## Highlights

- Increase of taxation for Italian pension funds
- Tax step-up election for shares held by individuals
- Redesign of the "blacklists"
- San Marino now white-listed
- New rules applicable to liquidated companies
- Broadening of possibilities to cure past violations

*As of 2015 several tax law changes to Italian tax legislation have come into force pursuant to legislation adopted in late 2014 primarily by the 2015 Finance Bill. A summary of the most relevant provisions is reported below.*

### 1. Increase of taxation for Italian pension funds

As from 1 January 2015, the substitute tax applicable on the yearly net asset value (NAV) increase of Italian pension funds is 20% (previously 11.5%). Transitional measures are also provided for the calculation of the substitute tax for 2014. The taxable income is reduced, however, to the extent deriving from public bonds in order to ensure that the effective tax rate on such bonds remains equal to 12.5%.

By contrast, Italian pension funds will benefit from a tax credit equal to 9% of the yearly NAV increase subjected to substitute tax, provided that an amount corresponding to the NAV increase is invested in qualifying financial activities.

### 2. Tax step-up election for shares held by individuals

The 2015 Finance Bill has reintroduced the special voluntary step-up procedure under which Italian resident or non-resident individuals have the opportunity until 30 June 2015 to opt for a step-up in basis of shareholdings in unlisted companies up to the value on 1 January 2015, by paying a substitute tax on the full stepped-up value.

This is a renewal of rules that were already applicable in the past, but the substitute tax rate is now doubled. Namely, the applicable rate is 8% for shareholdings representing more than 20% of the voting rights or 25% of the capital and 4% for non-substantial shareholdings.

### 3. Redesign of the "blacklists"

Pursuant to the 2015 Finance Bill, the scope of application of “blacklist” regarding non-deduction of costs and CFC rules will have to be reshaped in order to exclude from their scope countries that ensure an adequate exchange of information or apply a minimum level of taxation. In particular:

– As regards the "blacklist" cost disallowance rule (which implies disallowance of expenses borne with "blacklist" counterparties), a Ministerial Decree shall be issued to limit disallowance to costs borne with entities resident in States that do not grant an adequate exchange of information with Italy. By virtue of such amendment it is expected that suppliers resident in, for example, United Arab Emirates, Ecuador, Philippines, Mauritius and Singapore will no longer be affected by such disallowance rule.

– For the purposes of the CFC rules for blacklisted jurisdictions (there is a separate set of CFC rules for non-blacklisted jurisdictions that realize passive income), the “blacklist” was drafted on the basis of the criteria of lack of exchange of information and a level of taxation significantly lower than the Italian one. Lacking a legislative definition of “significantly lower” level of taxation, the list was drafted by the Ministry of Finance to include foreign States or regimes providing for a level of taxation lower by at least 30% than the taxation level in Italy. The legislation has been changed to provide that the foreign level of taxation is to be regarded as significantly lower if lower by at least 50% than that in Italy. The CFC blacklist will therefore need to be amended by Ministerial Decree. It is expected that controlled foreign companies residing, for example, in Singapore, Philippines and Oman will no longer be caught by the above CFC rules (even if, in the case of passive income, they will continue to be subject to the non-blacklist CFC rules if the relevant conditions are met). Even if the rule is not explicit on this point, one may reasonably expect that such change is likely to also affect the tax treatment of dividends paid by companies resident in such States (which should become 95% excluded, instead of being fully taxed).

### 4. San Marino now white-listed

A Ministerial Decree published in the Official Gazette on 9 January 2015 included San Marino among white-listed jurisdictions due to the entry into force of a treaty granting an adequate exchange of information. As a consequence, investors located in San Marino may have access to the regime of exemption at source applicable to income derived from several types of financial investments in Italy.

### 5. New rules applicable to liquidated companies

Starting from 13 December 2014, it is provided that a liquidated company, even if cancelled and struck off the commercial register, will “survive” for the subsequent five years only for the purposes of receiving claims from the Tax Agency.

According to the view of the Tax Agency, this provision should also apply to entities extinguished before 2015. However, it seems that the first court judgments addressing the issue do not share this view of the retrospective application of the new provision.

### 6. Broadening of possibilities to cure past violations

In order to improve the relationship between tax authorities and taxpayers and increase tax compliance, the 2015 Finance Bill broadened the scope of the self-correction procedures available to taxpayers.

Even if a violation has already been identified by the tax authorities (e.g. upon audit), taxpayers may self-correct within the expiry of the statute of limitations period with payment of reduced penalties. In such cases, the amount of the reduced penalty varies depending on when the violation is self-corrected by the taxpayer.

In case of self-correction, a new statute of limitations lapses at the time of filing the new tax return for only the specific items that have been amended.

Taxpayers may not activate such procedure in cases where the violation has already been assessed through formal service of a deed of assessment, a deed of payment or a notice of irregularity.



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