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REPORT

From: General Secretariat of the Council
To: Delegations
Subject: Code of Conduct Group (Business Taxation)- Report to the Council

Monitoring fiche: Italy - Cooperative Compliance Programme (CCP) - tacit rulings [2023 CoCG decision]¹

I. Background

1. In the horizontal mapping exercise on existing CCPs in 2023, the Group found that the Italian CCP entails a feature which may give rise to some concern as taxpayers may benefit from tacit agreements (tacit rulings) to interpretative rulings (i.e. the scope of the abuse-of-law rule (anti-abuse tax rulings) and the disapplication of specific anti-avoidance measures (non-application tax rulings)). If the Italian tax authorities do not reply within the 45-day term, the interpretation provided by the taxpayer is accepted.
2. The ‘*Guidelines on the conditions and rules for the issuance of tax rulings – standard requirements for good practice by Member States*’, state that tax rulings should be issued in writing, and there is a recommendation that at least two officials be involved in the decision to grant a ruling or that there is at least a two-level review process for the decision.
3. Italy has explained that, as a general rule, when taxpayers file a request for a ruling, it is duly examined on the basis of well-established procedures, including proper filing, assessment and

¹ Document WK 11981/2023 REV 1 “Mapping Existing Cooperative Compliance Programmes in the EU”, paras. 16-19.

approval at several levels. The tacit consent exists as a general principle in the Italian legal framework to boost the efficiency of the tax administration and prevent late replies that can generate uncertainty for the taxpayer in accordance with the principle of legitimate expectations. Furthermore, Italy informed that since the introduction of the CCP in 2016, the tax administration has not issued any tacit rulings. All rulings were issued in writing, thus in accordance with the Guidance.

II. Preliminary assessment

4. The Italian CCP measure has been monitored for the first time in the 2024 monitoring exercise. So far, for tax year 2023 and 2024, Italy confirmed that the Italian Revenue Agency has not issued any tacit ruling.
5. In view of the above, the Commission Services are of the view that so far, the IT CCP measure has not affected the business location among Member States in a significant way. Yet, in line with the standard procedure, the measure should remain under monitoring.

III. Follow-up

6. The Group agreed that the monitoring of the measure should continue.

Italy – CCP tacit rulings

Italy – CCP tacit rulings	2016 - 2022	2023	2024 (data if available)
Number of tacit rulings issued	0	0	0
In case a tacit ruling is granted, Italy will additionally report:			
a. For <u>tacit rulings</u> , the amounts involved split up according to: i. resident taxpayers, ii. non-resident taxpayers, and iii. foreign owned taxpayers	-	-	-
b. For <u>written rulings</u> , the amounts involved split up according to: i. Resident taxpayers, ii. non-resident taxpayers, and iii. foreign owned taxpayers.	-	-	-