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Italian TP documentation rules: country file to be prepared in Italian

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By Federico Vincenti, Carola Valente September 11, 2024



Federico Vincenti and Carola Valente of Valente Associati GEB Partners/Crowe Valente report on a ruling by the Italian Tax Agency and explain an update to the deadline for the submission of income tax returns

On August 21 2024, the Italian Revenue Agency published its response ruling No. 174, stating that the Italian country file must be prepared and submitted upon request in Italian language.

Transfer pricing documentation in Italy is not mandatory, but it allows companies to benefit from the so-called penalty protection regime (starting from September 1 2024, penalties in the event of transfer pricing adjustments for intragroup transactions without the presence of transfer pricing documentation amount to 70% of the additional taxes assessed).

Penalties will not apply if the following criteria are fulfilled:

- The taxpayer has informed the tax authorities through the relevant income tax return that it has prepared transfer pricing documentation;
- The taxpayer provides, within 20 days of the tax auditors' request, transfer pricing documentation drafted in accordance with the structured template outlined in the Italian Revenue Agency's Provision No. 360494 of 2020 (also known as the 2020 TP DOC Regulation);
- The information presented in the provided documentation accurately reflects the underlying commercial reality; and
- The transfer pricing documentation must be digitally signed by the legal representative of the company, with the addition of a timestamp.

Additionally, Provision No. 360494 of 2020 establishes that the master file and national documentation must be prepared in Italian; however, the master file may be submitted in English.

The case before the Italian Revenue Agency

In the submission to the Italian Revenue Agency, the Italian taxpayer highlighted that the country file was prepared in English and subsequently translated into Italian (either outsourced or with the support of the company's tax department resources). The Italian taxpayer, pointing out the increased compliance costs (in terms of monetary expense and time spent on resources), had asked whether the country file could be prepared in English (with a commitment to proceed with a translation into Italian if required by the Italian Revenue Agency).

According to the Italian taxpayer, this approach aligns with the OECD's position, which emphasises that the preparation of transfer pricing documentation should not impose additional compliance costs on the taxpayer, making it necessary to strike a balance between the information requested by tax authorities and the activities that companies must carry out.

Finally, the Italian taxpayer pointed out that the company has been admitted to the cooperative compliance regime, which entails an ongoing dialogue with the Italian Revenue Agency, and certain simplifications in terms of compliance.

In its response, the Italian Revenue Agency concludes by stating that the country file (which, by its nature, relates to a domestic context) must necessarily be prepared and submitted in Italian (only the attachment to the country file can be prepared and submitted in English).

According to the Italian Revenue Agency, such provision is consistent with [the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations](#) (Chapter 5, Section 5.39), which state that although the use of the local language may (and, in practice, does) result in additional time and translation costs, the language of the documentation for transfer pricing purposes must be determined by national legislators.

The clarification contained in Section 8.1 of Circular No. 15/2021 of the Italian Revenue Agency, which states that attachments to the country file may also be submitted in a language other than Italian, does not affect this matter.

In fact, this clarification, although provided with a view to simplification, cannot be interpreted as an implicit recognition of the possibility of submitting in a language other than Italian a document whose preparation methods have been precisely dictated in the implementing regulations.

New deadline for the submission of Italian income tax returns

Starting from 2024, with reference to the tax period 2023, the deadline for the submission of income tax returns has been changed from 11 months to nine months. Therefore, for the financial year ending on December 31 2023, the income tax return must be submitted by September 30 2024.

Legislative Decree No. 13 of February 12 2024 (known as the Accertamento Decree) further postponed the new deadline by an additional 15 days solely for the tax period in progress as of December 31 2023 (therefore postponing the deadline to October 15 2024).

On August 5 2024, Legislative Decree No. 108 (the Corrective Decree), was published in Official Gazette No. 182.

The Corrective Decree further amended the deadlines by establishing that, as a general rule, the deadline for submitting tax returns is set for the last day of the tenth month following the end of the tax period. Therefore, taxpayers who closed their fiscal year on December 31 2023, must submit their tax return by October 31 2024.

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