CLIFFORD CHANCE

20 YEARS IN ITALY

Briefing note | May 2014

Tax rate on interest, dividends and capital gains increased to 26%

The Italian Government just issued a decree law containing a set of measures to relaunch the Italian economy. The Decree Law 66/2014 introduces significant changes to the tax regime of income from financial sources (such as interest, dividends and capital gains on shares and other securities).

The Decree Law 66/2014 must be converted by the Parliament into law, with possible amendments, within 60 days; if not converted, the decree would cease to produce any further effect.

The most significant tax measures can be summarized as follows.

26% rate on financial income

Save for certain exceptions, all withholding and substitute taxes on Italian income and gains derived from financial income, formerly set at 20% shall be set at 26%. The change will affect all financial income (known as "income from capital") and capital gains (known as "miscellaneous income"), such as interest, dividends, income and gains from the investment in Italian and EU qualifying collective investment undertakings, income and gains from the investment in life insurance policies, repos and securities lending.

The Decree Law 66/2014 allows to pay by 16 November 2014 a substitute tax of 20% on the unrealized capital gains accrued until 30 June 2014.

The most notable **exceptions** to the 26% rate are as follows.

- Income and gains from Italian **State bonds** ad comparable securities as well as income and gains from bonds issued by one of the States allowing an adequate exchange of information: continue to be subject to tax at **12.5%**.
- Income and gains from bonds issued for the **development of Southern Italy**: continue to be subject to tax at 5%. The reduced 5% does not apply to capital gains arising out of said bonds, which will subject to the new 26% rate.
- Income and gains included in the taxable appreciation of qualifying **pension funds**: continue to be subject to tax at **11%**.
- Income and gains of the portfolio of Italian social insurance funds accrued at the end of the tax period: continue to be subject to tax at **11%**.
- Interest on loans paid to **EU affiliates** and used by the same to fund the payment of interest on certain qualifying issuances of bonds, where the foreign affiliate/issuer cannot be regarded as the beneficial owner of the interest: continue to be subject to the 5% withholding tax.

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- Dividends paid to **qualifying companies resident of a EU or EEA member State** allowing an adequate exchange of information, and which are the beneficial owners of such dividends: continue to be subject to withholding tax at 1.375%.
- As to **repo transactions** on public bonds, both the interest on the underlying security and the repo spread will continue to be subject to tax at 12.5%.

Moreover, income and gains from securities issued by local public authorities of white list States, previously subject to the 20% rate, will be now subject to tax at 12,5%.

Effective date

The **effective date** of the new 26% rate will be as follows.

- As to **capital gains**, it will apply to those **realised** as from 1 July 2014.
- As to **dividends** and comparable income, it will apply to those **received** as from 1 July 2014.
- As to **interest** and other financial income, it will apply in principle to those **payable** as from 1 July 2014; however, as to **interest on bank accounts, bank deposits, bonds** ("obbligazioni") and **debentures similar to bonds** ("titoli similari alle obbligazioni"), including those subject to Decree 239 of 1 April 1996, the new 26% rate will apply to those **accrued** as from 1 July 2014.
- As to **life insurance policies** and **social insurance contracts** entered into until 30 June 2014, the new rate will apply only to income **accrued** as from 1 July 2014.
- As to **quotas of collective investment undertakings**, the new rate will apply only to income **accrued** and **realized** as from 1 July 2014.
- As to **repo transactions** entered into until 30 June 2014 and having a maturity not exceeding 12 months, the new rate, applicable to both the interest on the underlying security and the repo spread, will apply from the day subsequent to the expiring day of the relevant contract.

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