



**Government Prohibits
Compound Interest on
Tax Overpayments**

by Alessandro Adelchi Rossi

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New article 37 of Italian Law Decree 223/2006 has amended the statute to prohibit the imposition of compound interest on tax overpayments. As a result, the government will have to pay only simple interest on any overpayments of taxes imposed under Italian laws.

The enactment of the statute, published in official gazette 153 (July 4, 2006), puts to rest a long-standing dispute between taxpayers and the Italian Revenue regarding the application of article 1283 of the Italian Civil Code to tax matters. Article 1283 allows the compounding of interest in business transactions only under some circumstances and with limitations.

The courts had already handed down a string of decisions against taxpayers disputing the way the Italian Revenue computes interest on tax overpayments. More recently, a court addressed the issue under review in a case involving an insurance company's claim for a refund for overpayment of the IRPEG (the former corporate income tax) related to tax years 1987-1989. The taxpayer in that case supported its arguments by citing a number of cases concerning the value added tax, as opposed to the income tax.

In typical Italian fashion, the decision in the recent case was rendered many years after the facts by the Commissione Tributaria Regionale of Lazio (Decision 1/36/2006 (Mar. 1, 2006)). The judges found that the taxpayer's claim for a refund was without merit and argued that the special tax rules that deal specifically with the computation of interest (articles 44 and 44-*bis* of Presidential Decree 602/73) are silent about compound interest.

Because of their special nature, those provisions take precedence over the general rule of article 1283 of the Italian Civil Code, the court said. Accordingly, it reversed a lower court decision and held that the statutory language of the relevant statute fully supports the authorities' decision not to pay interest on accrued interest.

American readers may note that in the United States — in accordance with IRC section 6622 and the regulations thereunder — interest payable by the Internal Revenue Service on an overpayment is compounded daily by dividing the applicable rate of interest by 365 (366 in a leap year) and compounding it each day. ♦

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