



Tax Newsflash - Italy – Financial Transaction Tax – Additional clarifications on payment and reporting requirements

22/08/2013 21:22

Italy Tax services News and updates Euroclear Bank

This Newsflash summarises the main points of the additional provisions and clarifications on the Italian Financial Transaction Tax (IFTT) issued by the Italian tax authorities on 18th July 2013.

You can find an official English translation of the provisions and clarifications on our dedicated [IFTT webpage](#).

Important: we have compiled the summary below based on our understanding and that of other market participants. Therefore, certain points may still be subject to change. We recommend you to seek legal advice before taking any action related to the IFTT.

List of definitions

In this Newsflash, we will refer to the different stakeholders as follows:

Entity	What?
<i>Tax Payer</i>	The entity that is debited with the IFTT. This could be either: <ul style="list-style-type: none">• the final beneficial owner of the securities subject to the IFTT• a counterparty in a transaction subject to the IFTT
<i>Tax Collector</i>	The entity responsible for: <ul style="list-style-type: none">• calculating, collecting and paying the tax to the Italian tax authorities• reporting requested information to the Italian tax authorities;
<i>Intermediary</i>	An entity involved in the transaction chain between the buyer and the seller. This entity can also play the role of <i>Tax Collector</i> under certain conditions
<i>Fiscal Representative</i>	An Italian resident entity appointed by a non-Italian <i>Tax Collector</i> and authorised to assist the <i>Tax Collector</i> in the execution of their tax duties (payment and reporting). The FR needs to be an Italian withholding agent.
<i>White-listed countries</i>	Countries that have in place an agreement with Italy for : <ul style="list-style-type: none">• the exchange of information• assistance for collecting tax credit Other countries are considered <i>black-listed countries</i>
<i>Permanent establishment</i>	A branch or any other type of office located in Italy that belongs to an entity whose headquarters are located outside Italy.
<i>A non-Italian resident</i>	An entity whose headquarters are outside Italy

Additional guidelines to determine the Tax Collector

Tax collectors can be:

- (1) **banks, investment companies and other entities** authorised to deliver investment services including:
 - dealing for own account
 - executing orders on behalf of their clients, or
 - receiving and transmitting orders
 Activities which put in contact one or more investors cannot be considered.
- (2) **Asset/Portfolio Managers and fiduciaries** accredited to provide collective asset management or portfolio management services, except if they assign another entity for the tax payment related to trading order execution.
- (3) **Public notaries** and other persons intervening in transactions processed based on either:
 - the drawing up of deeds
 - the authentication of deeds

These entities and persons can be resident outside Italy, as long as they are authorised to provide the above services and activities (or similar) in their home country. Entities (2) and (3) can act as *Tax Collector* only if there are no entities (1) in the transaction chain.

If there are no *Intermediaries* between entities described in (1), (2) or (3), the *Tax Collector* is deemed the beneficial owner.

How to pay the IFTT

You need to fill out the form **F24**. On this form, you will need to mention the relevant tax code of the IFTT. These codes still need to be defined by the Italian tax authorities (*Agenzia delle entrate*).

Please note:

- *Fiscal Representatives* need to file one F24 form per *Tax Collector*
- Non-resident *Tax Collectors* that cannot use an Italian bank or a postal account will need to pay the IFTT by wire transfers based on the payment details (IBAN) provided in the provisions

Impact of black-listed countries in determining a Tax Collector in the chain of Intermediaries

When more than one *Intermediary* in a transaction chain can be considered as a *Tax Collector* as defined in (1), the *Tax Collector* will be the *Intermediary* receiving the execution order directly from the *Tax Payer*.

The *Tax Payer* will pay the tax directly to the authorities if it is:

1. a bank, an investment company and other entity authorised to deliver investment services as defined in (1) above
2. located in a *white-listed country*

If an *Intermediary* that could play the role of a *Tax Collector* is located in a *black-listed country*, this *Intermediary* will be considered by the authorities as the *Tax Payer*. In this case, the *Tax Collector* will be the white-listed *Intermediary* receiving the execution order directly from the black-listed *Intermediary*.

The above does not apply if the black-listed *Intermediary*:

- has a *permanent establishment* in Italy that complies with the disclosure requirements
- has appointed a *Fiscal Representative*

See below for further explanation of these possibilities.

Important: in this context, the netted total balance on which the IFTT will be calculated will still be done at the level of the real *beneficial owner* and not at the level of the black-listed *Intermediary*.

Exclusions and exemptions

The *Tax Collector* will not apply IFTT, if the *Tax Payer* declares, based on a self-declaration, that the transaction is eligible for one of the exclusion or exemption cases defined in the law and related provisions.

The *Tax Collector* will not be obliged to collect such self-declarations if the eligibility conditions are checked, based on information derived from:

- the technical nature of the transaction
- public information, or
- data available to the *Tax Collector* as part of their anti-money laundering or anti-terrorism financing obligations

Even if the self-declaration is not required, the *Tax Collector* remains responsible in cases of negligence, malpractice or imprudence.

Italian *permanent establishments* or *Fiscal Representatives* of non-resident *Tax Collectors* will have to safekeep the self-declaration or relevant

information on file.

Non-Resident Tax Collectors in white-listed countries

If a white-listed *Tax Collector* has a *permanent establishment* in Italy, the obligations of the *Tax Collector* will be delegated to this *permanent establishment*.

White-listed *Tax Collectors* without *permanent establishment* in Italy can appoint a *Fiscal Representative* from the Italian withholding agents. The *Fiscal Representative* will need to:

- inform the Italian tax authorities (specifically the operational centre of the *Agenzia delle Entrate* in Pescara – COP) of its appointment
- request an Italian tax ID for the non resident *Tax Collector*

Non-resident *Tax Collectors*, without a *permanent establishment* in Italy can still be in direct contact with Italian tax authorities without a *Fiscal Representative*. In this case, the *Tax Collectors* will need to obtain an Italian tax ID.

Non-Resident Intermediaires in black-listed countries

For *Intermediaries* located in *black-listed countries* with a *permanent establishment* in Italy, the Italian *permanent establishment* will play the role of *Tax Collector* for this *Intermediary*.

In this case, the *permanent establishment* will have to disclose itself as the *Tax Collector* of such *Intermediary* via a specific form (containing identification information) to the Italian tax authorities.

Black-listed *Intermediaries* without a *permanent establishment* in Italy can either:

- appoint a *Fiscal Representative* from:
 - Italian banks, investment companies and other entities (as stated in point (1))
 - an Italian fiduciary company
 - the *permanent establishments* of such non-resident entities above or
 - Italian withholding agents
- comply with the following requirements:
 - request an Italian tax ID
 - appoint the Italian CSD (Monte Titoli) for the payment and reporting duties
 - comply with specific reporting duties to Italian tax authorities and to the Monte Titoli

In all cases, the *Intermediary* will cease to be considered as the *Tax Payer* as soon as:

- they comply with the above, and
- they are published on the COP website

Black-listed *Intermediaries* with a white-listed *permanent establishment* can either:

- apply one of the above possibilities for black-listed *Intermediaries* without a *permanent establishment* in Italy
- ask the white-listed *permanent establishment* to disclose itself as responsible for complying with the IFTT requirements, as well as with specific reporting duties to Italian tax authorities

Entities described under point (2) and (3) above

Tax Collectors that are management companies, fiduciaries and notaries resident or not resident in Italy, need to comply with the following:

- if they have a *permanent establishment* in Italy, it will have to comply with the IFTT obligations
- if it doesn't have a *permanent establishment* in Italy, the *Tax Collector* may appoint a *Fiscal Representative* from the Italian withholding agents or directly comply with all the obligations, by identifying themselves

The black-listed *Tax Collectors* cannot follow the above procedures to stop being considered as *Tax Payer*.

Summary for non Resident Intermediaries

		without Fiscal Representative appointed	with Fiscal Representative appointed
White-listed intermediaries type (1)	without Italian Permanent Establishment	Intermediary will comply with IFTT requirements directly with the authorities.	Intermediary can assign a Fiscal Representative amongst the Italian withholding agents.
	with Italian Permanent Establishment	Permanent Establishment will be delegated with the obligations of the Tax Collector.	

Black-listed Intermediaries type (1)	with Italian Permanent Establishment	Permanent Establishment will be delegated with the obligations of the Tax Collector and will need to be disclosed as such to COP.	
	without Permanent Establishment	The intermediary will need to comply with the following: <ul style="list-style-type: none"> • Request an Italian tax ID • Appoint the Italian CSD (Monte Titoli) for the payment and reporting duties • Comply with specific reporting duties to Italian tax authorities and to the Italian CSD. 	the intermediary can appoint: <ul style="list-style-type: none"> • Italian banks, investment companies and other entities (as stated in above point (1)), • an Italian fiduciary company • the Permanent Establishments of such non resident entities above or • Italian withholding agents.
	with white-listed Permanent Establishment	Ask the white-listed Permanent Establishment to disclose itself as responsible for complying with the IFTT requirements as well as with specific reporting duties to Italian tax authorities.	
Black- and white-listed Intermediaries type (2) and (3)	with Italian Permanent Establishment	Permanent Establishment in Italy will have to comply with the IFTT obligations	
	without Italian Permanent Establishment	Tax Collector may comply directly with all the obligations, by identifying themselves	Tax Collector may appoint a Fiscal Representative among the Italian withholding agents

Reporting obligations

Tax Collectors type (1) will need to report impacted transactions as indicated in the analytic reports attached to the provisions, issued by the Italian tax authorities on 18 July 2013 (see attachment number 6,7,8 and 9 for the content and related technical requirements).

These transactions will need to be recorded on a dedicated electronic register and kept until the deadline for the tax assessment. For Italian resident *Tax Collectors* will be registered based on the digital administration code as provided in the *legislative decree nr. 82/2005*.

All impacted transactions must be reported before the IFTT is paid.

Tax Collectors type (2) and (3) that are:

- **not individuals**, will keep a register and related transaction documentation in a daily chronological order. They have also the option to put in place the same registers than *Tax Collectors* type (1)
- **individuals**, they will keep the documentation linked to the transaction

Annual declaration

The annual declaration must be submitted to the Italian tax authorities by 31 March of each year in an electronic format. The form still needs to be approved by the Director of the Italian tax authorities.

Non-resident *Tax Collectors* without a *permanent establishment* nor a *Fiscal Representative* in Italy still have the option to send the annual declaration via registered mail (‘*raccomandata*’) or an equivalent means.

Central securities depository

Tax Collectors and *Fiscal Representatives* can also appoint Monte Titoli Spa for the payment and reporting duties.

These entities will send the accurate calculations based on Attachment 5 of the provisions to Monte Titoli Spa before the 16th calendar of the month, following the execution of the transaction.

Tax Collectors and *Fiscal Representatives* remain responsible for the payment of the IFTT and for compliance with the IFTT rules.

Refunds

A refund will be available to recover any excess IFTT you paid via the annual declaration to the tax authorities. For:

- Italian resident entities, the refund will be paid by the Italian tax authorities based on an automated process (automated lists containing information about the tax payers allowed to receive the refund).
- non-residents, it will be processed based on new provisions that still need to be issued by the Italian tax authorities

You will need to submit the refund application to the relevant office of the Italian tax authorities when:

- there is no declaration obligation, or
- the IFTT has been applied more than once on the same transaction

Action to take

The published provisions further clarify the IFTT applications. However it remains unclear if and under what conditions we can be authorised to offer an IFTT service (directly or through our fiscal representative SGSS). We will notify you as soon as we receive further clarifications.

We do recommend you to contact your legal advisor to further discuss your IFTT obligations.

Disclaimer

The information in this message has been gathered from different sources, generally believed to be reliable. Nevertheless, Euroclear Bank disclaims any responsibility as to the accuracy and completeness of the information.