

# *European Tax Newsalert*

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## *Deadline to receive tax basis step-ups for past transactions is approaching*

Law Decree n. 98/2011 (the "Decree"), enacted on July 17, 2011 by the Italian parliament introduced the ability to step-up the tax cost basis of intangibles implicitly embedded in the value of qualifying share-holdings by paying a 16% substitutive tax.

While the tax basis step-up details are currently unknown, the 16% substitutive tax payment for transactions that occurred before or during fiscal year 2010 (or better, in the fiscal year in progress as of December 31st, 2010) is due by November 30, 2011.

Multinational corporations ("MNCs") that own Italian companies and are eligible to apply the new measure should consider this opportunity soon since the substantive tax payment due date is approaching.

### *Tax cost basis step-up and substitutive tax*

The Decree extended the tax step-up at the 16% substitutive tax rate to goodwill, trademarks, and other intangibles that are:

- implicitly embedded in the higher value of qualifying shareholdings (qualifying shareholdings are those that satisfy the conditions for inclusion in the consolidated statutory financial statements); and



- reported in an entity's consolidated financial statements.

To qualify for the tax basis step-up, the shareholdings must be acquired through a tax neutral transaction (such as a merger, de-merger or contribution of a "going concern") the purchase of a "going concern" or the acquisition of an equity interest.

Notwithstanding that the 16% substitutive tax must be paid by November 30, 2011 for transactions completed prior to the 2011 fiscal year, the effect of the tax basis step-up will be deferred until the tax year commencing on or after January 1, 2013.

When evaluating the tax basis step-up opportunity, companies should consider both the up-front 16% substitutive tax payment and the tax amortization deductions on the higher value attributed to goodwill, trademarks and other intangibles over the relevant amortization periods (i.e., ten years for goodwill and trademarks and the accounting amortization period for the other intangibles).

The Italian tax authorities should issue details on this new measure in the near future. We will report on related developments in a future Newsalert.

*For more information, please do not hesitate to contact:*

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