




**«UK-Italy Cross-Border
Tax&Legal Update 2016»**

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A WORLD OF TAX TRASPARENCY: AT A GLANCE

HM Revenue & Customs (“HMRC”) and other tax authorities across the world are increasing their focus on the tax gap and putting tax transparency at the top of their agendas.



Tax compliance is more critical than ever!

HMRC’s strategy for tackling offshore evasion (i.e. No Safe Havens), sets out five key objectives:

- There are no jurisdictions where UK taxpayers feel safe to hide their income and assets from HMRC;
- Would-be offshore evaders realise that the balance of risk is against them;
- Offshore evaders voluntarily pay the tax due and remain compliant;
- Those who do not come forward are detected and face vigorously enforced sanctions; and
- There will be no place for the facilitators, or enablers, of offshore evasion.

A new environment - Roadmap

Pre 2016

- The *Liechtenstein Disclosure Facility* and *The Crown Dependency Disclosure Facilities* close to new registrations.
- Financial accounts at 31 December 2015 subject to due diligence before Automatic Exchange of Information (“AEOI”) under the CRS.
- *Annual Tax on Enveloped Dwellings* (“ATED”) charge introduced on residential properties worth between £1-2 million.

January 2016

- CRS takes effect for early adopters such as BVI, Gibraltar, Guernsey, Jersey, Isle of Man and UK.

April 2016

- HMRC in consultations to announce a new disclosure facility for those needing to make a voluntary disclosure.
- UK Companies required to keep a register of Persons with Significant Control (“PSC”)
- New offshore penalty regime and strict liability criminal offence for off-shore tax evasion to be introduced in the Finance Bill.
- Annual ATED charge of £3,500 in force on properties worth between £500,000 and £1 million.

A new environment - Roadmap

June 2016

- UK companies to start filing their register of PSC at Companies House. This will be publicly available.

September 2016

- HMRC to access private data sets using their *Connect software*, e.g. UK land registry, banks, DVLA, etc.
- New civil penalties for 'enablers' come into force.
- HMRC receive data under UK FATCA regarding offshore accounts held in the Channel Islands, Isle of Man and the overseas territories.
- *New Worldwide Disclosure Facility* starts on 5 September 2016
- Consultation about Legal requirement to correct offshore tax errors by September 2018.

January 2017

- CRS takes effect for late adopters including Switzerland, Monaco, Singapore, Hong Kong.

A new environment - Roadmap

April 2017

- Changes to rules regarding UK Resident Not Domiciled to be introduced.
- Countries in the European Union will be required to keep a register of beneficial owners under the 4th Anti-Money Laundering Directive.
- New civil penalties related to offshore evasion for individuals come into force.

September 2017

- HMRC to receive information regarding offshore assets from all early adopter countries under CRS.
- Commencement date for the corporate criminal offence of failure to prevent the facilitation of tax evasion

September 2018

- HMRC to receive information regarding offshore assets from all late adopter countries under CRS.
- Closure of the new disclosure service facility.
- Tougher, “failure to correct” penalties will apply to any outstanding tax liability identified from CRS information from this date onwards

Those with complex international tax affairs are being invited to review their affairs and report any mistakes to HMRC if necessary.

Why?

1 The continuously changing and increasingly complex UK tax legislation

- Changing of tax rules of UK resident non-domiciled individuals, UK property and offshore trusts among others
- Tax advice taken many years ago may no longer be valid
- Third parties can inadvertently create tax problems, such as failure to correctly operate remittance rules for UK resident non domiciles

2. Increased global tax transparency means HMRC will have access to more data about you than ever before

- Automatic exchange of financial information between countries
- Introduction of registers for beneficial owners of companies and trusts including settlors and beneficiaries
- HMRC's ability to collect and handle large amounts of data

3. Last opportunity to come forward to HMRC

- Introduction of a legal requirement to review affairs and correct errors relating to offshore interests
- Last voluntary disclosure opportunity

4. Higher cost of getting it wrong

- Increased tax related penalties for offshore offences
- Reputational damage if HMRC name and shame you
- HMRC's aim to increase the number of prosecutions
- Change in the law to make it easier for HMRC to prosecute

Whether you are an individual, a company or a trustee, and need someone to review your tax position, make a voluntary disclosure, advise you through an investigation or support you in the event that criminal charges are threatened, we can advise.



THE NEW IT VOLUNTARY DISCLOSURE: AT A GLANCE

- Tax co-operation amongst countries is a reality and automatic exchange will begin soon: **from 2017/18 (Common Reporting Standard).**
- The Introduction in Italy of **self-laundering crime** from 01.01.2015.
- The first wave of Voluntary Disclosure **transferred an amount of information about tax schemes and disreputable advisors and service providers.**
- **The new 2016 law** requires the Tax Authorities to evaluate the list of Italians who **moved their tax residence abroad from 2010 (inclusive).** This is an important element to be considered by financial intermediaries and professional firms.
- Several Tax and **money laundering crimes** can be eliminated with a full voluntary disclosure, according to the new law.
- **Only within the Voluntary Disclosure** procedure is the doubling of relevant tax years **stopped** (e.g. money in Switzerland is to be looked for 10 years if no procedure)

- **This concerns Italian taxpayers** (individuals or non commercial entities and trust), including those who changed tax residence from 2010 on – ex Law 1 December 2016, no. 225.
- The procedure is available **from now until July 31st 2017** and it is to be concluded by September 30, 2017.
- *It is based on the first wave of Voluntary Disclosure and it refers to the **tax years from 2009 to 2015**, with the possible doubling of the period if assets are held within black list countries or through similar structures (therefore from tax years 2004 onwards).*
- Taxes are to be paid in full, with a **strong reduction of penalties and with the elimination of almost all tax related crimes and self-money laundering and money laundering crimes.**

- **Italian tax authorities** will specifically (by law!) look up who is registered with **AIRE since 2010 (included)**
- It is necessary that the professionals verify the compliance of their clients, not only with reference to the current date, but also for the previous years!
- VD should be considered as an instrument to dialogue with the Italian Administration and define a compliance framework
- A KEY ROLE IS ATTRIBUTED BY THE NEW LAW TO **PROFESSIONAL FIRMS**, WORKING AS ATTORNEYEES OF THE TAXPAYER DEALING WITH THE TAX AUTHORITIES.



HOW IT WORKS

WHO	WHAT	PENDING TAX YEARS
<p data-bbox="380 582 683 670">As per Voluntary Disclosure 1.0</p> <ul data-bbox="302 734 705 1029" style="list-style-type: none">• INDIVIDUALS (*)• NON COMMERCIAL ENTITIES• NON COMMERCIAL COMPANIES• TRUSTS	<p data-bbox="963 582 1265 678">As per Voluntary Disclosure 1.0</p> <p data-bbox="907 742 1332 1093">The new Law is open to cash and other valubles. For people already entered under the 1.0 procedure it is possible to open the 2.0 under specific circumstances</p>	<p data-bbox="1478 558 1948 694">From tax year 2009 up to 2015 included (RW e omitted tax return)</p> <p data-bbox="1478 710 1948 845">From tax year 2010 up to 2015 inclusive (RW e omitted tax return)</p> <p data-bbox="1478 861 1948 1212">Italian law sets for a longer tax period to be audited if black list countries are included (but black list countries are thinner on the ground!!)</p>

(*)Attention is to be given to Italian individuals who moved their tax residence from 2010 onwards!

THE NEW PROCEDURE 2.0

VOLUNTARY DISCLOSURE 2.0	
WHO?	International Disclosure/ National Disclosure National: all taxpayers (including non residents); International: individuals and entities, according to art.4 comma 1 D.L. N. 167/90, who have violated the fiscal monitoring reporting
WHAT?	Tax violations linked to foreign assets and/or taxable income (for the latter, also if not linked to foreign assets).
HOW?	Through the taxpayer's <u>tax professional</u> representative, who will reach a settlement with the Italian tax office, according to procedure and Law.
WHEN?	Up to 30 th JULY 2015. The professional tax package must be completed by September 30 2017. Tax Authorities shall have more time for tax assessment (until December 31, 2018)
BENEFITS	Regularisation of investments and financial activities , with strongly reduced administrative tax sanctions, on a case-by-case basis, with the exclusion from punishment of the main criminal sanctions related to tax crimes.

ASSETS THAT CAN BE REGULARISED

BANK ACCOUNTS, SECURITIES, FINANCIAL INSTRUMENTS (EQUITY, DEBT AND QUASI-EQUITY)	<ul style="list-style-type: none">- Savings and checking accounts- Shares- Bonds & similar securities- Financial instruments (including non-participatory) and other financial assets- Securities not representing goods, publicly traded certificates- Foreign currencies in savings and checking accounts- Italian government securities and other public securities
CONTRACTS, INSURANCE POLICY, TRUST, FOUNDATIONS, ETC.	<ul style="list-style-type: none">- Financial agreements- Capital-redemption and life insurance policies- Derivatives contracts and other financial transactions abroad- Acts of disposal to Trusts, Foundations, etc.
REAL ESTATE, REGISTERED MOVABLE PROPERTY, METALS, JEWELS, ART, ETC.	<ul style="list-style-type: none">- Real estate- Jewels, art, boats and cars- Metals (raw or coins) held abroad- Retirement funds- Other assets.

THE RELEVANT TAX PERIODS

ORDINARY TAX ASSESSMENT PERIOD

(no black list havens involved)

UNFAITHFUL TAX RETURN – from 2010 to 2015 inclusive

OMITTED TAX RETURN – from 2009 to 2015 inclusive

DOUBLED TAX ASSESSMENT PERIOD (BLACK LIST)

UNFAITHFUL TAX RETURN – from 2006 to 2015 inclusive

OMITTED TAX RETURN – from 2004 to 2015 inclusive

NB : A detailed reconstruction of the financial movements is to be delivered. It is important to analyse everything from a legal, financial and tax point of view.

There is an option which permits the calculation of financial performance on a flat approach for financial assets wh average amount does not exceed € 2M.

A new tax crime is added to the others, already included in the first Law 186/14, in relation to false documentation and fraud to harm the new rules

BENEFITS FOR REDUCED SANCTIONS (Non BLACK LIST)

Austria	France	Netherlands	Spain
Belgium	Germany	Poland	Sweden
Bulgaria	Greece	Portugal	Hungary
Cyprus	Ireland	United Kingdom	Iceland (EEA)
Croatia	Latvia	Czech Republic	Norway (EEA)
Denmark	Lithuania	Republic of Slovakia	SWITZERLAND
Estonia	LUXEMBOURG	Romania	LIECHTENSTEIN
Finland	Malta	Slovenia	MONTECARLO SINGAPORE

Benefits in relation to BLACK List Countries, with an effective exchange of information agreement with Italy , by 24th October 2016.

UK Crown Dependencies and other MAJOR FINANCIAL HUBS will enter the non-black list.

A circular from the Tax Authorities is expected in order to have a unified interpretation.

Outside of the Voluntary Disclosure procedure, Italian laws still consider black list countries as an element for doubling relevant tax years!!!

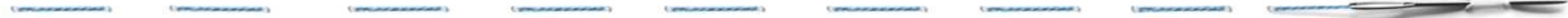
Exchange of information with Tax Havens is now a reality and must be considered!!!

VIOLATION	TAXES	PENALTIES SET FROM ORDINARY LAWS	“VD” SALE	SANCTIONS IN “ADHESION” (1/6 or 1/3)
Non reporting	RW	Tax Havens 6% Rest of world 3%	1/4 1/2	1,50% 0,50%
Unfaithful	pers./corp. income tax	Tax Havens 200% Rest of world 133% Italy 100%	1/4 1/4 1/4	25% or 50% 16,66% or 33,33% 12,5% or 25%
Omitted		Tax Havens 240% Rest of world 160% Italy 120%	1/4 1/4 1/4	30% or 60% 20% or 40% 15% or 30%
Unfaithful	VAT	100%	1/4	12,5% or 25%
Omitted		120%	1/4	15% or 30%
Unfaithful	Tax on	100	n.a.	33,33%
Omitted	Inheritance	120%	n.a.	40%

IVIE, IVAFE, IRAP and others should be considered, if any.

Jersey, Guernsey, IOM, Cayman Island, BVI or EAU A specific further reduction is available whenever the taxpayer procedure includes the self assessment of the tax burden and the consequent full payment.

The new Law sets a facility allowing the taxpayer to be within tax compliance for the following period (for 2016 and 2017, if applicable)



ALTERNATIVE REGIMES OF TAXATION

For those individuals who are seeking alternatives for taking up of residence there are numerous options with different characteristics, but what is now happening in Europe is something different.

Different jurisdictions are offering specific tax treatment for foreigners who wish to move their residence. Besides the relatively low tax level, lump-sum taxation offers beneficiaries substantial confidentiality, as many countries do not require them to declare their foreign wealth and/or income.

We will summarise a few options, before discussing the new opportunity offered by Italy:

MONACO

SUISSE

SPAIN

LUX

THE ITALIAN CASE

Monaco

An individual is a tax resident in the Principality of Monaco provided they can prove the following:

- Proof of accommodation;
- Evidence of financial capacity: in practice providing the declaration of a local bank specifying that the applicant has sufficient means of subsistence;
- An employment contract with a company registered in the Principality.

In general, the tax residents are not subject to any direct taxation on income and gains, wherever produced.

Assets located in Monaco are subject to the following inheritance tax rates :

- in direct line of descent: 0%
- between brothers and sisters: 8%
- between uncles and nephews: 10%
- between relatives: 13%
- between non-relatives: 16%

Switzerland - Lump Sum taxation (Tax on expenses)

The federal and most cantonal tax legislations provide an option to request to be taxed based on estimated living expenses rather than on actual income and net wealth. The expenditure worldwide must be at least seven-fold of housing costs or 400,000 Swiss Franc.

The annual living expenses of the tax payer and his family (tax base), are disclosed and agreed on in a ruling signed and confirmed by the competent cantonal tax authority prior to relocating to Switzerland. Once the tax base has been determined and confirmed, it is then subject to ordinary tax rates applicable at the place of residence. As a consequence, it is not necessary to report effective earnings and wealth.

The lump-sum taxation regime may be attractive to wealthy foreigners given the fact that the ordinary tax rates only apply to a portion of the taxpayer's worldwide income and assets.

Two conditions must be met in order for a person to be eligible for the lump-sum taxation regime:

- (i) The person must take up residence in Switzerland either for the first time or after having lived for more than 10 years abroad and
- (ii) said person must not engage in business activities in Switzerland.

The right to expenditure-based taxation expires when a person acquires Swiss citizenship or takes up gainful employment in Switzerland.

Luxembourg

High-net-worth individuals may find Luxembourg an interesting residence jurisdiction as it combines several features:

- limited taxation of savings income and dividends and no wealth tax;
- a possible exemption of inheritance tax on transfers to children and grandchildren, as well as between spouses;
- no taxation of capital gains after a six-month holding period, except where the seller holds a substantial participation of more than 10% in the target company;
- no taxation of capital received under a life insurance contract;

A high-net-worth individual may de facto manage his assets tax free in Luxembourg, by investing into shares of companies or funds where he has no substantial participation or in life insurance schemes. He will most likely also consider as acceptable a 10% taxation on interest income.

Spain – Beckham Law

A special Spanish tax system (*Regimen especial para Trabajadores Desplazados*) was set up when David Beckham transferred to Spain to play for Real Madrid in 2003. This system has been extended to people moving to Spain, although in an ironic twist, professional footballers are excluded from the scheme since 2015.

Three benefits are as follows:

- **Flat rate income tax of 24% on Spanish earnings in Spain*.**
- **Only income obtained in Spain will be subject to Spanish taxation.**
- **No capital gains tax to pay on any gains made outside Spain.**

* Above € 600,000 the tax rate is 45%.

Italy - new regime for Italian Resident Not Domiciled (IRND)

The Italian Parliament recently introduced a flat rate taxation to attract wealthy taxpayers who move to Italy (Art. 24 bis of the Italian Income Consolidated Code TUIR).

The fixed annual fee is € 100,000 and is intended for those who decide to take up residence in Italy after living abroad for at least nine of the ten previous years. This regime is applicable for 15 years, subject to an advance ruling from the Italian Tax Authority.

The fixed tax only applies to the foreign income, while the income produced in Italy will be subject to standard taxation.

The new IRND system is going to reduce the effect of the Italian worldwide tax principle for income and inheritance, introducing a substitutive flat taxation and removing the obligation for the taxpayer to file the section RW of the Italian Tax Return (related to the assets held abroad), including the exclusion from both IVIE (stamp duty yearly tax on the residential real estate properties abroad) and IVAFE (stamp duty yearly tax on the financial assets abroad).

With reference to the taxation of inheritance and donations, it is confirmed that for the IRND the application is restricted only to assets and rights held in Italy.

	NEW ITALIAN RESIDENT (from 1.1.17)	UK RESIDENT NOT DOMICILED (from 5.4.17)
Who	Individuals Not resident in Italy for at least 9 of the last 10 years	Individuals Only non-UK domiciled
Duration	Max 15 years	Max 15 years
How	Compulsory advance ruling at the Italian Tax Authority	Self-Assessment
Cost	Euro 100,000 per tax year (from 1 January to 31 December)	From 0 to 7 years of UK tax residence – Zero At least 7 of the previous 9 years of UK tax residence - £ 30,000 At least 12 of the previous 14 years of UK tax residence – £ 60,000
Income	All the foreign income (as per advance ruling) is exempted Italian source income is subject to the standard tax regime	Foreign income not remitted to the UK is exempted. Foreign income remitted to the UK is subject to the standard UK tax regime. UK source income is subject to the standard tax regime.
Succession	Foreign assets are not subject to tax	Foreign assets are not subject to tax, if the non-dom has been UK resident for less than 15 of the previous 20 years. Beyond 15 years of residence, the individual is considered as deemed domiciled and all the assets (UK and non-UK) are subject to UK tax.

HNWI – Alternative regimes of taxation?

Italy - Golden Visa

A new two-year special investor's visa regime (renewable, in some cases, for a further three years) has been recently approved by the Italian Parliament. It is applicable to entry and residence in Italy lasting for more than three months. In order to benefit from the regime, the non-resident individual will need to prove, or to prove their intention, to make investments in Italy of at least:

- € 2M in Government's bonds, to be locked in for at least two years;
- € 1M in equity instruments in the share capital of an Italian-resident and operating company, to be locked in for at least two years; or
- € 1M of philanthropic giving in culture, education, migration management, scientific research and recovery of cultural goods.



Conclusions and Q&A



Alessandro Belluzzo is the managing partner of the London office of Belluzzo&Partners.

After graduating with **two bachelor's degrees** (Business Administration and Law) from Bocconi University in Milan and completing a **Master's degree in International Tax**, he **qualified as a Trust Estate Practitioner** (“TEP”) in the United Kingdom, where he works as an equity partner of Belluzzo & Partners LLP. Besides his professional activity, he has lectured at Bocconi University in Milan and is a frequent presenter at specialist conferences in England and throughout the world.

Alessandro deals predominantly with estate planning, most notably with regard to international taxation and family business.

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Dedicated Voluntary Disclosure Team @ Belluzzo&Partners

At our firm, we have a **dedicated “Voluntary Disclosure” team** specialising in cross-border issues, with experience gained in this field in Italy and the United Kingdom.

We are recognised in international directories as one of the most experienced Italian firms in tax consulting, estate planning, trusts and inheritance/financial issues.

We can call upon colleagues with specific expertise in civil and criminal law when necessary, and include top Italian professionals to the team handling your case.

We can advise trustees, trust companies, banks and/or beneficial owners, with special attention to their culture and language, with a specific approach and the capacity to manage the entire “Voluntary Disclosure” process, from initial contact with the RELEVANT TAX AUTHORITIES, to the tax negotiations and management of their effects.

We also pay especially close attention to the **need to reorganise the client's assets and their legal structure correctly, in compliance with Italian and international laws and regulations.**

It is also possible to define structures that become fully Italian from a tax viewpoint without losing their international legal dimension, to ensure optimal convenience for the various international players and their clients.



MILAN

Tax + Legal + Wealth Structuring ADVISORY AND TAX CONTROVERSY

Trust, Funds, SPV and aggressive tax planning structures, both on and off shore, are well known to our experienced team, with experience in all major tools and contracts related to wealth structuring, including private insurance and fiduciary agreements.

The first round of the procedure allowed us the opportunity to assist major operations and disclosure procedures, at all levels within the relevant Tax Authorities.

LUGANO

Advisory

Documentation

collation and Analysis

VERONA

Advisory

Documentation

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A PLANNED ANSWER TO A COMPLEX ENVIRONMENT



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66 PEOPLE + 5 OFFICES = ONE FIRM

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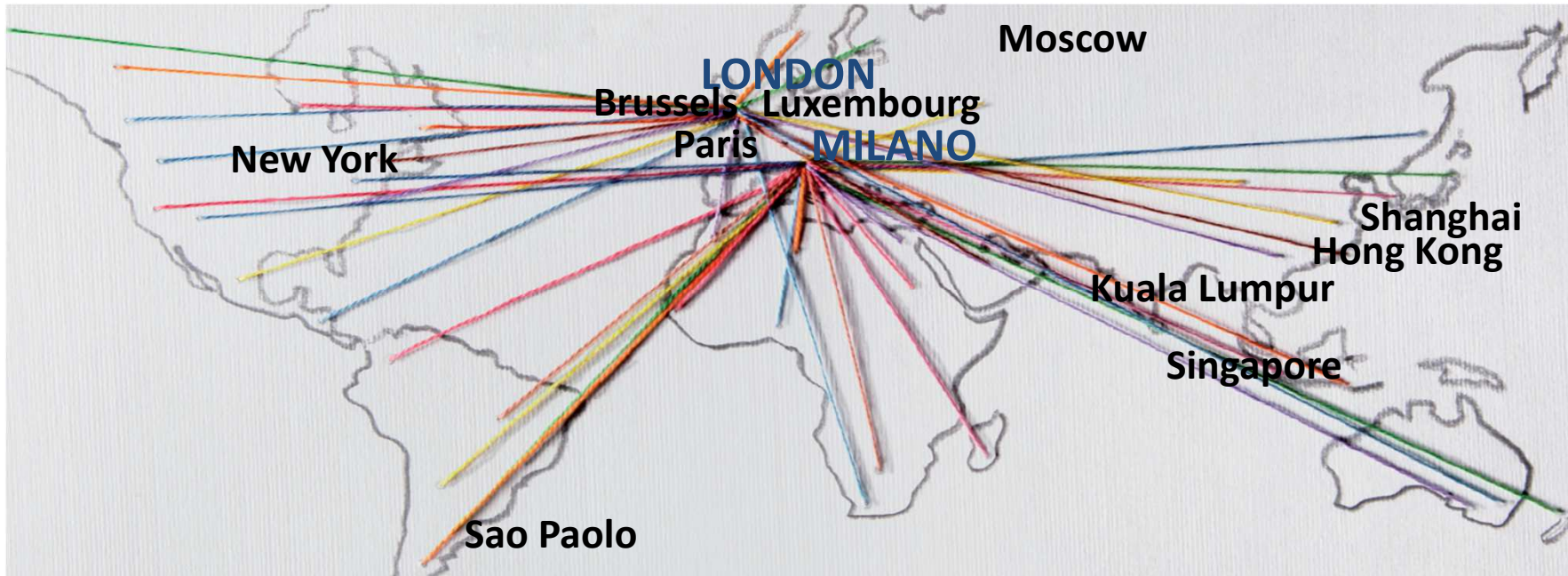
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For further information, please contact **Belluzzo&Partners** at any of our offices or by writing to: *studio@belluzzo.net*

These slides have been delivered on November 16th 2016 , the day when Italian Parliament lower Chamber approved the law Decree n. 193/16 of October 24,2016.

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