



Hong Kong, 6 April 2017

## Newsletter Hong Kong

### **Practical aspects of the automatic exchange of information: Italy-Hong Kong example**

Further to the announcement by the Hong Kong government on March 17, 2017 regarding the conclusion of an agreement with Italy for conducting automatic exchange of financial account information in tax matters (“AEOI”), it has been published the Competent Authorities Agreement (“CAA”) signed which details the financial account information to be exchanged as well as the time and manner of AEOI.

#### **1. Financial account information to be exchanged**

Pursuant to the provisions of Article 25 of the Comprehensive Double Taxation Agreements (“CDTAs”) between Italy and Hong Kong, and subject to the application reporting and due diligence rules consistent with the Common Reporting Standard (“CRS”), the competent authority<sup>1</sup> in Italy and Hong Kong will annually exchange financial account information on an automatic basis.

##### *1.1 Who will be subject to exchange of information*

Individual who are residents in one jurisdiction and have a financial account that is maintained by a reporting financial institution in another jurisdiction will be subjected to AEOI. Besides, AEOI also applies to financial reportable account of a legal entity that is held by a “Passive NFE”<sup>2</sup> with one or more controlling persons who is a reportable person in a jurisdiction.

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<sup>1</sup> In case of Hong Kong, the Commissioner of Inland Revenue or his authorized representative or any person or body authorized to perform any functions at present exercisable by the Commissioner or similar functions; and in case of Italy, the Director General of Finance – Ministry of Economy and Finance.

<sup>2</sup> Pursuant to the principles of CRS, a “Passive NFE” is an entity not qualified as an “Active NFE”. In general, an entity will be qualified as a “Passive NFE” if more than 50% of the NFE’s gross income is passive income or the assets held by the NFE during the preceding calendar year are assets that produce or are held for the production of passive income.

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Due diligence procedures consistent with the CRS will be carried out to identify the reportable accounts of individuals and entities, and the following information will be collected:

1. for individual account holder: the name, address, TIN(s)<sup>3</sup> and date and place of birth of each reportable person that is an account holder of the account;
2. for entity account holder, qualified as “Passive NFE”, and that, after application of due diligence procedures consistent with the CRS, is identified as having one or more controlling persons that is a reportable person:
  - a) Passive NFE: name, address, TIN<sup>4</sup>;
  - b) Controlling person in the other jurisdiction: name, address, TIN, date and place of birth.

*1.2 What information will be exchanged*

Once the reportable financial accounts are identified, the following information will be exchanged:

- (a) the account number;
- (b) the name and identifying number of the reporting financial institution;
- (c) the account balance or value as of the end of the relevant year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;
- (d) in case of any custodial account, the total gross amount of interest, dividends and other income generated with respect to the assets held in the account, in each case paid or credited to the account during the calendar year or other appropriate reporting period; and the total gross proceeds from the sale or redemption of financial assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the reporting financial institution acted as a custodian, broker, nominee, or otherwise as an agent for the account holder;
- (e) in the case of any depository account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
- (f) in case of any account not described above, the total gross amount paid or credited to the account holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the reporting financial institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the account holder during the calendar year or other appropriate reporting period.

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<sup>3</sup> The Hong Kong TIN number of an individual means the Hong Kong identity card number. For further information please see the following link: <https://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/Hong-Kong-TIN.pdf>

<sup>4</sup> The Hong Kong TIN number of an entity means the business registration number.

## **2. Time and manner of exchange of information**

Under the provisions of the CAA, the automatic exchange of information between Italy and Hong Kong is expected to commence in 2018 with respect to the information collected since (i) 1 July 2017, or (ii) the date stipulated in the internal law of Hong Kong for this purpose, and ending on 31 December 2017<sup>5</sup>. The information will be exchanged within nine months after the end of the reporting period.

Our previous tax newsletter on the AEOI developments in Hong Kong can be accessed below:

[Exchange of information in Hong Kong](#) dated 30 August 2016

[CRS Updates in Hong Kong](#) dated 15 December 2016

[Automatic exchange of information: updates in Hong Kong](#) dated 22 March 2017

For more information, please contact:

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<sup>5</sup> Hong Kong has to add Italy to the list of “reportable jurisdictions” in the Inland Revenue Ordinance by means of a Notice published in the Gazette. The Notice is subject to negative vetting by the Legislative Council and the jurisdiction will become a “reportable jurisdiction” after the Notice has come to effect.