

Window for Italian tax refund claims closes March 15

January 24, 2013

In brief

Since 2012, corporate taxpayers in Italy have been able to request refunds of IRES (Italian corporate income tax) paid because the IRAP (local tax) was determined to be non-deductible. Italy has now released the form and timeline for submitting IRES refund claims in connection with IRAP non-deductibility. For taxpayers, the refund claims usually relate to years 2007 through 2011.

The refund claim starting date varies depending on the region in which the taxpayer is domiciled for tax purposes, but generally runs from January 18, 2013, to March 15, 2013. A refund claim should be accepted if the claim is submitted within 60 days of the starting date.

In detail

Legislative history

Article 2 (1), Law-Decree n. 201, dated December 6, 2011, allowed Italian taxpayers to deduct from their IRES tax base the amount of IRAP related to non-deductible labor costs. Initially, this new deduction was prospective only, for fiscal year 2012 and thereafter. Article 4 (12), Law-Decree n. 16, dated March 2, 2012, made the new deduction available retroactively for years 2007 through 2011. For those fiscal years, however, the deduction can be claimed only by filing an IRES tax refund request.

Refund submissions

Regulations issued by the Italian tax authorities on December 17, 2012, provide the specifics for refund claim submissions, notably the form, which must be

submitted electronically, and the timeline.

In general, the refund amount can be calculated in two steps, as follows.

First, the taxpayer must calculate the portion of its IRAP related to non-deductible labor cost, which is determined by multiplying total IRAP by the following fraction:

$$\frac{\text{labor cost portion that is not deductible for IRAP purposes}}{\text{overall IRAP tax base}}$$

The taxpayer multiplies the resulting amount by the IRES tax rate (usually 27.5%).

If the taxpayer has a tax loss for the year, the refund claim increases the amount of tax losses available for carryforward.

For companies within a tax unity, the head of the tax unity may file the electronic refund claim.

The takeaway

As mentioned, the refund claim should be accepted if the claim is filed within 60 days of the starting date.

In addition to submitting refund claims as soon as possible, Italian companies should consider any financial statement impact.

Let's talk

For a deeper discussion, please contact:

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