



# Italy: proposed introduction of an Investment Manager Exemption

**Tax & Legal Alert**  
6 December 2022

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The 2023 Budget Bill, currently going through parliament, introduces an Investment Manager Exemption for non-resident investment vehicles.

Under this exemption no agency permanent establishment ('PE') of a foreign investment vehicle will be deemed to exist in Italy, provided certain conditions are met in connection with the activities of an investment manager (the 'Conditions').

An investment manager is a party that, in the name and/or on the behalf of a non-resident investment vehicle or its directly or indirectly controlled companies, also by exercising discretionary powers: i) enters into contracts for purchasing, selling or negotiating financial instruments, including equity interests, derivatives and receivables, or ii) actively contributes, also through preliminary and ancillary/preparatory activities, to the execution of these transactions.

The Conditions are as follows:

- The non-resident investment vehicle and its controlled companies must be resident or established in cooperative jurisdictions.
- The non-resident investment vehicle must meet the independence requirements to be identified by a future ministerial decree.
- The investment manager, operating in Italy, must not:
  - hold any position in any management or oversight body of the non-resident investment vehicle and its directly or indirectly controlled companies;
  - be beneficially entitled to more than 25% of the profits of the investment vehicle (a ministerial decree will detail the criteria to compute this 25% rule).
- The resident investment manager must be remunerated at arm's length for services provided to other entities of the group (proper transfer pricing documentation to be prepared and kept on file). The Italian tax administration will issue guidance on how to determine the arm's length remuneration.

Moreover, if these Conditions are met, a non-resident investment vehicle will not be deemed, merely because it benefits from the activity conducted by the Italian investment manager at premises in Italy, to have a fixed place of business PE.

This measure, which partly resembles the UK's Investment Manager Exemption, will be introduced to reduce country-specific PE risks for international investors in Italy, by identifying a safe harbor where a PE is not deemed to exist. In all other cases the PE test should be based on the specific facts and circumstances.

The proposed wording, however, appears fraught with ambiguity and sets out conditions that it might be difficult to meet in practice. Additionally, the final implementation of the rule relies on future regulations to be issued by the tax administration, for which no deadline has been set.

We will continue to monitor the parliamentary debate and will apprise you of the final wording once the 2023 Budget Bill is passed.

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Tax & Legal Alert / KPMG in Italy / 6 December 2022

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