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Tax Advisory Firm Reviews Italy-U.S. Tax Treaty

Summary by taxanalysts

The 1999 Italy-U.S. tax treaty entered into force on December 16, 2009, according to a Funaro & Co. newsletter; though the new treaty is largely effective for taxable years starting January 1, 2010, taxpayers can continue applying the 1984 Italy-U.S. treaty for one year from the date on which the new treaty would otherwise become effective.

Full Text Published by taxanalysts

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New Italy-U.S. Tax Treaty Enters into Force

The Italy-U.S. income tax treaty signed in 1999 (the "**New Treaty**") entered into force on December 16, 2009, after representatives of both governments exchanged instruments of ratification in Rome, 10 years after it was signed and ratified by the U.S. Senate.

The New Treaty replaces the 1984 Treaty. It will largely be effective for taxable years starting January 1, 2010, applying to taxes withheld at source on February 1, 2010. A grandfather election is available for taxpayers to continue the application of the 1984 Treaty for 1 year from the date on which the New Treaty provisions would otherwise become effective.

For businesses and individuals of one country working or operating in the other, the new Treaty limits or eliminates source country withholding taxes. The applicable withholding rates are indicated in the inset, opposite this column.

DIVIDENDS

- 5% for dividends paid to a company owning at least 25% of the voting stock of the payer;
- 15% for most other dividends.

INTEREST

- 10% for most interest payments;
- 0% for certain interest (paid to qualified governmental entities and on interest paid on credit sales of goods).

ROYALTIES

- 0% on royalties for certain literary, artistic or scientific works;
- 5% on royalties for computer software and commercial industrial, or scientific equipment;
- 8% on all other royalties.

The New Treaty introduces limitation on benefits provisions to avoid Treaty shopping and authorizes the U.S. to collect the Branch Profits Tax, *i.e.*, a dividend-equivalent tax on the repatriated profits of a branch. Also, the New Treaty removes a barrier to labor mobility by providing for the reciprocal recognition by the two countries of contributions made to private pension plans that qualify for tax benefits under the laws of the home country. In addition, the new Treaty is expected to improve information exchange between the two countries, and strengthen their mechanisms to resolve tax disputes.

U.S. withholding agents must obtain proper documentation in order to apply Treaty benefits (e.g., Form W-8BEN, Form W-8ECI, Form 8233). Italian persons claiming the benefits of the New Treaty will typically be required to obtain a U.S. taxpayer identification number and, in many cases, will also be required to file a Treaty-Based Return Position (Form 8833). Penalties for not filing Form 8833 range from $1,000 to $10,000.

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Tax Analysts Information

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