"Controlled and related foreign company" rules in the Italian legal system

Giuliano Tabet - Marco Greggi[1]

1. CFC rules in the development of the Testo Unico 917/86 as a means to tackle profit shifting: the legal basis

The rules on controlled foreign companies in the Italian legal system have been characterized by the aim of combating tax evasion ever since their implementation with Article 127-*bis* of the "Testo unico delle imposte sui redditi" (hereafter: Income Taxation Act) n. 917/86 (re-numbered by D.lgs. 344/03). In other words, they are designed to combat what might today be defined as a the erosion of the domestic tax base[2].

The elusive practice targeted by the "CFC rules" consisted largely in the improper outsourcing of investment and capital towards jurisdictions characterised by more favourable tax regimes than Italy (with a considerably lower, if not merely symboic, tax burden), or otherwise characterised by an unsatisfactory level of cooperation in the fight against tax evasion[3].

The most common system of outsourcing consisted (and still consists) in the establishment in the foreign territory of a controlled company.

[1] Giuliano Tabet is a Professor of Tax Law at the University "La Sapienza" - Rome. Marco Greggi is a Professor of Tax Law at the University of Ferrara. This article is the adaptation and synthesis of a lesson held by Prof. Tabet during the seminar "CFC rules" at the University of Ferrara on the 30th of May 2013. Translation by Andrea Amidei, candidate for the Ph.D. in European Tax Law, University of Bologna

[2] On the point, see the recent OECD Report, *Addressing Base Erosion and Profit Shifting*, Paris, 2013, 85, and the later *Action Plan*, Paris, 2013, 37.

[3] SACCHETTO C., *Lo scambio di informazioni in materia fiscale. Collegamenti con il procedimento penale. L'approccio italiano*, Riv. Dir. Trib. Int., 2009, 89.

Pursuant to the Italian Civil Code (Article 2359), operations of this kind may be classified as control by law or *de facto* control, depending on whether the shareholder holds the majority of votes on the board (i.e. 51% of the voting rights), or whether they are in a position to exercise influence and control over board meetings[4]. This condition can be met also by means of a smaller stake in the company, but only in the case of interested shareholder or when there are economic relations that make the controlled entity economically dependent on the controlling company, for example, when it is the sole supplier, the sole buyer or a co-licensee of patents[5].

The establishment of a controlled company in a country with a more favourable tax regime means that the income produced in the foreign territory will benefit from a lower level of taxation, or that the controlled company does not have to declare profits in the country of the controlling company (i.e. its country of residence). The consequences are easy to imagine.

This produces at least one positive outcome: since the controlling company holds the majority of votes on the board, it can decide whether and when to distribute profit generated by the controlled company; in practical terms, the controlled company is in the hands of the parent company, which, by way of policy decisions on profit distribution, may certainly draw a first advantage, which is tax deferral (i.e. the ability of indefinitely deferring the levying of tax on those profits in the hands of the parent company (in this case resident in Italy)[6].

Even though the controlled company, from a juridical point of view, is an autonomous entity, it becomes a tool in the hands of the parent

---

[4] MARINO G., *La relazione di controllo nel diritto tributario*, Padua, 2008, 114.
[5] In terms of industrial law, see VANZETTI A. - DI CATALDO V., *Manuale di diritto industriale*, Milan, 2009, 615.
[6] GAFFURI A.M., *La residenza fiscale nel diritto comunitario*, Giur. it., 2009, 2579.

compan[7], and historically this is the reason why countries have adopted specific regimes aimed at countering international tax planning based on groups of companies[8] with a control relationship. This regime was introduced for the first time in the United States, where multinationals play a fundamental role in the economy.[9]

However, over the course of time governments have become aware of another practice. They have realised that the establishment of controlled companies in "privileged territories" does not occur exclusively or primarily for purposes of tax planning, but also to obtain another advantage, purely for tax purposes: the outsourcing to foreign countries not of income-producing activities, but of sources of income which do not necessarily have a link with the foreign company or tax haven to which they are transferred, such as shareholdings, immaterial assets, patents, copyrights and so on[10].

If the parent company in Italy trasnfers a patent to a controlled foreign company, the income generated by the patent is also transferred from Italy to the low-tax country[11]. In this case, the function of the company is nothing more than that of a box, since it does not have any other function than holding the source of income transferred to a foreign country in order to break the connection with the overall income of the parent. The advantage derives not only from the deferral of tax, but also from depriving the controlling company of income that would otherwise be taxed in Italy.

Outsourcing may also concern assets or expenses different from the ones relating to intellectual property: consider, for example, all those

---

[7] FANTOZZI A., *Diritto tributario*, Turin, 2012, 436; DAMI F., *I rapporti di gruppo nel diritto tributario*, Milan, 2011.

[8] LANG J., *La tassazione delle imprese nella competizione internazionale*, Riv. Dir. Fin. Sc. Fin., 2012, 1, 237.

[9] AVI-JONAH R., *International Tax as International Law*, Cambridge, 2007, 25, specifically for the analysis of the first CFC regime implemented in the U.S. by the Kennedy administration in 1961 and then chosen also by other countries (with due modifications).

[10] DE BROE L., *International tax planning and prevention of abuse*, Amsterdam, 2007, 630.

[11] DE BROE L., *op. cit.*, 125, 606.

infra-group services rendered within an international group, such as advertising. Infra-group services may be outsourced to foreign companies and then invoiced to the companies within the group, thus shifting the income to a low-tax country[12]. For example, in the case of a group with a financial holding (i.e. a company making loans within the group) in the Canary Islands or in the Bahamas, the income from these loans, that is to say interest due, will be transferred to the low-tax countries, while the company resident in the other country will declare only its costs.

As a result, controlled foreign companies may be used as vehicles for a wide range of operations that are prejudicial to the interests of states. In light of this, legislation has been enacted to combat these practices based on a principle enshrined in the domestic tax system: the principle of transparency[13].

According to this principle, which, in Italy, is specific to the direct taxation of *società di persone* (partnerships), a partnership is not a taxable entity and the income of the partnership, for the purposes of tax law, is attributed to the partner, irrespective of dividends actually paid.

The same principle was introduced in relation to controlled foreign companies: as an effect of the principle of transparency, the income produced by the foreign company in the country of establishment is attributed, as an effect of the principle of transparency, to the Italian-resident shareholders in proportion to their shareholding, irrespective of dividends actually paid. To simplify, it may be said that the rule usually applied to partnerships is applied also in this case.

The aim of the government in adopting this measure was to tackle the outsourcing of part of the income of a company, since this income is

[12] Thus realising one of those profit shifts recently highlighted by the OECD in the report on *Addressing Base Erosion and Profit Shifting*. See SCHÖN W. - KONRAD K.A., *Fundamentals of international transfer pricing in law and economics*, Munich, 2012, 95.

[13] INGRAO G., *La riforma dell'IRES e la legislazione sulle Controlled foreign companies*, in BEGHIN M., *Saggi sulla riforma dell'IRES dalla Relazione Biasco alla Finanziaria 2008*, Milan, 2008, 265.

taxed in any case in Italy at the end of the financial year concerned, irrespective of whether dividends are paid or not.

This rule is enshrined in Articles 167 and 167-*bis* of the TUIR n. 917/86 (Income Taxation Act), according to which "*if an entity resident in Italy holds, directly or indirectly*[14]*, also by way of fiduciaries or interposition of a third person, the control of an enterprise*[15]*, of a company or of another entity, which is resident or located in States or territories which are different from those listed by the Ministerial Decree pursuant to article 168-bis*[16]*, the income accrued to the foreign controlled entity is attributed, from the end of the financial or management year of the controlled foreign entity, to the resident entities in proportion to their shareholding*".

It must be stressed that the Italian provision mentions the concept of income "accrued": that is because, as we shall see, the income that is part of the Italian tax base according to this particular application of the principle of transparency is the foreign income that must be calculated not according to the rules in place in the country of establishment of the foreign company, but according to the criteria used to calculate the income of an enterprise under Italian law. It follows that the starting point is not, for example, the balance sheet (and the profit stated therein) of the company resident in the Bahamas (if we look back at the previous example), which may be not completely reliable. This mechanism gives rise to complicated operations, especially since there might be mismatches in terms of accounting periods, conflicting criteria used to determine the relevant

[14] By "indirect control" we mean a kind of control not consisting in a direct relationship, but a *relais* company, which may also be a fiduciary. On the point, see MARINO G., op. cit., 37.

[15] The concept of "enterprise" includes also individual enterprises, may they be physical persons or juridical persons, partnerships, corporations or non-commercial entities.

[16] Located in a low-tax country, therefore included in the "black list" of low-tax country which do not grant an effective exchange of information with Italy on the grounds of international treaties.

income, and so on[17].

However, before further considering the specific provisions of the Italian CFC regime, it may be useful to examine the mechanism of taxation of this income according to the principle of transparency. In this connection, a specific aspect should be underlined: this income does not add up to the Italian-sourced income attributed to the parent company, but the two sources of income are subject to separate taxation[18]. This reflects a concern that, if it were permitted to offset against domestic income the foreign-source income attributed according to the principle of transparency, any foreign losses would contribute to decreasing domestic taxable income. As a result, unified taxation would have risked being counterproductive, as it would have made it permissible to offset foreign losses against domestic income, thus reducing domestic taxable income. This is the reason why a separate tax system was introduced, according to which foreign-sourced income is subject to tax and not considered in the taxation of domestic income.

This separate taxation, in the case of an entity subject to tax on corporate income (“IRES”), is based on the average tax rate of the latest two-year period (therefore, always 27%). In the case of physical persons, the relevant separate taxation rules apply, with the application of different tax rates depending on the average tax rate of the latest two-year period: in any case, it will never be less than 27%. The intention was to level the fiscal burden of companies and individuals.

Any foreign-sourced losses follow the carry-forward rules, also in light of the limitation under Article 84 of the Italian Income Tax Act, as recently amended by D.l. 98/11.

[17] These matters have been addressed also by the Italian tax administration and, for example, are recalled in Circ. min. 51/E of 6th October 2010, particularly at par. 6.
[18] See Article 167.6 TUIR (Income Taxation Act) n. 917/86.

2. The remedies to the risk of international double taxation stemming from the implementation of Article 167: the tax credit

Furthermore, the legislation envisaged a specific regime also for the taxes paid by the controlled foreign company in the country of establishment. It is common knowledge that one of the most frequent consequences in the field of international tax law is the so-called "international double taxation"[19]. The fact that the CFC regime applies in Italy does not influence the foreign country, which will tax the controlled company as an entity generating an income within its territory. The taxes that the controlled (foreign) company paid in the country of establishment may be deducted from the Italian tax liability in accordance with the principle of transparency: in other words, tax paid abroad is deducted from the Italian tax, calculated in light of the rules on separate taxation at a rate of 27%, under the terms laid down in Article 165 of the Income Tax Act.

If in subsequent years the controlled foreign company decides to pay dividends to the parent company, the general rule is applicable. Since in this case the dividends have already been subject to taxation by way of attribution of income according to the principle of transparency, they should not be taxed twice, because otherwise they would be subject to tax first upon attribution and, then, upon distribution[20]. It follows that dividends distributed by the controlled foreign entity "*do not contribute to the computation of the income of the resident subjects up to the amount of the taxable income, according to par. 1, also in the previous fiscal years*".

It is evident that if, for example, in 2000, foreign-sourced income was

[19] BAGGIO R., *Il principio di territorialità ed i limiti alla potestà tributaria*, Milan, 2009, 69; ADONNINO P., *Doppia imposizione internazionale*, Enc. Giur. Treccani, Rome, 1989, XII, 1.

[20] FEDELE A., *La direttiva "madre-figlia" e la disciplina attuativa come complesso normativo unitario e sistematico: criteri interpretativi*, Rass. Trib., 2001, 1256.

attributed in accordance with the principle of transparency, then this income was distributed by way of dividends in 2005, these dividends have already been taxed and, as a result, should not contribute to the Italian tax base of the parent company, because the dividends would be part of the income of the controlling entity and would not be taxed separately.

A different problem arises in relation to taxes paid on outbound dividends in the form of a withholding tax in the source State. Also in this scenario, when the dividend is distributed by the foreign entity, it is subject to a withholding tax in the country of establishment, with the consequent risk of double taxation. Italy grants a tax credit, under Article 165 of the Income tax Act, up to the tax burden applied on that dividend minus the amount already deducted for the taxes imposed on the distributing foreign entity, for the purposes of mitigating or eliminating double taxation.

3. The CFC regime put to the test of EU law (and, in particular, compatibility with the freedom of establishment)

The European Union favours a harmonised CFC regime, though it lays down some limitations, essentially to protect the freedom of establishment.

Freedom of establishment is one of the four fundamental freedoms, which must be protected also in cases in which a company (for example, an Italian company) decides to invest in a foreign country (a Member State of the European Union), for the purposes of generating income, since in that country the level of taxation is lower[21]. Fiscal competition between domestic systems is not prohibited by the Treaty of Rome[22], within the limits and taking account of the rulings of the

[21] DE PIETRO C., *Exit tax e libertà di stabilimento. Profili nazionali, europei e internazionali*, Ferrara, 2013, 5.

[22] BORIA P., *Diritto tributario europeo*, Milan, 2010, 243.

Court of Justice of the European Union[23].

For its part, the Italian government, perhaps in order to reduce from the outset the risks of incompatibility between domestic CFC rules and EU law, granted taxpayer the right to provide evidence to the contrary. In fact, CFC rules can be set aside when at least one of two conditions is met.

First of all, if it can be proven, by way of an advanced ruling by the tax authorities, that the foreign company, "*in the market of the State or territory of its establishment*", operates an industrial or commercial concerns as its main activity.

An undertaking applying for the CFC regime to be set aside is required to provide evidence that the choice of operating in the foreign territory stems from the fact that it operates an industrial or commercial activity in that country, and that an operational structure has been set up (and not simply a "box office", but a n actual business having a direct relation to the territory by way of an operational structure[24]).

Furthermore, this activity must be performed in the market of the State of establishment. The term "market" is used in an ambiguous way, since the presence of an operational structure in the relevant territory is not sufficient, but there must also be a causal link between the activity performed therein and the market of the territory. This has two implications: (1) the structure needs to have clients, that is a destination for its production, in that territory and not exclusively in other countries, and it is not sufficient simply to demonstrate that, for example, there is a production facility in the Channel Isles, but that the goods produced are sold to clients who live and operate there; (2) the suppliers are located in that territory, and as a result the raw material used by the production facility comes from that territory.

[23] BASILAVECCHIA M., *L'evoluzione della politica fiscale dell'Unione Europea*, Riv. Dir. Trib., 2009, 1, 362. An analysis of the case law relating to the topic of fiscal competition in light of the State aid regime may be found in AMATUCCI F., *Principi e nozioni di diritto tributario*, Turin, 1999, 65.

[24] PAGANUZZI M., *La CFC legislation*, in SACCHETTO C., *Principi di diritto tributario europeo e internazionale*, Turin, 2011, 354.

These limitations are particularly stringent and the tax administration has had to mitigate them, because otherwise the burden of proof would have been excessive (a sort of "*probatio diabolica*") and not compatible with EU law, in cases in which the CFC regime would be applicable also within the territory of the Union[25], in light of the principles of proportionality and reasonableness[26].

The second condition for the CFC regime to be set aside is that "*the shareholding must not have the effect of transferring the income to low-tax States or territories*". This wording is not particularly clear, even though it is often adopted in the field of income taxation: it must be demonstrated that the effective tax rate paid in the context of the entire group, relating to the income stemming from the low-tax territory, has not resulted in a lower rate of taxation than the rate that would have been applicable if the headquarters of the group had been exclusively in the Italian territory. This is also difficult to demonstrate, since it calls for the evidence that there has been no significant tax advantage[27].

4. From the control requirement to the relation requirement: the moving boundaries of the CFC regime

The scenario described above was the one existing until 2009: then Italy amended the regime, not only to pursue establishments located in black-listed countries, but also to verify the sources of income transferred to third countries, even though not black-listed.

This has resulted in the introduction in the Italian legal system of the concept of "passive income"[28], used to designate a source of income

[25] In the rare cases in which this was possible, until the 2009 reform.

[26] MONDINI A., *Contributo allo studio del principio di proporzionalità nel sistema dell'IVA europea*, Pisa, 2012, 65.

[27] On the point of the burden of proof and the necessary use of the advanced ruling procedure, see judgement of the Comm. Trib. Reg. Lazio, 09.09.2008, n. 333.

[28] HUFBAUER G. C. - ASSA A., *US taxation of foreign income*, Washington, 2007, 58 (in particular, footnote n. 10).

that does not have any necessary link to the territory of establishment, but is transferred to that territory for the sole purpose of avoiding domestic taxation on that specific income. If a patent is transferred to the Antilles, or if a shareholding or other asset is transferred to some other Caribbean country, these sources of income do not have any necessary connection with their territory of establishment, and the sole purpose of transferring them to that territory is to shield from Italian taxation, even in cases in which taxation in that country is not significantly lower than taxation in Italy.

As a result the Italian regime has moved from an anti-tax avoidance approach aiming only at the criterion of taxation in the country of the controlled company (the "jurisdiction approach") to a "transaction approach" or "shopping approach": the focus is no longer the tax rate but the source if income moved to the country of establishment of the controlled foreign company[29].

This elusive structure is mainly used in the case of investments in bonds, securities, shareholdings, credits or other assets characterised by a higher degree of portability than other assets and that can easily be located in the country offering tax advantages.

It is evident that these arrangements are not aimed at producing income in the country of establishment, but are only used to avoid domestic taxation. In fact, shareholdings located in third countries are often linked to companies that for tax purposes are operational and resident elsewhere.

Furthermore, the transfer or licensing of immaterial assets relating to industrial, literary or artistic property entail the same level of risk for tax authorities. Patents and trademarks, such as Gucci, Saint Laurent, Dior and so on, may be transferred to any company located in any part of the world where taxation is lower, with the effect of diverting to that company the royalties paid by any company in the world using the

---

[29] In general, see LANG M., *CFC legislation, Tax Treaties and EC Law*, The Hague, 2004, 81.

relevant trademark or patent[30].

It is clear that a productive rationale for the patent to be locate d in that particular country might be (and often actually is) totally lacking. The same may be be said with regard to copyrights or rights of artistic or musical properties, which are sources of passive income.

Another fundamental amendment made in the legislation is the application of the CFC also to income stemming from "*the performance of services towards entities which, directly or indirectly, either control the company or the non-resident entity, are controlled by the non resident company or entity or are controlled by the same company which controls the non resident company or entity, including financial services*".

The rationale for this measure is that infra-group services are those with the greatest potential for excessive outsourcing (for example, services such as management, advertising, loans, technical assistance, insurance and treasury operations).

A multinational group can transfer the company that provides these infra-group services to remote locations with favourable tax regimes: for example, call centers can be relocated to the Philippines. However, the company providing these services charges its infra-group clients substantial fees. It is therefore clear that outsourcing becomes the most efficient way to implement tax planning at the multinational level.

When these situations arise, the focus of national governments and the tax authorities is not on the tax system of the country where the controlled foreign company is located: rather, it is on the assets owned by the controlled company, that is to say the passive income, or on all possible sources of passive income, including services and capital assets[31].

---

[30] HARRIS P. - OLIVER D., *International Commercial Tax*, Cambridge, 2010, 205.

[31] INGRAO G., *D.l. Anticrisi e "stretta" sulla normativa CFC: contrasto agli abusi fiscali o miopia del legislatore*, Rass. trib., 2010, 87.

In these cases, even when the controlled company is not located in a black-listed country, a sort of "reverse" CFC regime should be applied: in other words, the regime should not be automatically implemented, but only if and to the extent that certain limits are exceeded[32].

The current limits apply to income of the foreign company stemming, for more than 50%, either from shareholdings or infra-group services, patent rights, royalties and so on. If more than 50% of the foreign company's income originates from these highly mobile assets, then the black-list regime is applicable.

In light of the specific conditions and the nature of the income covered by the transparency regime, the legislation lays down certain limits on the application of the above-mentioned exceptions.

In particular, if the 50% limitation is exceeded and the company is located in a country not on the black list, the regime is still applied, if the taxpayer is unable to establish the conditions for the above-mentioned exceptions.

It must also be demonstrated that the effective tax rate paid by the group is not lower than the tax rate that would have been paid if it had not resorted to the use of this structure. In other words, the fact of controlling a foreign company 50% of whose income originates from these three passive sources gives rise to suspicion.

This is based on the presumption that in the country of establishment the company performs an activity for the sole purpose of committing tax avoidance, without which the outsourcing would not be justified.

In conclusion, in order to set aside the CFC regime, it is not sufficient to demonstrate the first exception, but it must also be proven that tax avoidance is not the sole purpose of the structure of the company.

---

[32] See article 167.8-*bis* Income Tax Act n. 917/86.

5. Concluding remarks: Article 167 of the Income Tax Act after *Cadbury-Schweppes*

There is also another aspect that must be stressed: even if the controlled foreign company is set up in a country which is not black-listed by Italy, which ensures an effective exchange of information, and which does not have a significantly lower level of taxation than Italy, therefore in a country "above suspicion", the CFC regime might theoretically still be applied (if the passive income originating from that country are more than 50% of the overall income of the company). Also in this case the exception can be invoked (setting aside the CFC regime), but only by demonstrating that the structure that has been set up is not merely artificial and aimed solely at obtaining an undue tax advantage.

As a result, the evidence that must be produced is even more specific: it is not enough to demonstrate that an activity is actually carried on, and it is not enough to state that the foreign company is subject to a tax rate that is equivalent to the Italian tax rate: it must also be demonstrated that the structure in place is not a wholly artificial arrangement. The concept of "wholly artificial arrangement" comes directly from the judgment of the Court of Justice of the European Union C-196/04 (*Cadbury-Schweppes*)[33].

In *Cadbury-Schweppes* the Court was asked to ascertain whether "*in establishing and financing companies located in a different Member State for the sole purpose of benefiting from a more favourable tax system than the one in place in the United Kingdom,* [the company] *CS abused the fundamental freedoms granted by the EC Treaty*"[34].

In this case, a British company set up a controlled company in Ireland,

[33] FALSITTA G., *Spunti critici e ricostruttivi sull'errata commistione di simulazione ed elusione nell'onnivoro contenitore detto "abuso del diritto"*, Riv. Dir. Trib., 2010, II, 349; BEGHIN M., *La sentenza Cadbury-Schweppes e il "malleabile" principio della libertà di stabilimento*, Rass. trib., 2007, 983; CIPOLLINA S., *CFC legislation eabuso della libertà di stabilimento: il caso Cadbury-Schweppes*, Riv. Dir. Fin. Sc. Fin., 2007, II, 13.

[34] See par. 23 of the judgement.

where the level of taxation was lower than in the United Kingdom; on the grounds of the shareholding in this company, the British tax authorities applied the CFC regime. Subsequently, the British courts referred the matter to the CJEU posing the following question: Could the fact that a company chose to locate one of its subsidiaries in Ireland, where the level of taxation is lower than in the United Kingdom, be considered as an abuse of a fundamental Treaty freedom, and, in particular, of the freedom of establishment?

It is well known that the Court's answer was in the negative: it did not constitute an abuse, because there was no Treaty provision preventing a European entrepreneur from setting up a controlled company in (or even transferring its headquarters to) the most advantageous country. In other words, there is no Treaty provision limiting the freedom of establishment on the sole grounds that it is supposedly resorted to in order to seek a lower level of taxation.

The second question asked by the British court was as follows: if an entrepreneur exercised a freedom granted by the Treaty, is the specific anti-abuse regime, which puts in place some limitations, an illegitimate restriction on the same Treaty freedom?

In this instance, the answer was more complex: the CJEU had to verify which restrictions had been put in place and, above all, whether or not the taxpayer was granted the possibility of producing evidence to the contrary (in other words, to demonstrate the existence of other reasons for the outsourcing other than the tax advantage).

The result was that if the restriction is based on the setting-up of a purely artificial structure, then the CFC regime has to be considered to be in compliance with EU law. If on the other hand the restriction is applied automatically or based on different grounds, the domestic courts should verify on a case-by-case basis whether or not a Treaty freedom had been infringed.

This criterion is still paramount for all CFC regimes, such as the Italian one, which, on the one hand, are characterised by automatic application (even though not as strict as the one envisaged by the British regime examined by the CJEU in *Cadbury-Schweppes*) and, on the other hand, show intrinsic signs of weakness in relation to EU law[35].

It will be up to the tax authorities, then, and above all to the domestic courts, to render an EU-oriented interpretation of Article 167, which is also able to strike a reasonable balance between the rights of the State to raise taxes and the full implementation of the Treaty freedoms[36].

---

[35] BAGAROTTO E.M., *La compatibilità con l'ordinamento comunitario della disciplina in materia di controlled foreign companies alla luce delle modifiche apportate dal "decreto anti-crisi"*, Giust. Trib., 2010, 10.

[36] DI PIETRO A., *Per una costituzione fiscale europea*, Padua, 2008, 450.