and conditions of the APA and the tax office can verify the information provided by the taxpayer and ask for clarifications in case of need. The cross examination can require a couple of or more meetings between parties involved, and the tax office is also allowed to access to the claiming company's offices where the activity is run. The whole procedure can take no more than 180 days to be finalized. This term can be suspended in case International cooperation with other states' TAs is needed to the receiving the required information. Of each cross-examination meeting/ access to offices, minutes are duly written, as well as for the final agreement which will be mandatory for all parties involved.
During the 5 years the APA is in force, the Italian TAs can check if the company is compliant and if something is changed in the transactions carried on and in the company's structure. Therefore, periodic maintenance and updating is somewhat required. When the 5 years expire, there is the possibility to renew the APA by always checking possible new conditions and basis coming out in the meantime. The renewal has to be claimed at least 90 days before the expiration of the APA still in force by starting a similar procedure to that which brought 5 years ago to the APA to be renewed now.
Italian TAs allow unilateral, bilateral or multilateral APAs, depending by the number of foreign related parties within the multinational group and consequent foreign State's Tax Administrations involved in the issue.

EX POST MEASURES TO PREVENT DOUBLE TAXATION

In case of TP matters, the taxpayer could fight against the consequent risk of double taxation, by setting up lawsuits under the Tax Court.
Within 60 days later than the receiving of the communication by the Italian TAs about income adjustments consequent to TP issues, the taxpayer, duly represented by its Tax Lawyer, can apply to the Provincial Tax Court (1st degree of litigation) to contest the TA's adjustment act.
In case of negative result, that is the first Court decides in favor of the Italian TA, or even if the first-degree decision is in favor of the taxpayer, the Italian TA can fight against it by applying to the Regional Tax Court (2nd degree of litigation). The Lawsuit can go on up to the 3rd and final degree of decision under the Court of Cassation. The final decision of the Court of Cassation is diriment

between the fighting parties which can conform to it or can apply to international procedures, such as MAP, to get to a solution involving the different interested countries' TAs.
In Italy, the appeal to MAP is justified both by Art. 25 of the Model Treaty in case extra EU related parties are involved in the dispute and according to the INTRA EU Convention n. 90/436 dated July 23, 1990, in case of disputes between EU related parties.
In both cases, the TAs of the involved countries consult one each other to resolve disputes regarding the TP- related double taxation; the taxpayer each time has the duty to cooperate, giving the necessary and required information and the right to be updated on the reached results.
MAP according to the EU Convention is prevented in case of a judicial lawsuit for the taxpayer's fiscal fraud. It is alternative to the 3 degrees of justice under the National appeal and has to lead to the solution of the dispute.
On the contrary, MAP according to DTT is not alternative to the National appeal and can be set up even if the National Appeal is in due course. Generally, the National Appeal is set up at first and in case it does not lead to an acceptable solution, a DTT MAP is submitted.
During the DTT MAP, it is possible and well worth to suspend the internal juridical appeal to avoid that judgers' decisions come into force before the finalization of the DTT MAP.
If the involved TAs cannot agree upon a result, the taxpayer usually can apply for an arbitration procedure.

INTERCOMPANY FINANCING

With reference to intercompany financing, there is no specific rule about TP, and, therefore, it is necessary to refer to the general principles on TP.
The most delicate aspect is the agreed interest rate which has to meet the arm's length principle. Italy follows the OECD Guidelines in the updated 2022 version and among all the OECD recommended methods, the CUP Method is preferred.
Usually for financing agreements, interest rates are determined by adding to a fixed base (simply Euribor rates available on the market) an appropriate spread to remunerate the lender. Therefore, in loan agreements, the correct setting up of the interest rate at arm's length means to pay attention to this spread that must necessarily reflect the target market for the specific kind of transaction.
Among different aspects to be taken under attention in the loan agreement between the lender

and the borrower, the first is the geographic location of the comparable market: for the benchmark analysis, the market of reference has to be the lender's market, rather than the borrower's. This is provided for by Italian Income Tax Law and has been also shared by an important judgment n. 22010 of the Supreme Court of Cassation, dated 25th September 2013.
Once established that the market to be taken as a reference is the lender's, a further step is to proceed to analyze the characteristics of the loan agreement and to search in that market proper rates accordingly.
Variable aspects to be taken into consideration in a comparability analysis are: functions and risks borne by parties involved in the transaction; contractual conditions ruling juridical relationships between parties; economic and market conditions; strategies. For instance, with specific reference to contractual conditions in an intercompany loan agreement, it is important to analyze the: amount of the financing; reason; duration of the loan; nature of the contract; currency in which the loan is denominated; and any given guarantees. Moreover, the borrower's peculiarities have to be considered with specific reference to the lender's expectations to be paid back. In fact, the higher the possibility that the borrower does not reimburse the loan and/or does not pay the related interests, the higher will be the interest rate applied by the lender onto the financing.

In case the Italian company is the borrower, the deductibility of interest expenses is allowed, according to article 96 of the Italian Income Tax Law, following a specific mechanism of calculation.
Very briefly, first of all, interest expense is compared with interest income earned by the company so that the interest expense up to the amount of the interest earned is always deductible.
Each exceeding amount of interest expense is deductible up to a cap represented by 30 percent of EBITDA. Therefore, if the company makes a loss, almost certainly it is not allowed to deduct any interest expense.
The excess of non-deductible interest expense, because of negative EBITDA, can be carried forward and used in future financial years.
Currently a jurisprudential dispute in Italy is on about non-interest-bearing financing and possible TP issues. Mostly, decisions are in the direction that, even if free-of-charge, the intercompany loan could lead to taxable income's

shifting between different States. Therefore, the arm's length has to be duly met in setting up the conditions of the financing.

SAFE HARBOUR PROVISIONS/EXEMPTIONS FOR SMEs/SIMPLIFICATIONS

In Italy, safe harbours are expressly provided for transactions of immaterial rights, as the setting up of the value at arm's length in this case is recognized of particular complexity. According to Administrative Circular n. 32/9/2267 dated 1980, royalties granted by the licensee to the licensor for the exploitation of the latter's Intellectual Property/Trade Mark/Know-How, calculated according to a percentage of the licensee's total sales are considered fair:

a. up to the 2 percent of the total sales, when: (i) the transaction is ruled by a written agreement duly set up before the payment of the royalty; (ii) the cost's inherence for the licensee is duly documented and proved;

b. from 2 percent up to 5 percent, when, in addition to the respect of the conditions as per the above point a., the following are duly accounted for: (i) technical features (research and testing activities are required; 1 year/or faster obsolescence; technical life; originality; results got, and so on…); (ii) contractual features (exclusivity; sub-licensing; right to exploit the invention or the immaterial goods' development; (iii) the licensee's real benefit;

c. higher than 5 percent, only in very special situations, such as in case of high technological level acknowledged for the economic field of activity or other circumstances;

d. Any amounts of royalties, paid to licensors based in low taxation level countries can be granted as deductible for the licensee only at the demanding conditions as per the above point c.

Some simplifications are provided for SMEs which in the Domestic File have the possibility to avoid updating about the TP method used for intra group transactions over the next two years further to that the set-up of the Domestic File is referred to in case: i) the benchmarking analysis is based on information given by public data bases and ii) the determining factors have not been significantly changed over the same period of two years.

SMEs allowed to the above simplifications are those with a business volume or an amount of revenues not higher than € 50 million.

Some simplifications have been recently provided for by article 7

of Ministerial Decree dated 14th May 2018 with reference to the evaluation of cross border low value added services between related parties. In order to meet the requirements of the arm's length principle, intra-group services with low added value can be priced, subject to the preparation of specific documentation, by aggregating all the direct and indirect costs associated with the provision of the service itself and then adding a profit margin equal to 5% of the aforementioned costs. Low value added services are those:

a. having a supportive nature;

b. not belonging to the core business of the multinational group;

c. not requiring the use of unique and valuable intangible assets, and not contributing to their creation;

d. not involving the assumption or control of a significant risk by the service provider, nor causing the same the arising of such a risk.

Services rendered by the multinational group to independent third parties are never considered low value added ones.

A further simplification provided for by article 5 of Ministerial Decree dated 14th May 2018, is about the possibility to aggregate two or more transactions which are closely related to each other, or which form a unique deal, for the purposes of the analysis of comparability and the verification of arm's length compliance.

Recently, Administration Circular number 15/E dated 26th November 2021, referring to paragraph 5.32 of OECD Guidelines, clarified that a transaction (or a category of more than one transaction) can be considered not marginal if its amount is higher than the 5% of the total amount of revenues and costs, in absolute value, duly shown in the proper fields in the Income Tax Return of the Local Entity under inspection.

TP AND PEs (AOA)

Italy has introduced provisions by article 7 of OECD model by completely rewriting article 152 of Income Tax Law. The PE's profits now need to be determined in relation to the gains and losses associated with it, drawing up P&L accounts and a Balance Sheet based onto the accounting principles applicable to the PE.

It has been also introduced the principle of the so called "Functional separate entity approach", according to which PE should be considered as a separate and independent entity.

Lastly, it should be noted that by the 2015 reform, the application of TP has been definitively coded for all transactions and business between the PE and the entity to which it belongs.
Furthermore, according to the Administration Circular number 15/E dated 26th November 2021, rules regarding the TP documentation can be applied also to non-Italian resident businesses, or to non-resident companies or entities carrying on a business in Italy through a Permanent Establishment. The option of TP documentation is also granted to Italian resident businesses with Permanent Establishment abroad about transactions between the foreign PE and the Italian business and/or transactions between both and other affiliates of the same multinational group.

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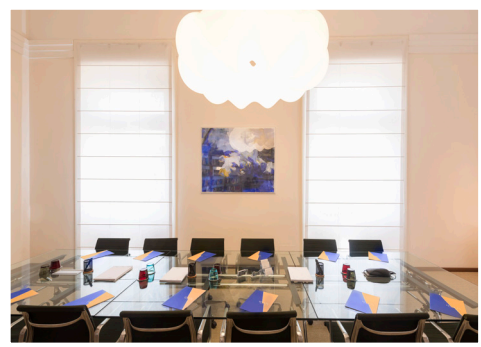

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