

# Advance tax ruling

## AT A GLANCE

### ADVANCE TAX RULING

**Aim** – Give taxpayers the possibility to obtain a preventive and written opinion by the Italian Revenue Agency providing the correct application of specific tax provisions.

**Qualifying persons** – Both resident and non-resident taxpayers are entitled to forward the query to the Italian Revenue Agency. The query has to be submitted before the application of the tax provisions.

**Benefits** – The Italian Revenue Agency cannot issue assessments or impose fines or penalties that would be in contrast with the opinion expressed in the advance ruling.

## What is it

The advance ruling is a “tax compliance institute” allowing taxpayers to orient their behavior and, consequently, to prevent litigations with the Revenue Agency. Essentially, resident and non-resident taxpayers can submit to the Italian Revenue Agency formal queries to obtain clarifications on the correct application of a specific tax provision.

## Who can submit a query

Both resident and non-resident taxpayers (directly or by means of their elective representatives in Italy) are entitled to forward a query to the Italian Revenue Agency. The Italian Revenue Agency can accept a request for an advance ruling only when taxpayers require clarifications about a tax provision:

- whose interpretation is objectively uncertain
- relating to state (and not local) taxes
- applicable to a real (not hypothetical) and personal case

The request must be submitted before the relevant tax provision is applied (for example, before submitting the tax return, before applying a withholding tax, before issuing an invoice, etc.).

## Benefits

The opinion expressed by the Revenue Agency in the advance ruling is not binding on the taxpayer, however, **it is binding on the Revenue Agency**, that cannot issue assessments or impose fines or penalties that would be in contrast with the opinion expressed in the advance ruling.

The Revenue Agency has **90 days** to reply to the query and other 60 days if, in the meantime, asks further clarification or documents to taxpayers to form its opinion. If the Revenue Agency doesn't answer within the time limits, the taxpayer's interpretation is deemed to be accepted on the basis of a tacit consent.

## How to submit a query

Taxpayers requesting an advance ruling have to submit a query, signed by the taxpayer or by his/her authorized representative, containing the following information:

- **type** of ruling required
- **identification details** of the taxpayer or of the representative (tax identification number, Vat number, address, contacts, including telefax or phone number, email address)

- **detailed description** of the case that raises the interpretative issue, with identification of the objectively uncertain provision the taxpayer needs to apply and the solution proposed by the taxpayer
- **mandate or power of attorney**, in case the query is not submitted by the taxpayer himself.

Generally, taxpayers, including permanent establishments, have to submit advance ruling queries to the [Regional Directorate - pdf](#) competent for the area where the taxpayer is domiciled for tax purposes.

**Non-resident taxpayers** have to submit their queries directly to the [Central Directorate for Tax Regulation](#) (Direzione Centrale Normativa) or to the [Central Directorate for Cadastre, Cartography and Real Estate Publicity](#) (Direzione Centrale Catasto, Cartografia e Pubblicità immobiliare), by topic.

**Large Taxpayers**, including permanent establishments - with a turnover not below 100 million euro - have to submit their queries to the [Central Directorate for Tax Legislation](#) (Direzione Centrale Normativa) or to the [Central Directorate for Cadastre, Cartography and Real Estate Publicity](#) (Direzione Centrale Catasto, Cartografia e Pubblicità immobiliare), by topic.

Queries may be submitted by:

- hand delivery
- registered mail with return receipt
- certified electronic mail
- by email - **only for non-resident taxpayers** - to [dc.norm.interpello@agenziaentrate.it](mailto:dc.norm.interpello@agenziaentrate.it) for queries about tax issues and to [dc.ccpi.interpello@agenziaentrate.it](mailto:dc.ccpi.interpello@agenziaentrate.it) for queries about

cadastral issues

## Types of Advance tax rulings

- **ordinary ruling:** Every taxpayers, including non-residents, may submit a query to obtain an opinion about the correct interpretation of an objectively uncertain tax provision or in case the objective uncertainty is related to the legal and fiscal qualification of a specific case. The interpretation of a tax provision is “objectively uncertain” when there is no official interpretation available (circular letters, resolutions, etc.) that applies to the taxpayer’s specific case or when such official interpretation is too generic.

Official interpretative documents are available at

[http://www.agenziaentrate.gov.it/wps/content/Nsilib/Nsi/Documentazione/Normativa+e+Prassi/ \(IT\)](http://www.agenziaentrate.gov.it/wps/content/Nsilib/Nsi/Documentazione/Normativa+e+Prassi/ (IT)).

- **probatory ruling:** taxpayers can request an opinion about the fulfilment of the conditions and the assessment of the probatory elements required for the adoption of specific tax regimes, in cases expressly provided by law;
- **anti-abuse ruling:** Taxpayers can ask an opinion about the application of the “abuse of right” principle to a specific case, aiming at verifying if a transaction may be considered as abusive;
- **anti-avoidance ruling:** it is the only mandatory ruling in order to fight tax avoidance. It is aimed at the disapplication of tax provisions limiting deductions, tax benefits, tax credits or other subjective positions of the taxpayer.