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ABSTRACT: Italy has enacted several new amendments to tax legislation, particularly in Law 248 of December 2, 2005 (the Law Against Tax Evasion and Urgent Tax and Financial Provisions), and Law 266 of December 23, 2005 (the Budget Law, in force since January 1).

SUMMARY:

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For prior coverage of the tax on pornographic material, see Tax Notes Int'l, Dec. 26, 2005, p. 1136, 2005 WTD 242-5, or Doc 2005-25421.

TEXT:

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Reducing Public Expenditures

The wages of senators and members of the House of Representatives have been reduced by 10 percent, as have the wages of European representatives, undersecretaries, regional and municipal dependents, and the directors of public entities and bodies. The same wage cuts apply for judges. Expenses for advisory services to public administrations have been cut by 10 percent. Each public administration entity has until November 30, 2006, to prepare a report on the cost cuts.

Tax on Pornographic Material

Another amendment to the 2006 budget introduced an additional tax for some businesses and self-employed individuals. The tax is calculated on 25 percent of the taxpayer's income derived from the production, distribution, sale, and public representation of pornographic or violent materials. For fiscal years starting on January 1, 2006, affected taxpayers must make a down payment of 120 percent of the tax, as determined by applying the provision to the previous fiscal year. (For prior coverage, see Tax Notes Int'l, Dec. 26, 2005, p. 1136, 2005 WTD 242-5, or Doc 2005-25421.)

Corporate Tax Amendments

For purposes of income tax assessment, the goodwill amortization value is deductible if written into the balance sheet in amounts no higher than 1/20 (previously, the limit was 1/10).

Banks' and insurance companies' tax bases will be modified for the calculation of IRAP, a regional tax on productive activities that is expected to be revoked soon. In the meantime, reserves, value adjustments, and value recoveries over clients' credits are no longer relevant for tax purposes. The limit for deducting credit depreciation has been reduced from 0.60 percent to 0.40 percent.

Article 109 of the Italian Tax Code also has been modified with the introduction of a new antiavoidance provision for stock transfers. Capital losses are not deductible for untaxed dividends, and the Italian tax administration now will consider dividends distributed during the previous 36 months, instead of the previous 24. Taxpayers must notify tax authorities about transactions that occurred during fiscal 2004 and 2005.

Another amendment involves the participation exemption regulations for corporate stock transfers and capital gains. Those rules have been modified to extend the minimum holding period for application of the regime to 18 months (from 12 months). Further, the capital gains exemption has been lowered from the current 95 percent (the average European rate) to 91 percent for 2006 (and 84 percent for 2007).

Companies that manage savings will be able to pay the stock exchange tax electronically; the tonnage tax has been extended to income realized by leased ships even if the limit of 50 percent of the tonnage has been used; and if the tax authorities determine that there is a risk in the assessment and collection stages for VAT, they can audit taxpayers before their income tax returns are filed.

Miscellaneous

Amendments to the Budget Law also confirmed a reduction of the excise rates on energy products such as methane gas in 2006.

The Budget Law also introduced the concept of territorial "productive districts" that will have their own legal identity (apart from the legal status of the member companies located within the districts) for contract purposes and for purposes of taxation and state and EU aid and subsidies. The goal is to develop specific geographic areas and productive sectors (agriculture, tourism, and the fishing industry, for example). Companies belonging to each district can benefit from a common tax, administrative, financial, research and development, and export regime.

In response to recent cases such as the one involving Argentine bonds in which Argentina later defaulted, the Budget Law also has created a fund for the victims of financial fraud. Only those who have suffered financial damage and have not recovered their investment will be entitled to compensation from the fund.

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