

Tax Pills

Taxation of profits from foreign investee companies and capital gains

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The newly approved 2023 Budget Law makes available the possibility to exclude from taxation, for the participant resident or just located in Italy, the profits and corporate earnings reserves resulting from the financial statements of foreign investee companies closed in 2021 and not yet distributed at the date of entry into force of the new rule.

For franking the profits, whose option may be exercised only if the participations are held as part of the business activity, a substitute tax of 9% for companies or 30% for individual taxpayers, reduced by three percentage points for profits received by the deadline for the 2023 tax settlement, must be paid before the closing-time of the balance of income taxes due for 2022. A further condition requires that the profits, to benefit from the lighter taxation, must be set aside for at least two financial years in a specific equity reserve. For the implementing provisions of the discipline, a Mef decree is expected within 90 days of the Budget Law coming into force.

Capital gains realised by foreign entities - Are also attracted to taxation in Italy, as other income of a financial nature, the capital gains realised by non-resident taxpayers and deriving from the sale for consideration of participations in companies and entities located abroad, whose value derives, for more than half, directly or indirectly, from real estate placed in Italy. The calculation does not include “real estate goods” to the production or exchange of which the business activity is directed and “instrumental buildings” openly used in the exercise of the enterprise. The novelty does not apply to capital gains realised by foreign-law OICRs, or CIUs in english, established in EU Member States and in those countries adhering to the European Economic Area that allow an adequate exchange of information. Therefore, the 2021 Italian Budget Law provision for the equal tax treatment of dividends and capital gains earned by Collective Investment Undertakings (CIUs) under foreign law, established in the EU and in EEA States, which allow an adequate exchange of

information, to that of the dividends and capital gains realised by CIUs established in Italy, remains valid.

Nevertheless, what are OICRs, or the so-called CIUs in english? In technical and financial terms, the Italian acronym stands for undertakings for collective investment in transferable securities or, put simply, collective investment instruments.

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