



Draft Italian Budget 2023

December 1, 2022

Top 10 Tax News

- 1. Favourable tax settlement procedures.** Various procedures for the settlement of past tax claims and debts are introduced, including pending tax litigations, which may be settled by only paying the taxes charged (in certain cases only part of the taxes charged), without interest and penalties.
- 2. Capital gains on foreign entities deriving their value principally from Italian immovable property.** Capital gains derived by non-Italian residents from the alienation of participations in non-Italian companies and entities, are taxable in Italy if, at any time during the 365 days preceding the alienation, these participation derived more than 50 per cent of their value directly or indirectly from immovable property situated in Italy.
- 3. Investment management exemption.** An Italian or foreign asset/investment manager operating in Italy, which habitually concludes contracts in the name and/or on behalf of a foreign investment vehicle (or its controlled entities), does not constitute a permanent establishment (“PE”) of the latter to the extent that:
 - the foreign investment vehicle and its controlled entities are resident in white-listed jurisdictions;
 - the foreign investment vehicle satisfies the independence requirements indicated in a Decree to be issued by the Ministry of Finance;
 - the Italian or foreign asset/investment manager operating in Italy (i) are not member of the foreign investment vehicle’s (and its controlled entities’) administration and control bodies; and (ii) are not entitled to more than 25 per cent of the foreign investment vehicle’s economic results;
 - the Italian asset/investment manager or the Italian PE of the foreign asset/investment manager receive an arm’s length remuneration supported by appropriate transfer pricing documentation.
- 4. Taxation of crypto assets.** A comprehensive set of rules concerning the taxation of crypto assets is introduced, along with the possibility to regularize tax obligations related to crypto assets held within December 31, 2021.

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5. **Low tax jurisdiction companies' profits and profit reserves.** Profits and profit reserves resulting from the 2021 financial statements of direct or indirect subsidiaries located in low tax jurisdictions, which have not been distributed as of January 1st, 2023, are not taxed in the hands of the Italian parent company upon distribution (generally 24 per cent CIT), to the extent a 9 per cent (or 6 per cent, under certain conditions) substitute tax is paid.
6. **Black-list costs.** Costs deriving from transactions effectively carried out with enterprises or professionals located in non-cooperative jurisdictions are deductible for CIT purposes up to their normal value. Reference to the EU list of non-cooperative jurisdictions for tax purposes is made.
7. **Tax step-up of participations and lands.** Individuals, non-commercial entities and foreign entities may opt for the tax step-up of participations in unlisted Italian companies and plots of land held as of January 1st, 2023, by paying a 14 per cent substitute tax within June 30, 2023.
8. **Temporary solidarity contribution for 2023.** In line with EU Regulation 2022/1854, surplus profits generated by entities operating in Italy in the production, importation or distribution of gas, electricity and petroleum products are subject to a 50 per cent temporary solidarity contribution for 2023.
9. **Energy tax credit.** Qualifying enterprises may benefit from a tax credit up to 45 per cent of the expenses incurred for electricity and natural gas consumed in the first quarter of 2023, subject to certain conditions.
10. **Plastic tax and Sugar tax postponed to 2024.** The entry into effect of the tax on the consumption of single-use plastic products (Plastic tax) and the tax on sugar-sweetened beverages (Sugar tax) is postponed to January 1st, 2024.

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