

21 August 2024

Italian Tax Authority clarifies that interest expenses out of tax assessments are fully deductible

With Ruling no. **172** dated August 20, 2024 (“**Ruling 172**”), the Italian Tax Authority (“ITA”) clarifies that **interest expenses due in connection with higher taxes resulting that become due as a result of a tax settlements are fully deductible**.

More in detail, ITA confirms the deductibility of that cost component even if it relates to non-deductible items (e.g., corporate taxes), because *“interest expenses related to the tax collection and assessment of taxes do not differ in any way from any other charges related to the delay in the fulfilment of an obligation and therefore fall within the scope of the category of interest expenses (...) inevitably separating itself from the regime of the tax they belong to”* (unofficial translation).

The interpretation provided by ITA is based on a reading of Article 96 of the Income tax code which *“does not place any limit on the deductibility of interest expenses irrespective of the event to which they are related to or the nature of the charge to which they are accessory”* (unofficial translation).

Despite the relevance of the clarification, some aspects remain not completely clear.

Firstly, the view outlined by ITA on the deductibility of the interest expenses would appear to be relevant not only for corporate tax purposes but also for the regional tax on productive activities (“IRAP”). Actually, even if Ruling 172 is headed *“Deductibility for IRES [corporate tax] and IRAP purposes of interest expenses paid on the basis of a settlement”* (unofficial translation), the taxpayer which submitted the request of ruling appears to be a financial intermediary (this may be inferred from the reference to accounting entries for taxes under item 270 and for interest expenses under item 20 of the P&L); financial intermediaries include (and thus are allowed to deduct) interest expenses from their IRAP taxable base.

The same conclusion may not be reached in connection with industrial and commercial entities (other than financial ones) which determine the taxable base on the basis of different criteria.

Secondly, ITA seems to confirm that interest expenses due on the basis of a settlement are deductible for corporate tax purposes without applying the general limits set forth by Article 96 of the Income tax code.

In this regard, the position is coherent with the general income tax system since the limitations provided for by the mentioned Article 96 apply to interest expenses originated by financial arrangements (on this aspect the view is aligned to one suggested by Assonime with Circular Letter No. 14 of 2020).

This document is delivered for information purposes only.
It does not constitute a basis or guidance for any agreement and/or commitment of any kind.
For any further clarification or research please contact:

**Fabio Chiarenza
Partner**

Head of Tax Department
Rome
+39 06 478751 | fchiarenza@gop.it

**Sandro Maria Galardo
Of Counsel**

Tax Department
Rome
+39 06 478751 | smgalardo@gop.it

**Gaetano Antonio Cinque
Associate**

Tax Department
Rome
+39 06 478751 | gacinque@gop.it



INFORMATION PURSUANT TO ARTICLE 13 OF EU REGULATION NO. 2016/679 (Data Protection Code)

The law firm Gianni & Origoni, (hereafter "the Firm") only processes personal data that is freely provided during the course of professional relations or meetings, events, workshops, etc., which are also processed for informative/divulgence purposes. This newsletter is sent exclusively to those subjects who have expressed an interest in receiving information about the Firm's activities. If it has been sent you by mistake, or should you have decided that you are no longer interested in receiving the above information, you may request that no further information be sent to you by sending an email to: relazioniesterne@gop.it. The personal data processor is the Firm Gianni & Origoni, whose administrative headquarters are located in Rome, at Via delle Quattro Fontane 20.