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Operational Tax News

Italy Update



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Introduction of a Financial Transaction Tax in Italy as from 2013

Further to the completion of the relevant approval procedure and the Government amendments, the new Italian Financial Transaction Tax ("FTT") is now a reality. The new tax has been significantly amended compared to the original draft law and will be levied as from 1 March 2013 on shares and other participating instruments and as from 1 July 2013 on derivatives and high frequency trading.

Shares and other participating instruments

Transactions on shares and other participating instruments issued by Italian resident companies will be taxed at a rate of 0.2% levied on the transaction value. The tax rate is halved (i.e. equal to 0.1%) if the transfer is executed on regulated financial markets or through multilateral negotiation systems. Temporarily, for the fiscal year 2013, the tax rate is increased by 0.02% (i.e. 0.22%, respectively, 0.12%).

For FTT purposes, the transaction value is:

- the net value realised in the same working day by a single operator on the same financial instrument, or
- the price paid.

The tax is due by the person acquiring the ownership of the shares or of the participating instrument.

The following transactions are outside the scope of the FTT:

- primary market issuance of shares and cancellation of shares;
- conversion of bonds into newly issued shares (conversion into existing shares should be in the scope of FTT);
- shares transfers upon death or through a gift deed;
- transactions executed on financial markets or in multilateral negotiation systems of financial instruments within the scope when these companies have an average market capitalisation under EUR 500m;

- transfer of instruments in the framework of “securities financing transactions” according to article 2 point 10 of EC regulation n. 1287/2006 (stock lending, repo,...).

Derivatives and high frequency trading

Derivative transactions whose underlying asset is a financial instrument within the scope of the FTT are subject to the application of the new FTT regardless of the place where the relevant agreements are executed and the residence of the parties involved.

Transactions on these financial instruments are subject to a fixed charge that could range between a few cents and EUR 200 depending on the type, value and place of execution of the derivative.

For derivatives executed on regulated financial markets or on multilateral negotiation systems, the applicable rate is reduced to 1/5.

Please find here after the table summarising the applicable tax for derivatives:

Financial instrument	Notional value of the derivative contract (figures in EUR 000)							
	0-2.5	2.5-5	5-10	10-50	50-100	100-500	500-1000	>1000
Futures, certificates, covered warrants and options on share-related yields and indexes	0.01875	0.0375	0.075	0.375	0.75	3.75	7.5	15
Futures, warrants, certificates, covered warrants, options on shares	0.125	0.25	0.5	2.5	5	25	50	100
Swaps on shares related yields and indexes, forward contracts on shares and related yields and indexes, any other instrument with a cash settlement defined with reference to shares and related yields and indexes, a combination of contracts or instruments mentioned here above	0.25	0.5	1	5	10	50	100	200

Where the settlement of derivatives involves the transfer of the underlying assets, such transfer will be subject to FTT according to the rules applicable to the transactions on shares and other participating instruments as described in the previous section.

High frequency trading of instruments falling within the scope of FTT will be subject to the tax at a rate of 0.02%.

The tax is due from each of the contracting parties but does not apply to those parties that are merely interposed.

Exemptions

The following transactions are outside the scope of the FTT with respect to both shares/participating interests and derivatives:

- transactions referring to products and services qualified as “ethical or socially responsible”;
- transactions executed by market makers, pension funds and similar entities and financial intermediaries operating on behalf of security issuers in order to support liquidity;
- transactions performed between companies of the same group;
- transactions where the European Union, the European Central Bank, Central Banks of EU Member States and international bodies are a party.

Payment of FTT

The new FTT is paid over on the sixteenth day of the month following the transfer as executed by banks, trust companies, investing companies and other entities intervening in the transaction and it is levied by financial intermediaries.

The new FTT is not deductible from income taxes and does not increase the value recognised for tax purposes of the relevant financial instrument.

Impacts for Luxembourg investment funds

Luxembourg investment funds will be impacted by the introduction of the FTT in Italy both on the acquisition of Italian shares and also when dealing in derivatives on Italian shares.

As the tax is applicable as from March 2013 for shares and as from July 2013 for derivatives, investment funds should check that the tax is properly charged for all taxable transactions performed as from those dates. The tax due should otherwise be provided for.

If you have any queries regarding the above, please do not hesitate to contact us.

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