European Tax Newsalert

A Washington National Tax Services (WNTS) Publication

ITALY

September 1, 2011

Italy issues new urgent measures for financial stabilization and development

The Italian Government issued Law Decree N 138 on August 13, 2011 concerning new urgent measures for the financial stabilization and development of Italy.

Law Decree N 138 is effective from the date of publication in the Official Gazette, August 13, 2011. The Italian Government will then have 60 days to pass any amendments and convert the Decree into law.

Amongst other tax measures announced, the following measures (if enacted without any amendments) may significantly impact investment into Italy:

- An increase in the Robin Tax; and
- A new withholding tax of 20% on financial income.

Robin Tax - applicable for companies operating in the gas and energy sector

Under the current Italian tax law, an additional tax (commonly known as the "Robin tax") is levied on companies that:

- generated a turnover in excess of €25 million in the previous tax period;
- carry on one of the following activities:
  – liquid and gas hydrocarbon research and production;
  – gas, petrol and oil refining, production and trade; and
  – electrical energy production and trade.

The Robin Tax is currently 6.5%. Accordingly, the total corporate income tax ("CIT") levied on these companies is fixed at 34% (ie., standard CIT rate of 27.5% plus Robin Tax of 6.5%)

The Robin tax is not applicable to producers of renewable energy such as biomass, photovoltaic and wind energy.

The recent Law Decree 138/2011 has introduced the following amendments to the Robin Tax:

1. The Robin tax will now apply to companies whose turnover exceeded € 10 million and whose taxable income exceeded € 1 million in the previous tax period;
2. The tax will now apply to companies that produce and sell renewable energies and that transport and distribute natural gas; and
3. The rate will increase from 6.5% to 10.5% for the fiscal years ended December 31, 2011, 2012 and 2013. Accordingly, the CIT rate for the relevant companies will increase to 38% (ie., standard CIT rate of 27.5% and Robin Tax of 10.5%).

New 20% withholding tax on financial income

Law Decree 138/2011 amended the domestic withholding tax regime applicable to the financial income realized by Italian resident individuals and by non-resident investors (generally foreign individuals, partnerships and corporations with no permanent establishment in Italy).

Under the new regime, a flat 20% domestic withholding tax applies on financial income such as:

- interest on corporate bonds;
- interest on loans;
- dividends;
- capital gains on non-qualified shareholdings.

Dividend distributions to European Union ("EU") companies will continue to be subject to the current 1.375/1.65% domestic withholding tax if the related conditions are met. Interest on Treasury bonds and on other qualified securities will continue to be subject to a 12.5% domestic withholding tax.

The new withholding tax regime will likely be effective beginning on January 1, 2012. Exemptions and exceptions under domestic or treaty provisions will continue to apply.

Next Steps

Since the Italian Parliament has 60 days to pass any amendments to Law Decree 138/2011 before it is converted into law, changes to the proposed measures are still possible.

We will continue to monitor the status of Law Decree 138/2011 and notify you of any future developments.

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