Italy

Tax-exempted income from capital and capital gains arising from Individual Savings Plans

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The 2017 Stability Law - turned into Law No. 232 of 11 December 2016, as published in the Official Gazette No. 297, Ordinary Supplement No. 57 on 21 December 2016 - introduced an innovative tax-exempt regime for resident individuals entering into investment plans which adhere to the special provisions for "Individual Savings Plans" (Piani Individuali di Risparmio).

With effect from 1 January 2017, investments income (e.g. not included in the taxable base for individual income tax purposes) earned by retail investors in Individual Savings Plans - in the form of (i) income from capital not referred to qualifying interests which attributes to the holder a percentage of voting rights higher than 20% or a percentage of share capital exceeding 25%, also taking into account shares or rights held by relatives and through controlled entities (respectively, 2% and 5% in case of listed companies), and (ii) capital gains deriving from the disposal of assets non-pertaining to the business - are tax-exempted provided that a number of conditions are met.

Qualifying investments for Individual Savings Plans (held for more than 5 years) are represented by contributions not exceeding Euro 30.000 per year (and Euro 150.000 in the aggregate period) to asset management mandates entered into with a professional financial intermediary resident in Italy (or non-residents carrying out asset management services in Italy through a permanent establishment or an Italian tax representative) or a life insurance corporation.

Contributions to Individual Savings Plans, for a minimum holding period of 2/3 of each relevant year (e.g. 8 months per year), must be represented for at least 70% of the total portfolio by investments in financial instruments issued, in the form of equity or securities, by resident entities or Italian permanent establishments of entities resident in an EU Member State or EEA Country with which Italy has signed an exchange of information agreement. In addition, at least 30% of the above 70% (resulting in a total 21% of portfolio) must be invested in financial instruments issued by entities not listed and traded in the FTSE MIB Index (the primary benchmark Index for the Italian equity markets) of the Italian Stock Exchange (Borsa Italiana) and/or in other equivalent Index. Qualifying investments are also considered units and shares held in UCITS (OICR - Organismi di Investimento Collettivo di Risparmio) resident in Italy or in an EU Member State or EEA country with which Italy has signed an exchange of information agreement, and which invests compliantly to the terms of this provision.

Further, to limit the size of investments and risk concentration of investments portfolio, contributions to Individual Savings Plans cannot be allocate for more than 10% within a single asset class or assets of a single issuer, taking also into consideration financial instruments issued by related entities of the principal issuer to the Investor.

Given that the minimum holding period of such Individual Saving Plans is 5 years, an early portfolio termination would qualify for the loss of tax-benefits resulting, thereof, in a retroactive 26% withholding tax (plus interest but without penalties), to be paid by the 16th day of the second month after the disinvestment took place. The termination would be effective from the date the Investor entered into the Individual Savings Plan.

Furthermore, the following situations would also qualify for a loss of tax-benefits: assets reduction deriving from the disposal of financial instruments or reimbursement of financial assets, where the sums cashed are not invested in qualifying products under the terms of this regime, and in case one (or more) of the conditions required by the regime are not anymore fulfilled.

Also, specific rules are applied for compensation of capital losses and capital gains realized during the holding period, and for capital losses deriving from early portfolio termination and capital gains realized under new Individual Savings Plans entered into by the Investor.