Italy imposes withholding tax (20%) on foreign bank transfers to individuals. EU Commission looks closely for potential TFEU infringement

New Italian tax regulation imposes withholding tax (20%) on bank transfers addressed to Italian natural persons. The withholding is performed on the assumption that the amounts transferred are “revenues” in nature, until proved otherwise. The burden of proof is on the taxpayer (who else?). A short comment is available on “il Sole 24 Ore” (–>here).

This new measure has been introduced by art. 9 of Statute (Legge) 6.08.2013 n. 97 -so called “European Community Law” (i.e. a statute that, yearly, should enact in Italy the EU law that was not enacted till then)- that modified art. 4 of D.L. n. 167 of 1990.

The new article introduces the duty of all financial intermediaries (i.e. the banks) to apply the withholding tax on all transfers that get to Italy, then the taxpayer has to prove that they are not “revenues” but “assets” in nature(!). The technical specs of this new taxation method can be found on the *provvedimento 2013/151663 del direttore dell’Agenzia dell’Entrate* 18.12.2013.

The European Commission is checking if this measure is such to violate article 63 of the Treaty on the Functioning of the European Union (that establishes the freedom of payments). Mrs Emer Traynor, spokesperson of Commissioner to fiscal affairs Algirdas Semeta released a declaration in this sense.