

Case 5: the Italian director of a Lugano company

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

Signor C lives in Varese and sits on the board of Delta SA in Lugano, for which he receives fees of CHF 60,000. Under Article 16 of the convention, Switzerland may tax the fees. Delta SA deducts Swiss source tax at the rates applicable in Ticino to directors resident abroad.¹ Italy taxes the fees as income from employment or similar income and grants a credit for the Swiss tax under Article 24 paragraph 2 and Article 165 TUIR. Signor C must file the Italian return and claim the credit for the year in which the Swiss tax becomes final. Delta SA must also consider whether the presence of Signor C and other Italian residents on its board supports an Italian claim that its management is exercised in Italy.

For the practitioner. A checklist for Swiss-Italian tax questions: - Establish residence under domestic law and, in case of dual residence, under Art. 4 paras. 2 and 3; document the date of any move (Art. 4 para. 4). - Check whether a Swiss lump-sum taxpayer is under the modified regime (Art. 4 para. 5 lit. b). - For every Swiss company with an Italian connection, document where strategic and day-to-day decisions are taken (Art. 4 para. 3; Art. 73 TUIR) and whether any Italian presence is a permanent establishment (Art. 5). - For intra-group dividends, interest and royalties, check the conditions of Art. 9 of the EU agreement (25 per cent, two years, no exemption, beneficial owner) before the convention rates. - For non-Swiss-owned Swiss companies claiming treaty relief, test the conditions of Art. 23. - File Swiss refund claims on Form 95 within three years after the end of the calendar year; file Italian claims within 48 months and seek relief at source where possible. - For Italian private clients, reconcile the Italian return (sections RW and RM) with the CRS reporting of the Swiss bank; consider a credit claim for Swiss withholding tax. - For pension capital, coordinate the Italian 5 per cent declaration with the Swiss refund of source tax within three years. - For transfer pricing adjustments and residence conflicts, observe the three-year deadline for the mutual agreement

Case 5: the Italian director of a Lugano company

procedure (Art. 26 para. 1); there is no arbitration. - Monitor the Italian ratification of the MLI and test structures against the principal purpose test.

1 Notes

1. DBG, Art. 93 paras. 1 and 3 (federal source tax of 5 per cent on directors' fees), <https://www.droit-bilingue.ch/de-it/6/64/642.11-93-99.html>; Legge tributaria del Cantone Ticino, Art. 4 para. 1 lit. b (above). ↩

For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

Online version: helveticaregister.com/lugano-case-5-the-italian-director-of-a-lugano-company