

## Italy: Withholding tax exemption on interest paid by SIIQs

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### Introduction

With Ruling No. 93 of April 9, 2025, the Italian Tax Authorities provided significant clarifications regarding the application of the withholding tax exemption on interest payments made by an Italian listed real estate investment company (*Società di Investimento Immobiliare Quotata – SIIQ*) to its parent company resident in another EU Member State, pursuant to Article 26-*quater* of Presidential Decree No. 600/1973, which implements Directive 2003/49/EC (the “Interest and Royalties Directive”).

In particular, the Tax Authorities held that the exemption regime applies to interest paid by an Italian-resident SIIQ to its Luxembourg-resident parent company, notwithstanding that the SIIQ benefits from a special exemption regime on rental income under Article 1, paragraphs 119 to 141, of Law No. 296 of 2006.

### I Case overview

The case involves an Italian listed real estate investment company (SIIQ) that made interest payments to its parent company, which is tax resident in Luxembourg.

The interpretative issue concerns the applicability of the withholding tax exemption provided under Article 26-*quater*, paragraph 1, letter a), of Presidential Decree No. 600/1973, in light of the requirement that the paying entity must be “subject to corporate income tax without benefiting from any exemption regimes”.

Although SIIQs are subject to corporate income tax (IRES), they benefit from a special exemption regime applicable to income derived from real estate leasing activities (the so-called “exempt management regime”), pursuant to Article 1, paragraph 119 et seq., of Law No. 296/2006.

This regime results in a partial exclusion of taxable income, giving rise to the question of whether such exclusion constitutes an “exemption regime” that would disqualify the SIIQ from benefiting from the withholding tax exemption.

## II Clarifications issued by the Italian Tax Authorities

In relation to the subjective requirement at issue, the Italian Tax Authorities clarified that the expression used in the law — requiring that the paying entity must not benefit from “exemption regimes” — should be interpreted in a systematic manner, consistent with the underlying purpose of the EU Directive.

By referring to the explanatory report accompanying Legislative Decree No. 143/2005 (which introduced Article 26-*quater*) and Circular No. 47/E of 2005, the Tax Authorities specified that the condition of being subject to corporate income tax (IRES) should be understood as potential and general liability to taxation, even in case of partial exemptions or favorable regimes that are compatible with EU law.

Based on this interpretation, the fact that a SIIQ benefits from an exemption limited to the so-called exempt management (i.e., income derived from real estate leasing activities) does not exclude the company from being within the scope of corporate income tax, nor from qualifying for the withholding tax exemption under Article 26-*quater*.

Accordingly, the Italian Tax Authorities concluded that:

- SIIQ qualifies as an entity potentially subject to corporate income tax (IRES);
- the favorable regime does not amount to a full and general exemption, but rather a partial and sector-specific one;
- therefore, the withholding tax exemption on interest payments applies, provided that all additional substantive and formal conditions set forth in the applicable rules are met (including, *inter alia*, a minimum 25% shareholding and a one-year minimum holding period).

## III Remarks

Although the clarification was provided with specific reference to a SIIQ, it carries general interpretative relevance and may be extended to other corporate income tax (IRES) taxpayers benefiting from partial tax relief regimes.

The position expressed by the Italian Tax Authorities is consistent with the objectives of Directive 2003/49/EC, which aims to facilitate intra-group financial flows within the European Union by eliminating double taxation through the adoption of coordinated exemption mechanisms.

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*For any further clarification, please do not hesitate to contact Chiomenti's Tax Department at [tax@chiomenti.net](mailto:tax@chiomenti.net)*