

Italian use of the data

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The Agenzia delle Entrate has integrated CRS data into its risk analysis and into its programme of "communications for the promotion of compliance" (*comunicazioni per la promozione dell'adempimento spontaneo*). By a decision of 21 December 2017 it began to send letters to taxpayers for whom foreign data indicated undeclared assets or income for the tax year 2016. A further decision of 12 July 2019 extended the programme with refined criteria.¹ The letters set out the anomaly, allow the taxpayer to inspect the foreign data in his online tax file and invite him to correct his position through the *ravvedimento operoso*, the Italian procedure of spontaneous correction with reduced penalties.² The programme makes visible what the automatic exchange means for an Italian holder of a Lugano account: the tax authority knows the year-end balance and the income and compares them with his *quadro RW* without any request to Switzerland.

The combination of automatic exchange and group requests closes the remaining gaps. An account that was closed before 2017 does not appear in the automatic exchange, but its closure after 23 February 2015 may fall within a group request. An account held through a fiduciary company appears in the Italian data of the fiduciary company and, if the Swiss bank treats the fiduciary as a financial institution, it is reported by the latter. An account held through a passive company appears with its controlling persons. The remaining exposures concern assets held outside the financial system, such as cash in safe deposit boxes, precious metals held in physical form, art and real estate, and accounts in the few jurisdictions that do not participate in the exchange.

1 The end of the economic function of secrecy

The automatic exchange did not amend Article 47 of the Banking Act. A Swiss bank employee who discloses client information outside the legal channels still commits a criminal offence. The information transmitted

under the AEOI Act passes through the Federal Tax Administration under a statutory procedure. What changed was the function of secrecy in the Swiss-Italian relationship. Before 2018 secrecy protected Italian clients from their own tax authority, which allowed Lugano banks to charge for discretion as well as for investment management. After 2018 secrecy protects Italian clients against third parties, competitors, criminals and the public, while their tax authority receives every relevant figure. The business model of Lugano private banking with Italy has had to adapt to this change, and Chapter E.I describes the consolidation that followed.

2 Notes

1. "Attività finanziarie all'estero, lettere di compliance", Edotto, 15 July 2019, <https://edotto.com/articolo/attivita-finanziarie-allestero-lettere-di-compliance>, citing Agenzia delle Entrate, decision No. 299737 of 21 December 2017 and decision No. 247672 of 12 July 2019. ↩
2. Edotto, 15 July 2019 (above). ↩

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