

The 2026 Budget Law – The new regime on participation exemption on dividends and capital gains

Introduction

Following the extensive debate raised by the amendments introduced by the draft 2026 Budget Law with respect to the taxation of dividends, the Italian 2026 Budget Law approved by the Italian Parliament introduced material amendments in that respect.

Moreover, the 2026 Budget Law also introduces changes to the taxation of dividends received by non-resident taxpayers established in EU Member States or in States included in the European Economic Area and to the tax regime on capital gains.

This newsalert analyses proposed amendments, highlighting the key features of the new regime and offering initial considerations on their potential implications.

I The new rules on dividends and capital gains

The new proposal primarily aims to increase the tax burden on dividend distributions and on capital gains realized on shareholdings that do not meet certain qualification thresholds.

Under the new framework, the regime of partial exclusion or exemption for dividends and capital gains will apply only to direct shareholdings representing at least 5 percent of the share capital or, alternatively, having a tax value of no less than EUR 500,000 (previously, the qualification threshold was determined solely by reference to shareholdings representing at least 10 per cent of the share capital). For the purpose of assessing whether the qualification thresholds are met, shareholdings held indirectly within the same group are also taken into account, in line with the original proposal. A “group” is defined as a set of entities connected by a control relationship within the meaning of Article 2359, para. 1, No. 1), and para. 2, of the Italian Civil Code, with due consideration given to any dilution effects resulting from the control chain.

Where a shareholding falls below the qualification thresholds, dividends distributed and capital gains realized will be subject to full taxation for IRES and IRPEF purposes.

The increased tax burden also extends to capital gains realized on shareholdings in non-resident entities, as well as to foreign-source dividends. Indeed, the qualification requirements apply equally to Italian and foreign shareholdings, including interest held in entities resident or established in low-tax jurisdictions, provided that the condition set out in Article 44, para. 2, lett. a), of the Italian Tax Consolidation Act is demonstrated (*i.e.*, the performance of an effective economic activity).

As noted above, the new provisions apply also to Italian-source dividends distributed to companies and entities subject to corporate income tax in EU Member States or in States included in the European Economic Area included in the so-called “white list” and resident therein, where such entities are unable to benefit from the parent–subsidiary regime, if the relevant shareholdings do not meet the new qualification thresholds. In such cases, the dividends are subject to the ordinary domestic withholding tax at a rate of 26 per cent, without prejudice to any reductions available under the applicable double taxation treaties, pursuant to the newly introduced para. 3-*ter* of Article 27 of Presidential Decree No. 600 of 29 September 1973.

II Effective date

The new regime shall apply to distributions of profits and reserves **approved as of January 1, 2026**. Accordingly, relevance is attributed to the date of the shareholders’ resolution rather than to the date of the actual payment. In this respect, it is worth recalling that under the transitional regime introduced by Article 1, para. 1006, of Law No. 205/2017 - which implemented the generalized 26 per cent taxation of dividends distributed to individuals - the Italian Tax Authorities focused on the potential abusive nature of certain practices, such as the adoption of resolutions followed by the subsequent return by the shareholder, in whole or in part, of the same funds, or the adoption of resolutions providing for payment terms exceeding one year.

The provision related to capital gains will be applicable only to sales of shares or equity interests and to sales of securities and financial instruments similar to shares and contracts referred to in Article 109, para. 9, lett. b), that are **purchased or subscribed starting from January 1, 2026**. As a result, the increased taxation of capital gains is expected to have a limited impact in the immediate future, as it will not apply to gains realized on securities held prior to that date.

III Anticipated financial effect

The final provision, in its revised wording, confirms an approach aimed at “anticipating” the financial effects of the reform, by providing that, for the tax period following 31 December 2025, advance payments of taxes are to be calculated as if the new regime were already in force. This mechanism is expected to produce an immediate financial effect on taxpayers’ cash flows.

IV Impacts

The revised formulation aligns the subjective requirements relevant for dividend taxation with those applicable to capital gains taxation. Nevertheless, there are differences in the effective date set forth in relation to the two regimes.

Although the scope of the reform is formally limited to smaller shareholdings, the risk of economic double taxation still remains, with particularly significant implications for holding companies managing portfolios of minority investments that generate recurring income streams.

Additional concerns may stem from the application of the full 26% domestic withholding tax to dividends distributed to EU/EEA companies, as such entities will be subject to a higher tax burden than Italian taxpayers in comparable circumstances.

Finally, while the legislator has introduced a new threshold based on a tax-relevant acquisition cost of no less than EUR 500,000, no specific limitations have been introduced with respect to securities traded on regulated markets.

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