



Italy: dividend withholding tax refunds - welcome developments for non-resident investment funds

Tax & Legal Alert
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Recent developments in Italian tax litigation are increasingly encouraging for non-resident investment funds seeking refunds of withholding tax (WHT) on dividends distributed by Italian companies.

Key highlights

- **Favourable court decisions:** Italian judges have consistently ruled in favour of non-resident funds, recognising their right to refunds of unduly paid WHT. According to the reasoning set out in the judgments, the Italian legislation in force until 2020 was discriminatory with respect to the principle of free movement of capital enshrined in article 63 of the Treaty on the Functioning of the European Union.
- **Reimbursement of legal costs:** a significant development is that the Italian Revenue Agency (*Agenzia delle Entrate*) is now being ordered not only to refund taxes but **also** to reimburse legal costs, which, depending on the value of the litigation, have ranged from EUR15,000 to EUR20,000.
- **Faster litigation:** the Italian Revenue Agency has recently tended not to appeal to the Supreme Court (*Corte di Cassazione*) after losing in the lower court. This speeds up litigation, allowing claimants to obtain a final ruling in approximately 36-40 months.
- **Retroactive claims:** claimants have also won cases for dividend payments dating back as far as 2006. Accrued interest - calculated at 2 percent p.a. from the date of the withholding - can be obtained in addition to the refund.
- **High success rate:** KPMG in Italy is currently managing numerous claims on behalf of both EU and non-EU funds. So far, we have won every single case.

Next steps

Given this settled case law, we strongly recommend initiating refund claims before the Italian tax courts as soon as possible. The chances of success are currently very high.

We can provide full legal assistance to all entities interested in claiming refunds of WHT in Italy.

For any further information, you can contact [Antonello Cozza and Alberto Renda, KPMG Pescara](#)

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