Executive summary
On 4 December 2014 the Italian parliament approved the regulations for the long awaited Voluntary Tax Disclosure Program (“the program”).

The program may be used by taxpayers to declare previously undisclosed assets and funds in order to become compliant with Italian tax regulations. Participation in the program could reduce penalties for non-compliance and remove the risk of criminal prosecution.

The program also applies to corporates who may use it to declare unreported wage tax withholding.

Background
Since 1990, Italian resident taxpayers have been required to report the value of foreign assets owned by them at any point during the fiscal year in a Financial Monitoring section of their Italian tax return - “Quadro RW”.

The initial draft of the program was released by the Italian Government on 29 January 2014 but then repealed a few weeks later. It allowed taxpayers to disclose on a voluntary basis any unreported foreign income and financial assets before these were identified by the Italian tax authorities.

Under the draft rules, the program was only permitted for taxpayers who were not already subject to an investigation by the Italian Revenue Agency.

New legislation
The recent regulation approved by the Senate introduces some significant changes which broaden the application of the disclosure program, as listed below:

► The disclosure program is now available in respect of violations committed up to September 2014.
► Eligible taxpayers now include companies, even if they are not subject to financial monitoring obligations.
► The procedure also covers Italian source income, as taxpayers can now disclose violations in respect of corporate income tax, VAT, regional income tax (IRAP) and other withholding agent return violations.
► Taxpayers who engage in the program are required to pay 100% of the taxes due, however they will benefit from a reduction in penalties. The reduction may be up to 50% of the minimum penalty level if certain conditions are met (for example, if the assets are transferred into an Italian account or an
Eligible taxpayers will not be investigated for criminal prosecution for tax avoidance or for submitting an “unfaithful” tax return, although there are limited exclusions from this protection and so it is not guaranteed.

Under certain circumstances, the statute of limitation in respect of assets held in “black-listed” countries will not be extended from five to ten years as is the case under existing law.

Taxpayers who participate in the program can apply for a simplified tax assessment procedure if the average value of their undisclosed assets does not exceed €2 million per tax year. Under the simplified procedure, Italian tax authorities will assess income tax at a flat rate of 27% on a notional yearly income equal to 5% of the undisclosed assets, instead of assessing income tax on the actual income.

The voluntary disclosure application must be submitted by 30 September 2015.

Next steps
According to the Italian Government, this is the last opportunity for taxpayers with undisclosed assets to report their foreign financial assets and to regularize their tax affairs.

Taxpayers who are concerned that they may hold undeclared assets now have the opportunity to use this program to regularize their income tax position. In addition, even without undeclared foreign held assets, it is now possible to comply with income tax obligations for all periods still open to assessment (five to ten years).

Companies also have the opportunity to benefit from the program in the case of non-compliance with withholding obligations on employment income.

Taxpayers will be required to use a specific form that has been recently released by the tax authorities to apply for the program.