

- how is the relief for double taxation calculated, e.g. through the exemption or credit method?

In Italy the general relief for double taxation is credit method

- is the taxation of director's remuneration different from the taxation of employee's salary?

Directors' remuneration is subject to 30% withholding tax while taxation of employees is subject to current personal taxation if related to residents of Italy or to double taxation rules in case of non-residents

- how is the term "employer" interpreted, formally or economically?

Italian labor law is very strict and the term "employer" can only be formally interpreted

- which conditions need to be met to be regarded as formal or economic employer?

In order to hire employees an employer must register with the public authorities and observe the national collective labor agreements regulating each business sector

- when is the salary borne by the permanent establishment

The permanent establishment has the same rules of duties of companies with reference to formal registrations

- how is the term permanent representative been interpreted in your country (i.e. implementation BEPS action point 7)

Italy transposed rules related to permanent representative since year 2018 with a stricter definition of broker, general commission agent or any other agent of an independent status.

An agent is considered non-independent not only if has the power to conclude contracts in the name of the enterprise but also if he operates to allow the conclusion of contracts for the foreign enterprise without substantial modifications: in this case the enterprise is deemed to have a permanent establishment in Italy.

- how is an international redundancy payment been treated (allocation)?

International redundancy payment is always subject to personal taxation in Italy if the employer is resident of Italy (Italian resident company or permanent establishment)

- how are the 183 days been calculated?

Only in case of secondment of staff for an employee resident of Italy the 183 days are taken into account over 12 months (not necessarily in the same year) and holiday days even if spent in Italy are considered in the calculation too.

- how is salary allocated, based on working days or do other possibilities exist?

Only in case of secondment of staff for an employee resident of Italy personal taxes on salary earned while abroad are calculated on the base of a "conventional" salary. Possible taxes paid abroad can be offset according to general rules.

Other remuneration as for example fringe benefits are therefore not subject to personal taxation in Italy.

- who is considered to be a director according to the treaty definition?

Directors of Italian companies must be appointed according to the law and the bylaws and registered with the Register of Companies

- what is considered to be a director's remuneration (split between employee's salary and director's remuneration)?

It is possible only in case the same person is hired as employee and appointed as director: in this case a board of directors must be appointed, and no delegation of powers can be given with reference to employees.