

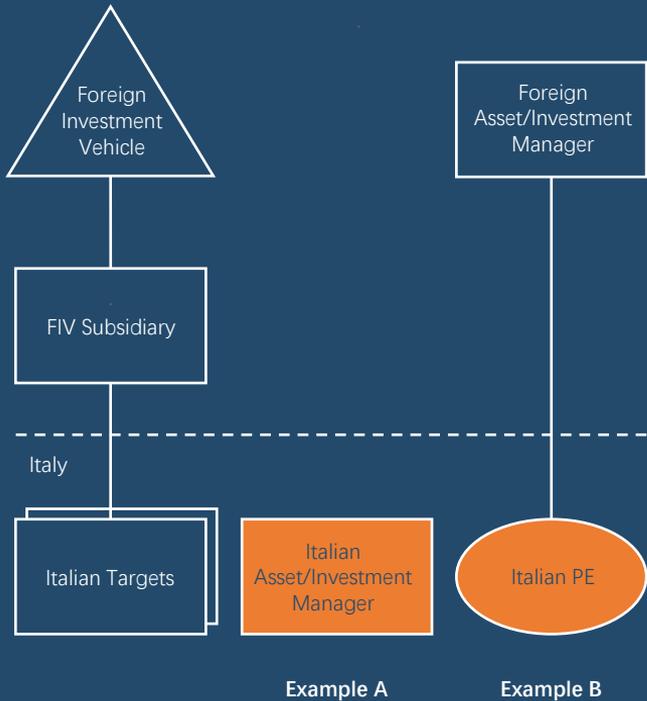
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Investment Management Exemption

2023 Italian Budget, article 1, paragraph 255

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Examples for explanatory purposes

Investment Management Exemption

The 2023 Italian Budget introduced the investment management exemption (“IME”), a provision according to which the investment management activities carried out in Italy by asset managers do not give rise to a permanent establishment (“PE”) of the foreign investment vehicle (or its subsidiaries), if certain conditions are met.

Specifically, an Italian or foreign tax resident asset/investment manager operating in Italy, which habitually concludes (or contributes to the conclusion of) contracts for purchasing, selling or negotiating financial instruments (including derivatives, shares and receivables) in the name and/or on behalf of the foreign investment vehicle (or its subsidiaries), does not constitute a PE of the latter to the extent that:

1. the foreign investment vehicle and its subsidiaries are resident in white-listed jurisdictions;
2. the foreign investment vehicle satisfies the independence requirements indicated in a Decree to be issued by the Ministry of Finance;
3. the Italian or foreign tax resident asset/investment manager operating in Italy are not members of the foreign investment vehicle’s (and its subsidiaries’) administration and control bodies;
4. the Italian or foreign tax resident asset/investment manager operating in Italy are not entitled to more than 25 per cent of the foreign investment vehicle’s economic results;
5. the Italian asset/investment manager or the Italian PE of the foreign asset/investment manager receive an arm’s length remuneration supported by appropriate transfer pricing (“TP”) documentation (Italian tax authorities’ guidelines will be issued).

LED comments

Despite some aspects are still unclear (e.g., definition of foreign investment vehicle, interaction with TP rules) and condition no. 3 seems not in line with market practice, the IME should contribute - along with other tax measures such as the in-patriate regime - to attract asset/investment managers to Italy.