



The advance ruling on new investments

To stimulate foreign investments in Italy, article 2 of Legislative Decree no. 147/2015 introduced the advance ruling on new investments, through which the person who intends to make significant investments in Italy can contact the Italian Revenue Agency (IRA) in order to know in advance its opinion on the correct tax treatment of the investment plan and the exceptional operations planned for implementing it.

In other words, businesses can now request a ruling on an investment plan and, furthermore, they gain the access to the Cooperative Compliance regime, even though they are below the revenue threshold required in order to access to such regime.

Who can request it?

Individuals or legal persons, resident or non-resident (including trusts, company groups, groupings of enterprises, regardless of whether they have a permanent establishment in Italy)

that carry out commercial activities, or that are planning an investment that involves carrying out a business activity or that results in the participation in the equity of a business.



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The investment plan must necessarily:

- amount to at least 20 million euros, in a single fiscal year or spread across a number of fiscal years;
- be aimed at the creation, expansion, or restructuring of a pre-existing economic activity that must be located in Italy (and may also consist of *share* deal transactions);
- or involve participation in the equity of such economic activity;
- have a relevant and long-lasting effect on employment levels.

With respect to the identification of the types of investments, whose planning can give access to the ruling, such investments must involve:

- the creation of new economic activities or the expansion of pre-existing economic activities with the consequent adaptation of the company structure;
- diversification of the production of pre-existing business unit;
- the restructuring of a pre-existing economic activity in order to enable the company to overcome or prevent a crisis situation;
- operations involving the holding of participations in an economic activity.

This list is not exhaustive and it does not exclude the result of a combination amongst the above-mentioned transactions directed to the realization of an “*economic initiative*” and it may also include any exceptional transactions instrumental to the implementation of the investment.

In determining the value of the investment, the reference should be made to “*all the financial resources, including those of third parties, necessary for the company to implement the investment plan*”, including:

- costs for the acquisition and/or construction of tangible fixed assets;
- costs for the acquisition and/or realisation of intangible fixed assets;
- costs of acquiring financial fixed assets;
- needs deriving from the increasing in operating working capital.

Timeline of the ruling procedure

The company must submit the application including the description of the investment plan, the specific tax provision(s) on which the investor is requesting an official interpretation and a clear explanation of the tax treatment that the applicant deems appropriate for its plan. The application should be filed prior to the deadline for filing the relevant tax return, and prior to the formal start of a tax assessment on the issues concerned by the ruling request or prior to the fulfilment of other tax obligations concerning the tax provisions

related to the application. Within 120 days from the application submission, the IRA can ask for additional information, set up meetings with the investor and finally provide an official answer. If it does not answer explicitly, the “*silence means assent*” principle applies and the interpretation proposed by the taxpayer is deemed approved.

The explicit or tacit reply by the IRA cannot be amended and is legally binding.

The takeaway

The advance ruling on new investments can be a valuable channel to access the Cooperative Compliance regime, with all its related benefits, even if the taxpayer does not meet the access requirements set by such regime.

Taking into account the characteristics of your organisation, PwC’s experts can assist you in drafting and submitting an application for an advance ruling on new investments, thus allowing you a more advantageous and transparent approach to tax.

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