Guidelines from Italian Tax Authorities on the Arbitration Convention: An Analysis in Light of the EU Code of Conduct

The author considers guidance issued by the Tax Agency regarding the functioning of mutual agreement procedures under the Arbitration Convention.

1. Introduction

On 5 June 2012, the Italian Tax Agency published Circular Letter 21/E (the Circular), which contains extensive guidelines on the functioning of the mutual agreement procedures (MAP) under tax treaties concluded by Italy, as well as on the procedures set forth by the so-called Arbitration Convention.1

This article exclusively focuses on the latter aspect. In particular, it analyses, on the one hand, the consistency of the positions taken by the Italian tax authorities vis-à-vis the Code of Conduct for the effective implementation of the Arbitration Convention, as revised in 20092 (the Code of Conduct) and, on the other hand, the relation with domestic settlement procedures and litigation.

Before beginning the analysis, consider that from an Italian perspective, interest in the Arbitration Convention in the case of a transfer pricing adjustment performed by the Italian tax authorities has increased over the last two years. This is mainly due to the circumstance where, in principle in Italy, a transfer pricing adjustment leads to the imposition of administrative penalties ordinarily applicable in the case of an untrue tax return, ranging from an amount of 100% to 200% of the increased tax liability resulting from the adjustment.3

Only since the introduction of the transfer pricing documentation rules in 2010,4 have administrative penalties not been applicable in the case of transfer pricing adjustments to the extent that during access to the premises, the inspection or the audit or any other investigation activity, the taxpayer delivers to the tax authorities the documentation provided for by a specific Decision of the Commissioner of the Italian Revenue Agency allowing for verification that the transfer prices charged are consistent with the arm’s length principle.

Needless to say, before the introduction of penalty safe harbour rules, domestic administrative settlements were usually preferred to Arbitration Convention procedures. Indeed, while settlements allow a relevant reduction of administrative penalties,5 the Arbitration Convention eliminates double taxation but does not prevent the application of full penalties in cases where the adjustment is confirmed.

2. Opening of Procedures under Arbitration Convention

2.1. Choice of competent authority to file the request

According to the Circular, the application for opening the mutual agreement procedure (which represents the first phase of the Arbitration Convention procedures, AC MAP) may be filed with the Italian competent authority by the Italian resident taxpayer (or by the Italian permanent establishment, in the case of a non-resident taxpayer) suffering double taxation when either (i) the transfer pricing adjustment has been performed by the Italian tax authorities on the applicant itself or (ii) the transfer pricing adjustment has been performed by the foreign tax authorities and concerns an associated enterprise of the applicant resident outside Italy.

In accordance with the Arbitration Convention, the Circular does not require the submission of the request also to the competent authorities of the other states involved in the case. It is instead sufficient to “notify the competent authority if other Contracting States may be concerned in the case”6

As a matter of practice, it is more convenient to file the opening request for an AC MAP in the state where the adjustment has been performed, unless the taxpayer believes that the adjustment is justified and it is possible that the other competent authority will grant unilaterally...

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5. Italian law provides for an incentive to reach settlements, with the aim of decreasing pending litigation, represented by an automatic reduction of administrative penalties. In particular, under article 2(5) of Legislative Decree 218 of 19 June 1997, administrative settlement penalties are reduced to one third of the minimum, while under article 48 of Legislative Decree 346 of 31 December 1992, in the case of court settlement (possible before the first hearing) penalties are reduced to 40% of the penalties actually applied.

6. Art. 6(1) of the Arbitration Convention. Under the same provision, “[i]f the competent authority shall fail without delay notify the competent authorities of those other Contracting States.”
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the corresponding adjustment without opening the AC MAP. Filing the request for opening an AC MAP in the state where the adjustment has been performed, avoids the issue of translating the attachments. Both the Code of Conduct and the Circular state that the tax assessment notice and the tax audit report must be attached to the request for opening an AC MAP, without clarifying whether such documents need to be translated. The reference in the Code of Conduct and in the Circular to “copies” of the documents suggests that the translation is not necessary. Nevertheless, the Italian tax authorities usually take a rather restrictive position on the possibility to file documents in languages other than Italian. A clarification on that issue at the Join Transfer Pricing Forum level could be useful.

In case the Italian taxpayer opted for the tax consolidation regime with its parent company, in the absence of specific indication on the matter it is more prudent to file the request both in the name of the company whose income has been adjusted (e.g. the consolidated subsidiary) and in the name of the parent company consolidating the income.8

2.2. Objective scope

With reference to the objective scope of the Arbitration Convention, the Circular notes that it is possible to apply for the procedure only in the case of violation of the Italian Transfer Pricing rule, set forth by article 110(7) of Presidential Decree 917 of 22 December 1986 (Consolidated Income Tax Act, CITA). The Circular states that violations of different rules are outside of the scope of the procedure. This is typically the case of the violations based on article 109(5) of the CITA, under which only the expenses that are related to the business of the enterprise could be deducted (so-called inheritance principle). At a first glance such interpretation seems to be consistent with the Arbitration Convention. Nevertheless, it should be considered that very often tax auditors will rely on such provision to justify their challenge of the deductibility of costs for intra-group services also under the principles of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD Guidelines). In particular, the OECD Guidelines10 note that with reference to the application of the arm’s length principle to intra-group services, the issue is twofold:

- on the one hand, it is necessary to determine if an independent party would have paid for the activity carried on by the associated enterprises, making a distinction between services rendered for the benefit of the receiving enterprises and so-called shareholder activities, namely those activities carried on for the main benefit of the shareholders11 (qualitative aspect); and
- on the other hand, it is necessary to determine if the consideration paid for the service is in line with what an independent party would have paid (quantitative aspect).

Given this, the above-mentioned position of the Tax Agency – which is justified by the need to prevent abuse of the AC MAP – seems to be too rigid and not fully consistent with the Arbitration Convention. Indeed, as illustrated above, the application of the arm’s length principle to intra-group services is not only a question of quantification of costs, but also entails a question of classification of the services, which in Italy could be addressed by making reference to article 109(5) of the CIT.

A more flexible approach could consist in a case-by-case analysis by the tax authorities of the reasons behind the reference to article 109(5) of the CITA, checking to determine whether it is cited in the contesting of a transfer pricing adjustment. For example, if the challenge concerns costs for services which have not been actually rendered or which were rendered for the personal use of the entrepreneur, it is clear that the issue would be outside the scope of the Arbitration Convention. However, if the services were actually rendered by the associated enterprise and the challenge concerns the mere classification as a shareholder activity or as an intra-group service under the distinction made by the OECD Guidelines, then the issue would seem to be a clear transfer pricing one and access to the Arbitration Convention should not be denied.

In any event, an analysis at the level of the Joint Transfer Pricing Forum of the interaction between the domestic rules for the deduction of intra-group services and access to the Arbitration Convention could be extremely appropriate.

In the Code of Conduct, the Italian tax authorities noted that, with reference to thin capitalization, the Arbitration Convention may be invoked only in cases of double taxation due to a financial transaction price adjustment which was not carried out in accordance with the arm’s length

7. For example the regulation implementing the Italian provision on transfer pricing documentation requires that the master file and the country-specific documentation be in Italian (with the sole exception of the case of use of the English master file of the entire group drafted by the non-Italian parent company). In addition, Circular Letter 58 of 15 December 2010, commenting on the regulation on transfer pricing documentation, noted that the attachments to the master file and country-specific documentation may be only in Italian or English. Another example is the provision concerning Italian CFC legislation, whereby the Tax Agency clarified in Circular Letter 29 of 23 May 2003 that the local office may request the translation of attachments to the ruling request to obtain deferral of taxation of the income of the CFC, and such request should be limited only if the attachments are in English, French, Spanish and/or German.

8. Under article 40 bis of the Presidential Decree of 29 September 1973, if the taxpayer has opted for the tax consolidation regime, the tax assessment will be served to both the parent company and the consolidated subsidiary. Under the same provision, the two companies are obliged to file the appeal and remain in litigation together (so-called liticosorsozio necessario).

9. This conclusion is in line with a previous interpretation provided with reference to the transfer pricing documentation penalty safe harbour rule (see Circular Letter 28/E of 21 June 2011, para. 4.5.).

10. Chapter VI, ‘Special Consideration for intra-group services’.

principle. Conversely, the Arbitration Convention may not be invoked to resolve double taxation issues arising from loan amount adjustments, or double taxation that has occurred because of differences in domestic rules regarding the allowed amount of financing or interest deductibility.

Even if the point has not been addressed by the Circular, this reservation does not concern the issue of the attribution of capital to a permanent establishment which is within the scope of the Arbitration Convention on the basis of article 4, point 2. This is indirectly confirmed by the situation where, in the absence of a specific rule, the Italian tax authorities justify any adjustment concerning the attribution of capital to a permanent establishment by relying on the domestic transfer pricing rules (article 110(7) of the CITA). Denying the application of the Arbitration Convention based on the argument that this is not a transfer pricing issue would mean admitting that the adjustments are not justifiable due to the absence of a domestic provision.

2.3. Content of the request; deadline

The content of the request for opening an AC MAP as listed in the Circular is fully in line with the Code of Conduct. The request, which is to be addressed to the Ministry of Economy, Finance Department, must indicate:
- identification (including name, address and tax identification number) of the enterprise of the contracting state that is submitting the request, as well as of the other parties to the relevant transactions;
- details of the relevant facts and circumstances of the case (including details of the relations between the enterprise and the other parties to the relevant transactions);
- identification of the tax periods concerned;
- copies of the tax assessment notices, tax audit report or equivalent thereof leading to the alleged double taxation;
- details of any appeals and litigation procedures initiated by the enterprise or the other parties to the relevant transactions, as well as any court decisions concerning the case;
- an explanation by the enterprise of why it believes that the principles set out in article 4 of the Arbitration Convention have not been observed;
- an undertaking that the enterprise will (i) respond as completely and quickly as possible to all reasonable and appropriate requests made by a competent authority and (ii) have documentation at the disposal of the competent authorities; and
- any specific additional information requested by the competent authority within two months from the date of receipt of the taxpayer’s request.

In addition to the above information (which is exactly that listed in the Code of Conduct), the request must indicate whether the enterprise has applied for application of the transfer pricing penalty safe harbour rule.

The request must be filed within three years from the first notification of the tax assessment triggering the double taxation. The Circular clarifies that it is possible to request application of the Arbitration Convention also in the presence of the sole tax audit report, before a tax assessment has been issued. Such interpretation, in line with the Arbitration Convention, is very welcome for a number of reasons. First, it provides for the possibility to bring to the attention of the competent authority (and to the Central Directorate of the Tax Agency which supports the competent authority in the procedure) those positions that were taken by local offices or by the Tax Police in the course of an audit before the issuance of the tax assessment. If the competent authority or the Central Directorate of the Tax Agency, which have a high level of knowledge and skills on transfer pricing, realize that the position taken in the course of an audit is unjustified and cannot be supported during an AC MAP, they may give an instruction to the local office not to issue the tax assessment and to close the case. In any case, the possibility to open the procedure only in presence of the tax audit report, gives the enterprise a chance to resolve the case more quickly, responding to the need for certainty.

One point that has not been addressed by the Circular concerns the case where, after a request for opening an AC MAP only on the basis of a tax audit report, the tax office issues a tax assessment with a transfer pricing adjustment of a different amount and/or which is justified on some other grounds. Such a case is not merely theoretical, but could occur for a number of reasons, such as a different interpretation by the Tax Police and the Tax Agency (which is the sole authority with the power to issue tax assessments). Indeed, not all the teams within the Tax Police have the same skills and tools as the Tax Agency (for example, access to public databases). Therefore, before issuing the assessment, the Tax Agency could refine the challenge. In addition, the taxpayer has the right to file its observations to the tax audit report within 60 days of the taxpayer’s being served. The Tax Agency must take into consideration such observations and may decide to re-adjust the claim (for example taking into consideration the observation on the incorrect selection of comparables).

The critical point is whether in such a case it would be necessary to file a new request for opening an AC MAP or whether the first one could be regarded as still valid based on the Tax Police report. In the absence of any specific indication in the Circular, it seems that it is not necessary to file a new request. Even though the Italian competent authority will very likely inform the other competent authority of the different view taken in the tax assessment in its position paper, it could be useful for the applicant to file

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12. See e.g. decision 475/1 of the Provincial Tax Court of Milan of 1 Dec. 2010.
13. The Ministry of Economy, Finance Department, International Relation Directorate is the competent authority indicated in article 3 of the Arbitration Convention. The Ministry of Economic is supported by the Tax Agency in the whole procedure.
14. Tax assessments are very often issued only before the expire of the statute of limitation and therefore sometime also after a long time following the audit.
a brief describing the new Tax Agency claim and indicating the reasons why it still believes that the arm’s length principle has not been respected.

3. Preclusion of Opening an Arbitration Convention MAP

Under article 8 of the Arbitration Convention, the competent authority of a contracting state is not obliged to initiate an AC MAP or set up an advisory commission in the presence of a final ruling stating that the taxpayer, due to the transfer pricing adjustment, is subject to serious penalties. If the judicial proceeding that could lead to the imposition of serious penalties is still underway, the competent authority may suspend the arbitration procedure until the conclusion of the above-mentioned proceeding.

The Code of Conduct recommends that contracting states clarify or revise their unilateral declaration in the annex to the Arbitration Convention – providing the definition of serious penalties in each jurisdiction – in order to better reflect that “a serious penalty should only be applied in exceptional cases like fraud”.

Italy has adopted this recommendation in the Circular. The Italian definition of serious penalties as set forth in the annex to the Arbitration Convention is “penalties laid down for illicit acts, within the meaning of the domestic law, constituting a tax offence”. The Tax Agency notes in the Circular that, to date, Italy has never denied the application of the Arbitration Convention for the presence of serious penalties. Indeed, the Circular clarifies that, under the Code of Conduct, the serious penalties exception may be invoked only in exceptional cases, such as tax fraud. In practice, this is not possible in all cases in which criminal penalties are applicable, but only in the presence of violations specified by article 2 and article 3 of Legislative Decree 74 of 10 March 2000. That article 2 punishes cases of fraud in the filing of the tax return through the use of invoices or other documents for non-existent transactions, while article 3 punishes cases of fraud in the filing of the tax return through the use of other means.

According to the Circular, transfer pricing violations are – at least in theory, if specific thresholds are met – within the scope of article 4 of Legislative Decree 74/2000, punishing instances of untrue tax returns and therefore, usually, outside of the new definition of “serious penalties” provided by the Circular itself.

The clarification is extremely relevant and provides certainty in what has so far been a grey area. Nevertheless, considering the long time for concluding a criminal proceeding up to the Supreme Court, it would be useful if at the moment of opening an AC MAP the competent authority were to clearly state that, in its opinion, no serious penalties are applicable and therefore no suspension will be requested in the course of the procedure. More generally, as some contracting states – under article 7 of the Arbitration Convention – require that domestic appeals be withdrawn, the Code of Conduct should require that competent authorities declare at the moment of opening an AC MAP whether, on the basis of their assessment of the cases, the serious penalties exception could be invoked after opening the procedure so as to require a suspension up to the end of the judicial proceeding. This would avoid the risk that the taxpayer might renounce its domestic remedies at the moment of opening the AC MAP and only subsequently request a suspension.

More generally, to provide the possibility to the taxpayer to renounce domestic litigation procedures and avoid the risk of leaving the taxpayer without any remedy, it would be useful to indicate in the Code of Conduct that both the competent authorities (and not only that to which the request is filed) must communicate to the taxpayer the opening of the AC MAP without any reservations.

4. Suspension of Collection

Paragraph 8(a) of the Code of Conduct recommends that contracting states implement all necessary measures to ensure that the suspension of tax collection during Arbitration Convention procedures can be obtained by enterprises engaged in such procedures “under the same conditions as those engaged in a domestic appeals/litigation procedure although these measures may imply legislative changes [...]”.

Italy has adopted the recommendation by means of article 3(2) of Law 99 of 22 March 1993, providing that upon request of the taxpayer the Italian tax authorities may authorize the suspension of collection up until the end of the procedures set forth by the Arbitration Convention. The tax authorities may decide that the suspension is conditional upon the provision of a bank guarantee by the taxpayer.

The Circular states that the request must be filed with the Central Directorate for Tax Assessment through the local office in charge of the file, and must provide information about the applicant (name, address, tax identification number), reference to the request for opening an AC MAP, reference to the note of acceptance by the competent authority (i.e. the Ministry of Economy, Department of Finance) and information concerning any domestic appeals. In addition, the applicant must attach a copy of the request for opening the AC MAP and of the note received by the competent authority confirming the opening of the procedure. Considering the time constraint where a notice of payment has been issued or in the case of immediately enforceable tax assessments, usually the request must be filed before the formal acceptance of the procedure by the competent authorities and therefore the latter document cannot be attached.

The Circular confirms the position taken in the recent years by the Tax Agency, according to which a suspension is granted only if the taxpayer withdraws any domestic appeals.

16. I.e. the law that ratified the Arbitration Convention in Italy.
17. Under article 29 of Law Decree 78 of 31 May 2010, starting from tax year 2007, tax assessments are enforceable without the necessity to issue a demand for payment.
Some comments can be made with regard to the timing of the procedure. First, the Circular mentions the fact that the suspension request must indicate the reference (date, protocol number, etc.) to the official deed issued by Ministry of Economy confirming the opening of the AC MAP. Nevertheless, the situation could arise where the payment notice is received before opening the AC MAP, and this does not preclude the possibility of filing the suspension request. More generally, there is no preclusion of filing a suspension request immediately after having filed the request for opening the AC MAP, as in cases of immediately enforceable tax assessments.

Second, the Circular notes that in order to obtain the suspension of collection, it is necessary to withdraw any appeal that has been filed. Nevertheless, before waiving the domestic remedies, the taxpayer should receive official confirmation from all the competent authorities involved in the case that the procedures are officially commenced and that there are no obstacles that prevent the opening of the AC MAP or of the subsequent procedures. Otherwise, if the opening of the procedure is not accepted (for example, due to the existence of serious penalties or because the adjustment is, in the opinion of the tax authorities, outside the scope of the Arbitration Convention) the adjustment becomes final without any domestic remedy.

Finally, in accordance with the wording of article 3(2) of Law 99/1993, the Circular does not indicate that the suspension of collection is subject to the same conditions as those imposed in a domestic appeal. Indeed, under article 47 of the Decree governing Italian tax litigation (Legislative Decree 546 of 31 December 1992), the taxpayer may request a payment suspension notice from the Tax Court. To obtain the benefit of judicial suspension, the application must demonstrate that (i) after a brief analysis of the reasons of the appeal, there are prima facie merits in the appeal (so-called fumus bonis iuris) and (ii) effective payment of the payment demand could cause serious and irreparable damage to the taxpayer (so-called periculum in mora). The requirement of serious and irreparable damage is subject to an assessment by the judge of the amounts claimed by the payment demand in relation to the economic condition of the taxpayer (based on a review of the company’s financial position, and perhaps also, in some cases, the amount of the claim which may be per se financially burdensome).

The Circular does not mention the need to demonstrate the existence of the above conditions for the suspension request under the procedures set forth by the Arbitration Convention. This is also consistent with the recommendation provided by the Code of Conduct, which indicates a minimum of compliance (suspension of collection under the same conditions provided under domestic litigation) and does not prevent contracting states from being more flexible in granting suspension in the presence of an AC MAP. This choice could also be due to the fact that the suspension (i) in the case of litigation, is granted by the Tax Court, while (ii) in cases of application of the Arbitration Convention, it is granted by the Revenue Agency. It would be unreasonable to request from the authority which issued the tax assessment a judgment on the conditions required for the judicial suspension and – above all – the existence of the fumus bonis iuris.

5. Relation with Domestic Litigation

Under article 7(3) of the Arbitration Convention, where the domestic law of a contracting state does not allow that state’s competent authority to derogate from the decisions of that state’s judicial bodies, access to the arbitration phase may be denied unless the associated enterprise of that state allowed the time provided for the appeal to expire, or withdrew any such appeal before a decision had been delivered.

Italy is one of the states that applies such an exception. The Circular correctly clarifies that the taxpayer may appeal for application of the Arbitration Convention and may file the appeal, and that this does not hinder the opening of the AC MAP. Nevertheless, the Italian tax authorities will deny access to the arbitration phase unless the taxpayer withdraws its appeal.

Some doubts arise from the interpretation provided by the Circular as to the starting point of the two-year period from which the advisory commission must be formed. In particular, the Circular confirms the position thus far taken by the Italian tax authorities under which, if the request for opening an AC MAP is filed when the litigation is still pending, the two-year period commences only from the date of withdrawal of the appeal.

Article 7(1) of the Arbitration Convention only provides – for states that may derogate from a decision of their judicial bodies – that, where an appeal has been filed, the two-year period commences from the date on which the judgment of the final court of appeal is delivered. As noted above, article 7(3) states only that where the domestic law of a contracting state does not permit the competent authority of that state to derogate from the decisions of its judicial bodies, access to the arbitration phase may be denied, without indicating that the commencement of the two-year period will be deferred.

The Code of Conduct also does not clarify the point. After having illustrated the minimum information required for considering a properly filed request for opening an AC MAP, it indicates only the general rule under which the two-year period commences from the later of (i) the date on which the tax assessment notice is issued or (ii) the date on which the request for opening an AC MAP is properly filed. Therefore, a clarification by the Joint Transfer Pricing Forum on the point would be welcome.

In addition, the Circular clarifies that the taxpayer may in any case continue the litigation on other grounds for appeal that are outside the scope of the Arbitration Convention, including independent reasons to appeal for the non-application of penalties. This would be the case, for example, where the taxpayer has filed the transfer pricing documentation and the Revenue Agency challenges the application of administrative penalties on the transfer.
6. Relation with Internal Settlement Procedures

The Circular notes the incompatibility of domestic settlements (both administrative and judicial settlements) with the procedures set forth by the Arbitration Convention, confirming in such a way the interpretation thus far taken by the Italian tax authorities. The rationale behind such a position as illustrated in the Circular is twofold:

- the Tax Agency observes that on the basis of domestic legislation the result of a settlement cannot be modified, unless specific conditions set forth by the law are met; and
- the Tax Agency notes that the rationale underlying domestic settlement procedures is to avoid a dispute (as well as the related expenditure of time and money), either domestically (before the Tax Court) and internationally (by activating the procedures set forth by the Arbitration Convention).

The Circular concludes that where a settlement with the Italian tax authorities is reached, it is only possible to activate a MAP on the basis of the relevant income tax treaty in order to obtain the corresponding adjustment in the other jurisdiction, without the possibility of obtaining any refund of the tax settled in Italy.

Even if the rationale of the position taken by the Tax Agency is understandable, the position seems not to be consistent with the Arbitration Convention which, as indicated above, provides that access to the arbitration phase may be denied only if the domestic law of a contracting state does not permit the competent authorities of that state to derogate from decisions of its judicial bodies (article 7(3)).

Some justification could be found only in article 6 of the Arbitration Convention, under which the taxpayer may apply for the procedures set forth by the Arbitration Convention itself where the taxpayer considers that the arm’s length principle has not been respected. Indeed, to the extent that the taxpayer agreed to conclude a settlement, it could be interpreted as an implicit agreement regarding the application of the arm’s length principle which therefore precludes access to the Arbitration Convention. Nevertheless, very frequently a taxpayer will declare in the settlement document that the agreement is concluded only to avoid the burden of the time and expense of litigation on a valuation issue, also taking into account the reduction of penalties.

In any case, denying the opening of Arbitration Convention procedures in the case of settlements means that, unless a unilateral adjustment is granted by the other competent authority, the case can give rise to double taxation and therefore the aim of the Arbitration Convention would be frustrated.

7. Conclusion

The Circular represents a milestone for the effective implementation of the Arbitration Convention in Italy by providing detailed guidelines on the practical implementation of such procedures.

There are still some areas of uncertainty in which the Joint Transfer Pricing Forum should focus future work so as to provide shared interpretations between contracting states and the business community. This uncertainty concerns, for example, the starting point of the two-year period for setting up the advisory commission in the presence of an appeal, the language of attachments to the application for the opening of an AC MAP and the opportunity to send a confirmation by both the tax authorities regarding the commencement of the procedures without any reservations (to allow, where necessary, the withdrawal of any domestic appeals).

From an Italian perspective, it would be welcomed to see a change in the domestic legislation on penalties in the absence of transfer pricing documentation. Indeed, it would be appropriate to provide for a reduction in penalties equivalent to that granted in the case of a settlement where the Arbitration Convention is applied, in order to eliminate the preference for the latter procedure.

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18. On that point, some decisions have been already rendered by the court of first instance. See e.g. decision 555 of the Provincial Tax Court of Milan of 4 December 2012.
19. See Article 26 of Law Decree 78 of 31 May 2010, converted into law with amendments by article 1 Law 122 of 30 July 2010.
20. Article 2(4) of Legislative Decree 218 of 19 June 1997 provides a prescriptive list of cases in which a settlement is not final and a new tax assessment may be issued (e.g. where new facts arise which give rise to an adjustment higher than 50% of the income previously assessed and of EUR 77,468.53).