Italy: Italian dividend withholding tax - full refund confirmed also for pre-July 2011 periods

Tax & Legal Alert
18 November 2026

Office

Milan
Via G.B. Pirelli, 38 20124
T: +39 02 676441

Ancona
Via Sandro Totti, 11, 60131
T: +39 071 2916378

Bologna
Via Innocenzo Malvasia 6, 40131
T: +39 051 4392711

Florence
Viale Niccolò Machiavelli 29, 50125
T: +39 055 261961

Genoa
P.zza de Ferrari 4/1 16121
T: +39 010 5702225

Naples
Via F. Caracciolo 17, 80122
T: +39 081 662617

Padua
Piazza Salvemini 2, 35131
T: +39 049 8239611

Perugia
Via Campo di Marte 19, 06124
T: +39 075 5734518

Pescara
P.zza Duca D'Aosta 31, 65121
T: +39 085 4210479

Rome
Via Curtatone 3, 00185
T: +39 06 809631

Turin
C.so Vittorio Emanuele II 48, 10123
T: +39 011 883166

Verona
Via Leone Pancaldo 68, 37138
T: +39 045 8114111

The **Pescara Tax Court of First Instance**, in a recent decision concerning a German investment fund **assisted by KPMG in Italy**, has upheld its claim for a **full refund of Italian withholding tax** (WHT) levied on dividends received from Italian companies between **2009 and 2012**.

The decision is particularly significant as it supports the position that eligible foreign investment funds may obtain a **full refund of WHT**, and not just a refund of the difference between that WHT and the 12.5% substitute tax formerly applied to Italian investment funds.

A full refund rather than the difference

Under the regime applicable before 1 July 2011, Italian investment funds were generally subject to a **12.5% substitute tax on their management results**. Some previous Italian tax court decisions therefore concluded that foreign investment funds could only recover the difference between the WHT and the 12.5% substitute tax.

The Pescara Tax Court has now taken a fresh approach. It has focused on **article 9(4) of Legislative Decree no. 461/1997**, under which Italian investment funds whose units were held exclusively by qualifying non-resident investors could benefit from a **substitute tax exemption**, provided that the investors were resident in jurisdictions allowing an adequate exchange of information.

In the case at hand, the German fund was fully held by an investor resident in Germany, which qualified as such a jurisdiction. The court therefore treated the German fund as equivalent to an **Italian investment fund held by qualifying non-resident investors**, which could have benefited from the exemption.

Subjecting the German fund to Italian WHT resulted in discriminatory treatment, contrary to the principle of **free movement of capital, enshrined in article 63 TFEU**. The court therefore upheld the fund's refund claim, covering WHT levied from 2009 to 2012.

© 2026 Studio Associato - Consulenza legale e tributaria, an Italian professional partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

Why this decision matters

The decision strongly supports the position that eligible foreign investment funds may **also claim a 100 percent refund of WHT on Italian dividends for periods before 1 July 2011**, rather than claiming only the difference between the 12.5 percent substitute tax and the WHT.

This could have a material impact on long-standing refund claims relating to dividends received before 1 July 2011, provided that the substantive and procedural requirements are met.

Recommended action

Foreign investment funds and asset managers with outstanding Italian WHT refund claims should **immediately review those relating to pre-July 2011 dividends**, to ascertain (i) whether they can use the article 9(4) exemption as the appropriate domestic benchmark, and (ii) the status of the limitation period.

Funds should consider **challenging, without further delay**, **the Italian Revenue Agency's 'silent' refusal of claims before the competent Italian tax court**.

KPMG's Tax Controversy team is available to review pending refund claims, assess their limitation status and assist foreign investment funds and asset managers in challenging 'silent' refusals and pursuing the recovery of Italian dividend WHT.

Document prepared by Antonello Cozza e Alberto Renda

Contacts

KPMG in Italy, Tax & Legal

Tax & Legal Professional Practice Team
E: it-fm-tpp@kpmg.it

kpmg.com/it

kpmg.com/it/socialmedia



© 2026 Studio Associato - Consulenza legale e tributaria, an Italian professional partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

Studio Associato - Consulenza legale e tributaria is a leading Italian law firm and a member firm of KPMG International for tax and legal services.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.