



EU AND INTERNATIONAL TAX POLICY

Bonus related to employment activities carried out abroad before becoming Italian tax resident: the Italian Revenue Agency repeals its previous ruling

In our previous [newsletter](#), we commented a shocking pro-taxpayer ruling issued by the Italian Revenue Agency (the “First Ruling”).

We promptly informed the Revenue Agency about our doubts and refrained from rushing to file refund requests for our client, pending confirmation that the First Ruling was meant to say exactly what was stated.

It appeared that the First Ruling was drafted having in mind previous rulings issued by Revenue Agency, although relating to cases where the taxpayers were resident outside Italy when income was paid. In those rulings:

- (i) the Italian taxing right was correctly limited to Italian-source items of income, and
- (ii) the source was determined according to the principles stated by the OECD with respect to equity-based payments.

If the recipient is resident in Italy when income is received, instead, the Italian taxing right is not restricted by the foreign source of the relevant income and it is purely based on the taxpayer’s residence. This is in line with Italian tax laws as well as most applicable treaties, at least those drafted along the lines of the OECD Model.

On 4 August 2025, the Revenue Agency repealed the First Ruling. The position set out in the new ruling (the “Second Ruling”) now aligns with our interpretation of the applicable laws and treaties, as summarized in our previous newsletter:

- (i) Italy, as the State of residence of the recipient in the year the income is actually paid, retains unlimited right of taxation;
- (ii) in accordance with the OECD principles, the relevant item of income is considered sourced outside Italy;
- (iii) if such income is subject to tax in the State of source, Italy has the obligation to grant full tax credit for foreign taxes.

As income is actually taxable in Italy, in the Second Ruling the Revenue Agency also answered to the second question raised by the applicant, i.e., whether the Italian permanent establishment which employs the income recipient when income was paid would be liable for Italian withholding tax obligations. The answer was affirmative:

- even if such permanent establishment:
 - o was not the employer in the previous years, and
 - o was not the direct payor of the income;
- irrespective of whether income is paid by:
 - o other branches of the same legal entity (including the head office), or
 - o other legal entities belonging to the same group.

We appreciate the process taken by the Revenue Agency and we are confident that the same spirit of cooperation may be equally fruitful where the position originally taken is pro-revenue.

Gatti Pavesi Bianchi Ludovici

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Paolo Ludovici paolo.ludovici@gpblex.it

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