FINANCIAL TRANSACTION TAX

Identification of companies resident in the State territory whose shares are traded on a regulated market or in a foreign multilateral trading facility, with an average capitalization lower than 500 million euro.

Instructions for transmitting communications and certifications

(Decree of the Minister of Economy and Finance of 21 February 2013, Article 17, paragraphs 2, 3 and 4)

Paragraphs from 491 to 499 of Article 1 of Law No. 228 of 24 December 2012 introduced a financial transaction tax which applies to the transfer of the ownership of shares and other participating financial instruments (paragraph 491), to transactions on derivative financial instruments and other transferable securities (paragraph 492), as well as to high-frequency trading as defined in paragraph 495 of the Law.

Paragraph 500 of the above Article 1 provides that a Decree of the Minister of Economy and Finance shall set out the procedures for applying the aforesaid tax. This provision was implemented by a Decree of the Minister of Economy and Finance of 21 February 2013, published in the Official Gazette No. 50 of 28 February 2013.

In particular, Article 15, paragraph 1, letter f) of the Decree provides that “the transfer of the ownership of shares traded on regulated markets or in multilateral trading facilities issued by the companies mentioned in the list referred to in Article 17” is excluded from the scope of the tax. Further, Article 17 of the Decree provides under paragraph 2 that “the companies resident in the State territory complying with the capitalisation limit as of paragraph 1 and whose shares are traded on a regulated market or in a foreign multilateral trading facility shall send to the Ministry of Economy and Finance, by the 10th of December of each year, a written communication certifying the value of their own capitalisation, enclosing thereto an ad-hoc certification issued by the relevant regulated market under Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 or by the operator of a multilateral trading facility, if more relevant in terms of exchange value”. Under the following paragraph 3 of the same Article “for the first year of application […] for the companies referred to in paragraph 2 of this Article, the communication referred to in the same paragraph 2 must be sent by the 20th of February 2013; a list including these latter companies shall be later issued by the 1st of March 2012 by the Ministry of Economy and Finance”.

In order to implement the above provisions, the companies whose shares are traded on a regulated market or in a foreign multilateral trading facility, for the purposes of being entitled to the exclusion referred to in Article 15, paragraph 1, letter f) of the Decree, shall send the relevant communication, with appropriate certification enclosed thereto, to the Ministry of Economy and Finance – Department of Finance, by one of the following means:

E-mail address: df.dltff.fittocapitalizzateestere@finanze.it

The communication and enclosed certification shall include the following:

Company information:

- Company name;
- Registered office;
- Tax Code/VAT registration number;
- Indication of regulated markets or multilateral trading facilities in which the company was admitted to trading;
- “Relevant” regulated market under Directive 2004/39/EC issuing the certification (or the operator of a multilateral trading facility, if more relevant in terms of exchange value);
- Average capitalization of the company referred to the month of November of the year prior to that for which the exemption is requested.

Information used for the purposes of calculating the average capitalization referred to each day of the month of November of the year prior to that for which the exemption is requested:

- number of shares in the share capital;
- weighted average price of the transactions effected (on the major trading venue);
- indication of whether in the month at issue transactions have been effected which may affect the number of shares and indication of the days concerned;
- indication of the days in which no transactions were effected.

If the company issued different classes of shares, such information shall be clearly provided with reference to each class of shares.