

PwC News Update

FS TAX/Asset Management

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Italy issued final regulations concerning Italian new tax reporting regime for Funds and SICAVs investing in eligible bonds (Decree 13 December 2011 – ref. n. 11A16232).

Commencing 1 January 2012, profits deriving from Funds and SICAVs will generally be subject to 20% taxation (in lieu of the current 12.5% tax rate).

Profits deriving from direct investment in eligible bonds (i.e., Italian government bonds and other eligible securities, including government bonds issued by qualified foreign Countries – i.e., Countries which have agreed to co-operate with the Italian Tax Authorities in international tax matters through exchange of information) will generally continue to be subject to the current lower 12.5% tax rate.

In order to prevent that "indirect" (i.e., through Funds and SICAVs) investments in eligible bonds be subject to the higher 20% tax rate, and therefore penalised vis-a-vis direct investments, Decree 13 December 2011 – ref. 11A16232 has set forth a methodology to determine the portion of profits deriving from Funds and SICAVs (investing directly and/or indirectly in eligible bonds) that will be exempt from the new 20% tax rate.

Applicable methodology

To identify the portion of profits/losses associated with "indirect" investment in eligible bonds, it will be necessary to determine an average % on the basis of the ratio between the value of the eligible bonds and the total asset value (net of any "tax asset") as per the two last available financial statements of the Fund/SICAV (semi-annual or annual).

For the period commencing 1 January 2012, the % should be based on the financial statements as of 30 June 2011 and 31 December 2010 (for Funds and SICAVs with calendar year end preparing a semi-annual financial statements). For example, please consider the following situation for Fund X investing in eligible bonds.

	31 Dec 2010		30 June 2011	
Gov. Bonds	250	25%	400	33%
Other Assets	750	75%	800	67%
Total Assets	1000		1200	

Given the aforementioned, a % equal to **29%** $[(25\% + 33\%) / 2]$ should be used to identify the profits associated to "indirect" investment in eligible bonds.

Taxation of the profits in the hands of the investors

Only 62.5% of profits associated to “indirect” investment in eligible bonds will be subject to the new 20% tax rate. Thus, 37.5% of these profits will be tax exempt.

Per the above example, assuming Fund X distributes profits for 100, we should have the following situation:

- 29 should be considered associated to eligible bonds.
- 71 should be considered associated to other investments.

The new 20% tax rate should apply on a total tax base equal to **89** [71 + (29*62.5%)].

This would be equal to a situation where 29 is taxed at the lower 12.5% tax rate and the remaining 71 is taxed at the new 20% tax rate.

Treatment of capital losses

Only 62.5% of capital losses associated to “indirect” investment in eligible bonds can be carried forward to offset future capital gains.

New Funds and SICAVs

For new Funds and SICAVs with only one available financial statement, the % will be computed on this single report.

Should no financial statements be available, then the new 20% tax rate will apply until the next six-month period following the publication of the first financial statement.

Effectiveness of the new rules

New rules on tax reporting will apply commencing on 1 January 2012. Thus, in order to immediately apply them, the Italian tax paying agent should receive the % applicable as soon as possible (by the end of 2011 at the very latest).

Contacts:

Fabrizio Acerbis	PwC Italia	+39 02 91605001	fabrizio.acerbis@it.pwc.com
Alessandro Caridi	PwC Italia	+39 02 91605003	alessandro.caridi@it.pwc.com
Marco Vozzi	PwC Italia	+39 02 91605011	marco.vozzi@it.pwc.com
Oliver Weber	PwC Luxembourg	+352 49 49 48 5811	oliver.weber@lu.pwc.com

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