



Italy: Transfer of shares in Italian consolidated subsidiaries from a PE to its headquarters - effects on the tax group regime

In response to a query submitted by a French banking group, the Italian Revenue Agency⁽¹⁾ has clarified that the transfer of shares in Italian subsidiaries from an Italian permanent establishment ('PE') to its headquarters (in France) does not terminate the tax group arrangement between the headquarters, as the consolidating entity, and the subsidiaries.

Under the provisions in force until 2014, non-resident companies could opt for Italian tax consolidation as consolidating entities only if (i) they were resident in a treaty country, and (ii) had a PE in Italy whose assets included shares/quotas in the Italian consolidated subsidiaries.

In 2015, conditions (i) and (ii) were both repealed, in compliance with the principles set out in the European Court of Justice's judgment of 12 June 2014 in Case C-40/13. Therefore, a company resident in an EU/EEA Member State, which carries on a business activity in Italy through a PE, may be the consolidating entity of a tax group with its Italian (controlled) subsidiaries, even if the PE no longer holds shares in the consolidated subsidiaries.

The transfer of shares in consolidated subsidiaries from the Italian PE to the foreign headquarters (i.e. the consolidating entity) does not terminate the tax group regime and the Italian tax authorities do not have to be notified of the transfer.

⁽¹⁾ in Ruling n. 25 of 2 March 2017.

We remain at your disposal should you require any further information.

Kind regards,

Italian Tax Alert Team

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