

Advance tax ruling on new investments

Public consultation for a new circular on interpretative guidelines

1 Relevant investments

- 1.1 Subject to all other conditions, can the investment, relevant for the purposes of the Advance Tax Ruling, also be made through the acquisition of an economic entity not located in the territory of the State?
- 1.2 If the answer is yes, which conditions the investment plan should meet in order to ensure a link/connection between the investment(s) and the Italian territory?
- 1.3 Considering the non-exhaustive nature of the different types of investment(s) indicated in article 2 (1) of the Implementing Decree (as stated in paragraph 2.2 of the Circular), are there other types of investment(s) which may be eligible to the procedure, all the other conditions being met?

2 Investments made abroad and in Italy.

- 2.1 Is it possible to consider eligible an investment made partly abroad and partly in the territory of the State?
- 2.2 If the answer is yes, which conditions have to be met in order to meet all the requirements to access the Advance Tax Ruling procedure?
- 2.3 In this case, can the Advance Tax Ruling procedure include tax issues referred to the part of investment made abroad?

3 Impact on employment levels on other entities.

- 3.1 For the purpose of determining the impact on employment levels resulting from the investment plan, which is required for the Advance Tax Ruling procedure, can the employment positive spillover effects, affecting other entities involved in the same investment plan, be included to those directly obtained by the applicant investor entity?
- 3.2 If the answer is yes, is it necessary for the other entities to give mandate to the applicant to submit the application, even if they do not have any interest in the tax effects of the questions submitted?
- 3.3 Lacking the mandate, what would be the effect?

4 Requirement of employment effects in enterprise crisis.

- 4.1 For the purpose of determining the impact on employment levels deriving from the investment plan, can "non-decrease" of employment be qualified as relevant (i.e. particular situations in which through the implementation of the investment plan, for example, insolvency or other enterprise crises are avoided); are there other situations of "non-decrease" that could be positively appreciated?
- 4.2 How can the investor demonstrate that there is a "non-decrease" of the employment levels?

5 Qualifying persons to submit the application.

- 5.1 Is the list of "enterprises" contained in Article 1(2)(b) of the Implementing Decree, exhaustive?
- 5.2 If not, what other entities should be included?

6 Eligibility in case of applications regarding the existence of a permanent establishment in Italy of a non-resident entity.

- 6.1 If an Advance Tax Ruling seeks to obtain advance certainty on the existence of a permanent establishment in Italy of a non-resident entity, how should the advanced nature of the question be assessed?
- 6.2 If a non-resident entity already carries on a existing activity in Italy at the date of submission of the application, in what cases could the application be considered as submitted in advance?
- 6.3 Under which circumstances, should an application concerning the existence of a permanent establishment in Italy not be considered preventive and, therefore, not valid?

7 Coordination between Advance Tax Ruling procedure, APAs and cooperative compliance program

- 7.1 Through what means can a better coordination be achieved between the Advance Tax Ruling procedure and the APAs (unilateral or bilateral)?
- 7.2 Similarly, through what instruments can a better coordination be achieved between the Advance Tax Ruling procedure and the cooperative compliance program?

8 Additional benefits related to the submission of the application.

- 8.1 In addition to the possibility to get access to the collaborative compliance program and the other effects stemming from the response to the Advance Tax Ruling as mentioned in paragraph 8 of the Circular, what other benefits do applicants expect?

9 Different responses to a single application of Advance Tax Ruling.

- 9.1 In case of a single application for Advance Tax Ruling containing various questions, when allowed, would it be helpful to obtain from the Office answers separately only to some questions contained therein, anticipating the timing of the response from the ordinary deadline?
- 9.2 When there is a single request for additional documentation in response to an application containing various questions, where allowed, would it be helpful if the Office answers separately only to some questions contained therein, anticipating the timing of the response from the ordinary deadline?

10 Other clarifications

- 10.1 Are there issues (or obstacles) preventing the submission of the Advance Tax Ruling applications?

- 10.2 What are the strengths of the Advance Tax Ruling and what procedural improvements may be proposed for a more efficient processing of the applications?
- 10.3 Are there any further aspects that the guidelines for the new explanatory circular should take into consideration?