

# Paradigm<sup>®</sup>

INTERNATIONAL SOCIETY OF PRIMERUS LAW FIRMS

SPRING 2018

**President's Podium:  
Making Connections**

**Serving Clients Better  
by Working Together**

**Current Legal Topics:**

Asia Pacific

Europe, Middle East & Africa

Latin America & Caribbean

North America



## Italian Web Tax

The Italian web tax is a tax levied on Italian and foreign entities providing “digital activities,” i.e. digital platforms, digital applications, databases, virtual warehouses, digital services, as well as other activities which will be determined in the coming months through the issues of an Italian Decree.

The rule was approved with the Italian Finance Bill for 2018, with discussions dating back to 2013, when an effort to introduce the tax was eventually rejected.



Maria Adele De Luca



Francesco Luigi De Luca

**Maria Adele De Luca** has been a partner at FDL Studio legale e tributario since 2013. Her main areas of practice are mergers and acquisitions, corporate law, retail law and general commercial law matters. She represents and advises Italian, as well as international corporations, in Italian and cross-border transactions.

**Francesco Luigi De Luca** is of counsel at FDL Studio legale e tributario. He is in charge of tax matters, with a particular focus on tax litigation and tax assessment.

FDL Studio legale e tributario  
Piazza Borromeo, 12  
Milano, Italy 20123

+39 02 7214921 Phone

m.deluca@fdl-lex.it  
f.deluca@studiotributariodlp.it  
fdl-lex.it

The rule has been the subject of several amendments, and there may be more to come.

The Italian web tax will go into effect starting January 1, 2019. The time before then could allow, from one perspective, improvements and specifications, or from another perspective, possible amendments to conform with a European web tax which is under consideration by France, Germany, Spain and Italy.

The tax is levied only on business-to-business (BtoB) transactions concerning services (mainly data analytics, cloud computing and web advertising), while e-commerce transactions will be exempted. The tax will be applicable only if the number of transactions exceeds 3,000 per year.

The tax will be levied through a withholding tax of three percent. The withholding tax will be applied to Italian customers so that, for example, if the cost for the service is 100Euro, the Italian customer will pay 3Euro to the Italian Tax Agency and 97Euro to the service provider.

The tax is not applicable to (i) BtoB services rendered to entrepreneurs under flat-tax regimes, to (ii) BtoB services rendered by providers whose yearly

number of transactions does not exceed 3,000 and to (iii) business-to-consumer services and all e-commerce transactions (i.e. digital transactions concerning goods).

Large online retailers Amazon, Apple and Google recently have agreed to pay to Italian tax authorities – through ad hoc agreements – respectively 100MEuro, 318MEuro and 306MEuro.

The reason for the tax assessment from Italian authorities was that these large, multinational companies would have, in the past, carried out commercial activity in Italy without declaring a permanent establishment.

Considering such big amounts, it seems that the Italian web tax could appear like a “gnat” to the giants of the web. By contrast, it could result in being, once again, an additional burdensome tax for Italian companies.

Only time will tell, however, whether and how these laudable Italian plans will actually be put into practice and what the outcome will be. **P**

