

Clarifications of the Italian Revenue Agency on Brexit

Appointment of a tax representative in Italy

With Resolution 7/E issued on February 1, 2021, the Italian Tax Authority has made it clear that taxable persons established in UK can directly identify for VAT purposes in Italy in order to comply therein with VAT obligations and exercise related rights, instead of appointing a tax representative. This has been concluded by the Italian Tax Authority after the examination of the Protocol on administrative cooperation and combating fraud in the field of VAT and on mutual assistance for the recovery of claims (the "Protocol"), included in the Agreement between EU and UK. Indeed, according to the Italian Tax Authority, the Protocol may be considered analogous to the administrative cooperation instruments currently in force in the EU. For this reason, taxable persons established in UK may continue to benefit of the direct VAT identification process even if UK is no longer an EU Member State. In any case, taxable persons established in UK that already have a tax representative or VAT direct identification in Italy, appointed or released before January 1, 2021, may continue to use them for internal transactions.

Interest Royalty Directive

In response to a FAQ Info Brexit published on its website on December 31, 2020, the Italian Tax Authority clarified that as of January 1, 2021, Italian resident companies paying interest and royalties to their UK subsidiaries will no longer benefit from the exemption from withholding tax provided for by Italian tax law, which transposes the Interest Royalty Directive (Directive 2003/49/CE). This, unless specific provisions included in the agreement between EU and UK apply.

Non-EU regime of MOSS/OSS

By answering a specific FAQ Info Brexit, the Italian Tax Authority dealt with a UK company providing telecommunication and broadcasting services (TTE services) to final consumers in EU that was registered to UK VAT MOSS before January 1, 2021. Considering that after December 31, 2020 UK is no longer part of the EU, the Italian Tax Authority confirmed that the UK company can join the “MOSS non-EU” system by choosing an EU Member State – including Italy – as Member State of identification to declare and pay VAT due on TTE services provided in EU.