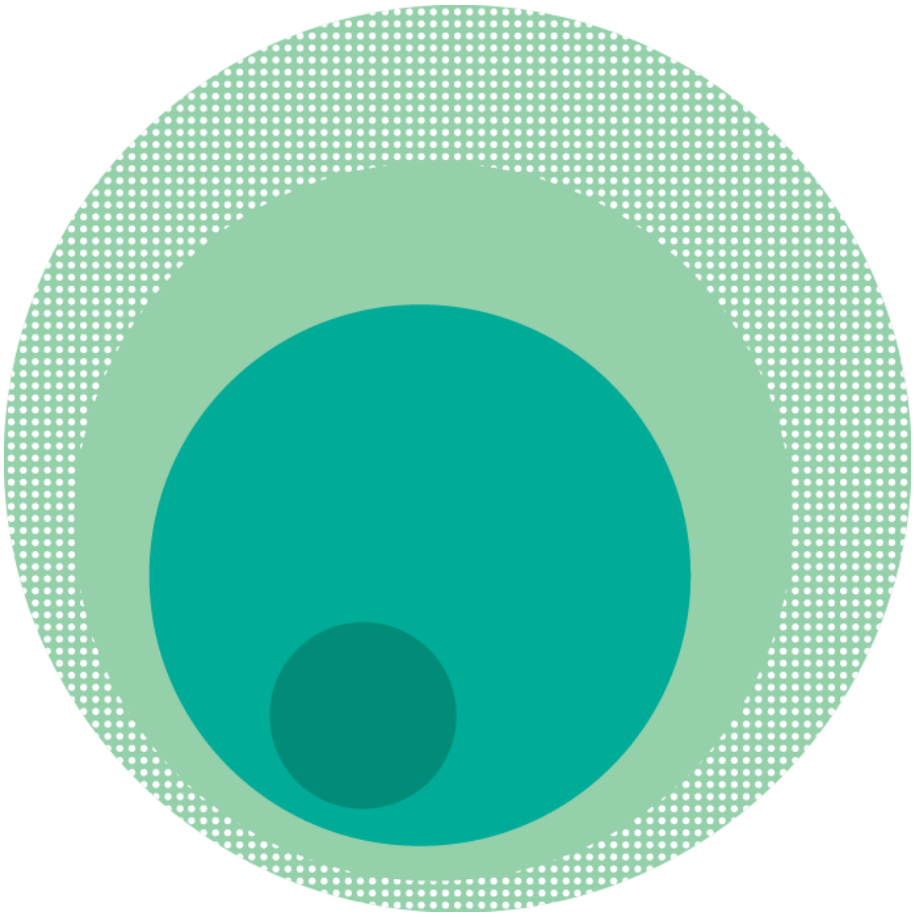
Permanent establishments of foreign companies: the financial statements must bear a certain date and be reported in the tax return

Starting from the tax period in progress at 31 December 2026, the financial statements (income statement and balance sheet) of Italian permanent establishments of foreign companies must bear a certain date, and their data must be reported in a specific schedule of the income tax return



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1. Introduction

Legislative Decree No. 148 of 7 August 2026 (the so-called "Omnibus" corrective decree, published in the Official Gazette of 11 August 2026 and in force since 12 August) provides, in **Article 19**, a new provision affecting **foreign companies and commercial entities operating in Italy through a permanent establishment** (the so-called "branch" or secondary office).

Specifically, following the amendments made to paragraph 1 of **Article 152 of the TUIR** (Italian Income Tax Code), starting from the tax period **in progress at 31 December 2026** the **financial statements (income statement and balance sheet)** of permanent establishments of foreign companies must bear a **certain date** by the deadline for filing the income tax return, and their data must be reported in a **specific schedule of the tax return**.

2. The financial statements of the permanent establishment: the starting framework

As is well known, a permanent establishment is not an autonomous legal entity, but a direct offshoot of the foreign company. However, for tax purposes, the permanent establishment is treated as a **separate and independent enterprise** from its head office and, therefore, its income must be determined (in a similar way to that of an Italian company) starting from **financial statements (income statement and balance sheet)** prepared in accordance with the **accounting standards** applicable to resident entities with similar characteristics (as a rule, OIC standards) and applying the ordinary tax adjustments.

From an accounting standpoint, **Article 14, paragraph 5, of Presidential Decree No. 600/73** requires non-resident entities operating in Italy through a permanent establishment to **record separately** in their accounts the transactions relating to it and to determine its result separately. The financial statements are therefore the document that "closes" these separate accounts, and also include the **endowment fund**

(i.e. the capital allocated to the permanent establishment) and the internal dealings with the head office.

Unlike the financial statements of an Italian company, the permanent establishment's financial statements **are neither approved by a shareholders' meeting nor filed with the Companies Register**: it is this lack of publicity that prompted the legislator to introduce the changes discussed here.

3. What's new

The new provision has introduced **two new and separate obligations**, both formal in nature but with significant implications in the event of a tax audit, namely:

1) **the obligation to give the financial statements a certain date** by the deadline for filing the income tax return for the same tax period (in particular, the financial statements must acquire a certain date "*by means of* ***validation with time-stamping*** *or other suitable tools pursuant to the provisions in force*");
2) **the obligation to fill in a specific schedule in the income tax return** (the data contained in the financial statements must therefore be reported in a **specific schedule** of the REDDITI SC return filed for the permanent establishment).

The **explanatory report** to the decree pointed out that: "*considering that the financial statements are not subject to publication, the measure stems from the need to give the document authenticity and greater certainty, also in terms of timing, and to ensure that the data contained therein are known to the Tax Administration*".

Please note that the provision **has not changed** the criteria for determining the income of the permanent establishment, nor does it concern permanent establishments **abroad** of Italian enterprises (and the related "branch exemption"); it applies only to permanent establishments **in Italy** of **non-resident** companies and commercial entities.

4. Effective date

The new rules apply starting from the tax period **in progress at 31 December 2026**. Therefore, for permanent establishments whose financial year coincides with the calendar year, the first financial statements concerned are those relating to **financial year 2026**, whose certain date must be acquired by the filing deadline of the **REDDITI SC 2027 return**, i.e. by **2 November 2027** (31 October 2027 falls on a Sunday and 1 November is a public holiday).

5. How to give the financial statements a certain date

The provision refers to **"validation with time-stamping"**, but leaves room for **other suitable tools** provided for by law. Pending any guidance from the Tax Administration, the following tools may essentially be used:

- **digital signature and time stamp**: the financial statements are saved in a non-editable format (e.g. PDF/A), digitally signed and bearing a **qualified time stamp**, which under Article 41 of EU Regulation 910/2014 (eIDAS) enjoys a presumption of accuracy of the date (this is the tool expressly referred to by the provision and the one we recommend);
- **certified e-mail (PEC):** sending the financial statements via PEC (for example, to the mailbox of the branch manager or of the advisor) makes the date of transmission enforceable against third parties (a simple solution, provided that the delivery receipt with the attachment is retained);
- **compliant digital preservation of the document** with a qualified preservation service provider, with a time stamp affixed to the archival package;
- **traditional tools** provided for by Article 2704 of the Italian Civil Code (notarial authentication, registration).

The provision does not specify who must sign. Pending specific clarifications, we believe that the obligation falls on the person signing the tax return, i.e. the **legal representative of the foreign company** or the **manager (preposto) of the permanent establishment**.

6. The schedule in the income tax return

The content of the new schedule will be defined by the **measure approving the REDDITI SC 2027 return form**, expected in the first months of 2027. Early commentators assume a schedule in **Section RS** containing summary balance sheet and income statement data of the permanent establishment; it is also reasonable to expect the disclosure of the **endowment fund** and of dealings with the head office.

In practice, this means that the data in the financial statements will have to be **consistent** with what is declared in the return: the profit shown in the financial statements, upward and downward adjustments and taxable income will have to "reconcile" with the document bearing a certain date. Any discrepancies will be immediately visible and may guide the selection of taxpayers for audit.

7. Penalties

The provision **does not provide for a specific penalty** for failure to give the financial statements a certain date, nor does it clarify the consequences in terms of tax assessment. Pending clarifications, the following can be observed:

- financial statements **without a certain date** remain a valid document for the purposes of determining income, but become weaker in the event of an audit (the Tax Administration could challenge their reliability or claim that they were prepared or amended after the tax return, with the risk of income being reconstructed on a different basis);
- **failure to fill in, or incorrect completion of, the schedule** makes the tax return incomplete and could lead to the penalty provided for formal and return-related violations under Legislative Decree No. 471/97;
- it is unclear whether a tax return filed **within 90 days** of the deadline (late return) will allow the certain date to be validly acquired within that longer term (the provision refers to the "deadline for filing the tax return", and the prudent reading, as of today, is to refer to the **ordinary deadline**).

8. Summary table

ISSUE	RULE	NOTES
Entities concerned	Non-resident companies and commercial entities with a permanent establishment in Italy	Foreign permanent establishments of Italian enterprises are excluded
Legal basis	Art. 152(1) TUIR; Art. 150(1) new Consolidated Code (Legislative Decree 117/2026)	Amendments made by Art. 19 of Legislative Decree 148/2026
Effective date	Tax period in progress at 31.12.2026 and following periods	Calendar financial year: 2026 financial statements
Certain date	By the deadline for filing the tax return	Calendar financial year 2026: by 2.11.2027
Tools	Time-stamping or other suitable tools	Digital signature and time stamp recommended
Tax return	Financial statements data in a specific schedule	Content to be defined in the REDDITI SC 2027 return form
Penalties	No specific penalty	Risk to the reliability of the financial statements in the event of an audit

9. Practical recommendations

For foreign companies operating in Italy through a permanent establishment, we suggest to:

- **map** the permanent establishments concerned and check the **length of their financial year**, in order to identify the first financial statements subject to the new rule and the related deadline;
- plan the **closing of the 2026 financial statements** sufficiently in advance of the tax return, coordinating with the head office for data on the endowment fund and internal dealings;
- provide the branch manager or the legal representative with a **digital signature** and a **time-stamping** service, or define the alternative procedure (PEC or compliant digital preservation);

- affix the certain date **before filing the tax return** and keep the signed and time-stamped file together with the receipts, so that it can be produced in the event of an audit;
- check the **consistency** between the financial statements, tax adjustments and the data in the new tax return schedule.

The Firm is at the Clients' disposal for any clarification and assistance.
Cristiano Fasanari
18 November 2026

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