Italy acts to facilitate EU medium and long-term financing for Italian enterprises

On 25 June 2014, Italian Law Decree no. 91/2014 (the Decree) entered into force. The Decree is intended to facilitate European Union (EU) medium and long-term financing for Italian enterprises.

The Parliament has 60 days from the entry into force to confirm and convert the Decree into law (possibly with amendments) or to repeal it.

The main measures set forth by Decree include:

- Interest on loans paid by Italian borrowers to certain foreign lenders are no longer subject to withholding tax
- Extension of the scope of the substitute tax on medium and long term loans

Withholding tax exemption on interest

The Decree provides for an exemption from the 26% withholding tax imposed by Italian tax law on interest on medium and long term loans (i.e., with a maturity longer that 18 months) paid by an Italian borrower to the following lenders:

- Banks established in the EU Member States
- Insurance companies incorporated and authorized under the law of the EU Member States
- Investment collective schemes not using financial leverage, incorporated in EU and EEA White Listed countries, even though investors are not liable to tax in their country of establishment

Extension of the scope of the substitute tax on medium and long term loans

Before the Decree, the substitute tax of .25% applied, in lieu of the ordinary registration taxes, to all acts, agreements and formalities related to medium and long term financings performed by banks (article 15 of Pres Decree 601/73).
The Decree explicitly includes the transfer of the credit deriving from the loan facilities, the subsequent assignment of the loan agreements and the transfer of the related guarantees in the number of the operations that can be subject to the substitute tax, thus clarifying the uncertainties regarding the possibility to include such events in the scope of the tax.

Moreover the Decree also extends the possibility to opt for the application of the substitute tax on medium and long term loans to the following subjects:

- Securitization vehicles regulated by the Italian securitization law (Law 130/1999)
- Insurance companies incorporated and authorized under the law of the EU Member States
- Investment collective schemes not using financial leverage, incorporated in EU and EEA White Listed countries, even if they are not liable to tax

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