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2017 November

IOTA
Intra-European Organisation of Tax Administrations

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Italy held the Joint Audit International Conference in Rome to debate new ways to increase tax compliance

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Reinforcing administrative action by means of stronger international tax cooperation, and improving the relationship between tax administrations and taxpayers are two of the main goals of worldwide fiscal authorities.

Within the framework of OECD and European Union guidelines, Italy is more and more engaged in implementing projects aiming at stimulating growth and investments in the country by establishing a renewed relation with taxpayers based on trust, transparency and cooperation. In this context, actions focused on reducing tax uncertainty and decreasing international disputes, play a strategic role. Shifting from ex-post to ex-ante or real-time tax controls is one of the common features of these activities.

The “Joint Audit International Conference” was held on the 19th October at the Italian Revenue Agency headquarter in Rome. It was an important occasion to discuss some innovative control and compliance tools, such as Joint Audit, Cooperative Compliance and ICAP. The conference also provided opportunity to present the research project conducted by Universities of Bologna and Heidelberg on Joint Audit. In particular, the Conference was organised in the framework of the cooperation between the Italian Revenue Agency and the Bavarian Ministry of Finance, that are realising together cross-border audits on groups operating in the two territories. Representatives of tax administrations, international organisations, academia and business had a fruitful debate about these strategic tools, analysed from various perspectives. Ernesto Maria Ruffini, Director General of Italian Revenue Agency, and Fabrizia Lapecorella, Director General of Finance Department (Ministry of Economy and Finance) opened the Conference. International speakers, such as Ekkehart Reimer from Heidelberg University, Achim Pross from OECD, Tom Neale, representing European Commission and Francesca Mariotti from Confindustria took part in the event. Representatives of some foreign tax administrations also attended the Conference, such as Thomas Eisgruber and Eva Oertel from Bavarian Ministry of Finance, Egil Martinsen from Norwegian Tax Administration and Hans Rijsbergen from Dutch Tax Administration. Raffaele Russo, Senior Advisor to the Minister of Economy and Finance, moderated the panel discussions.

The discussions in the Conference focused on the following:

Joint Audit

Joint Audit is an innovative form of reinforced administrative cooperation, consisting of a tax audit jointly conducted by two or more tax administrations on groups of companies, operating in various countries. This form of cooperation falls within OECD framework which describes Joint Audit as a coordinated action between two or more countries forming a single audit team to examine transactions of one or more related taxable persons (both legal entities and individuals) with cross-border business activities. Countries involved in Joint Audit procedure have a common or complementary interest and the audit team includes representatives of competent authorities from each country.

Joint Audit could focus on critical areas of direct taxation, such as transfer pricing, permanent establishments or other BEPS related issues. It is aimed to reach important goals, namely: enhancing the administrative cooperation by sharing and developing best practices and easing administrative burdens for taxpayers due to simultaneous action by tax administrations. Moreover, these types of controls are reducing incidences of double taxation and leading to a decreased number of international disputes, thus reducing the number of MAP procedures or making the MAP related process faster.

A precondition for conducting a Joint Audit is the definition of the legal framework:

- Article 26 of the OECD Model Tax Conventions on simultaneous examination and tax examination abroad;

- Article 9 of the Convention on Mutual Administrative Assistance in Tax Matters;

- EU Directive 2011/16 with reference to the active presence of foreign officers and simultaneous controls can be identified as the most suitable legal bases.

According to this legal framework and to recommendations provided by OECD and the European Commission, the Joint Audit is generally carried out on the basis of an agreement signed between the competent authorities of the states involved.

The Italian Revenue Agency and the Bavarian Ministry of Finance started a pilot joint audit project in October 2012, aiming at jointly conducting tax controls on cross-border transactions, to ensure compliance with tax rules by companies operating in the two territories. The pilot phase of the project involved Veneto and Bavaria. After the first stage, the Italian and Bavarian Tax Administrations enhanced their joint commitment to strengthen administrative cooperation in tax matters by extending the Project to other companies and involving further Italian regions, such as Lombardy, Piemonte, Tuscany, Emilia Romagna and the autonomous provinces of Trento and Bolzano.

The Joint Audit Project has also been analysed from the academic point of view: Universities of Bologna and Heidelberg conducted a research project, focused on Joint Audit legal framework, with reference both to the domestic - Italian and German – and international context. This academic research also aimed at getting a deeper knowledge of issues related to the taxpayer right protection, the chance for them to independently request for the launch of a Joint Audit as well as the need for tax administrations to request prior consent of taxpayers concerned. The study also focused on the legal nature of Memorandum of Understanding, signed between competent authorities of the states involved in the project, and on the possibility for the taxpayers to access the project related information.

Cooperative Compliance

Cooperative Compliance is a programme aiming at efficiently influencing and improving taxpayer compliance behaviour. It is addressed to large taxpayers and based upon the principle “*Transparency in exchange for certainty*”. It means that taxpayers, in exchange for an open disclosure of their business model and the implementation of an adequate tax control framework, can have a direct and steady dialogue with the tax administration in order to asses and reduce tax risks.

Such programme comes from OECD approach in terms of recommended actions towards reinforced relations between tax administration and taxpayers, based upon mutual trust and cooperation. Already since 2008 the OECD Forum on Tax Administration (FTA) promoted the establishment of “enhanced relationships” between tax administration and taxpayers, providing some key pillars in this regard. Afterwards, in 2013, OECD published the Report “Co-operative Compliance: A Framework from Enhanced Relationship to Co-operative Compliance”, in which the setting up of a Tax Control Framework (TCF), by the taxpayers, plays a fundamental role. In a few words, OECD promotes the Cooperative Compliance as an important compliance risk management strategy tool, “leading to payment of the right amount of tax at the right time”.

Italy, in the framework of implementing a tax certainty package, introduced in 2015 the Cooperative Compliance by Legislative Decree No 128. This specific program is reserved to specific types of business taxpayers, for instance resident and non-resident entities having a permanent establishment in Italy with a total turnover or operating revenues exceeding 10 billion euros. Taxpayers, once admitted to the regime, get some benefits, such as collaborative dialogue with the Italian Tax Administration before filing the tax return, fast track ruling procedure regarding the application of fiscal provision to specific cases, reduction of applicable penalties in case of tax assessment. Furthermore, no guarantees are required to obtain refunds of direct and indirect taxes. The impact of the Cooperative Compliance regime on effective audits risk is very important since it allows the Italian Tax Administration to free up resources for high risk taxpayers, thus increasing the efficiency of its activity.

International Compliance Assurance Programme (ICAP)

ICAP is an innovative tool to conduct an effective multilateral risk assessment and thus providing tax certainty to taxpayers, thanks to a stronger international cooperation among tax administrations. It is a voluntary programme that uses CbC Reports and other information to facilitate open and cooperative multilateral engagement between multinational groups and Tax Administrations.

ICAP follows the implementation of OECD BEPS Actions, related to transfer pricing, Country by Country Reporting (Action 13) and MAP (Action 14). OECD identifies a range of benefits related to the implementation of ICAP for multinational groups and tax administrations: a fully-informed targeted use of CbCR information, a more efficient use of resources and a co-ordinated approach to engagement, a faster clearer route to tax certainty and a fewer number of disputes entering into MAP.

The Italian Revenue Agency has started working together with other six tax administrations to explore the feasibility on ICAP Pilot. Italy is strongly committed in the risk analysis activity, also aiming at the identification of critical areas of intervention to ensure compliance of multinational groups.

The objective behind the ICAP pilot is to examine ways to leverage CbC information and other data available to tax administrations to assess tax risk multilaterally.