

Pursuant to paragraph 2 of article 26 of the Convention between the Government of the French Republic and the Government of the Italian Republic for the avoidance of double taxation with respect to taxes on income and on capital and for the prevention of tax evasion and avoidance, signed on 5 October 1989, (the “Convention”), the competent authorities of the two Contracting States have concluded a mutual agreement regarding the provisions applicable to incomes referred to in paragraphs 1 and 4 of Article 15 of the Convention (“the Agreement”), following the measures taken in the context of the prevention of the spread of COVID-19.

In accordance with the mutual agreement procedure referred to in article 26 of the Convention providing that the competent authorities shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the application of the Convention;

Considering the recommendations and instructions of the French and Italian public authorities inviting individuals to stay at home in order to prevent the spread of COVID-19;

Considering that the COVID-19 is a one-off pandemic of an extraordinary nature, leading to the implementation of measures, themselves extraordinary, that are binding on individuals resident of a State who normally exercise an employment in the other State;

Recognising that, due to the governmental health regulations, most of these individuals will be unable or advised not to travel physically to the other State to exercise their employment, and may be instructed to exercise it from their State of residence on a full or part-time basis;

Further recalling that, for individuals resident of one or the other State meeting the requirements to benefit from the frontier worker regime referred to in paragraph 4 of Article 15 of the Convention, the obligation for the frontier workers to remain at home in application of the governmental measures taken to prevent the spread of COVID-19 does not contravene the condition of an everyday return to the State of residence in principle;

The competent authorities of France and Italy have reached an agreement on the following:

Exceptionally and provisionally, for the application of paragraphs 1 and 4 of Article 15, it is accepted that, due to the measures to prevent the spread of COVID-19, days worked in the State of residence at home on behalf of an employer located in the other Contracting State shall be deemed as days worked in the State in which the individual, in the absence of such measures, would have exercised its employment for which salaries, wages and other similar remuneration (“income”) are received.

The Agreement applies to individuals resident of a Contracting State who were, before the COVID-19 situation, habitually exercising their employment in the other State and who, since the entry into effect of the Agreement, continue to exercise it but from their State of residence, and derive income from this other state, whether it is on a full or part-time basis, and only if the other State effectively taxes the above-mentioned incomes.

The Agreement does not apply to income derived by individuals resident of a Contracting State in relation with days worked at home or in a third State that were already agreed with the employer before the implementation of the measures to prevent the spread of COVID-19.

The Agreement is intended to ease the situation of individuals resident of a Contracting state habitually working in the other so that should a taxpayer not want to benefit from it, he may notify the tax administration of its State of residence his situation and his intention to waive the application of this Agreement concerning the income earned from days worked at home.

In any case, the taxpayer must keep at the disposal of the administration a certificate from its employer indicating the number of days worked at home due to governmental health instructions for which he derived income.

This Agreement enters into force on the day following its signature by both competent authorities. Its provisions shall have effect as from 12 march 2020 and apply until 31 August 2020 inclusive. The competent authorities may jointly agree to prolong the application of such provisions due to the extension in one or both Contracting State of the measures to prevent the spread of COVID-19.

For the French competent authority

Paris, the 16th of July 2020

Gaël Perraud

For the Italian competent authority

Rome, the 23rd of July 2020

Fabrizia Lapecorella