

# **Revaluation of the tax cost of land and participating interests / Release of UCIs shares and life insurance policies**

***(197/2022 art.1 para. 107-109 and para. 112-114)***

# Focus on

## Introduction

Budget Law 2023 extended the revaluation of the tax cost of participating interests in non-listed companies under art. 5 of Law no. 448/2001, extending its scope of application also to participating interests traded in regulated markets and multilateral trading facilities. It also extended the revaluation of agricultural and building land under art. 7 of Law 448/2001.

## Application of the revaluation of land and participating interest

In 2023, individuals, general partnerships, non-commercial entities and non-resident persons without a permanent establishment in Italy can revalue the cost or the purchase value of participating interests and land held on 1 January 2023 outside the scope of their business activity, by totally or partially releasing the capital gains obtained, under art. 67 para. 1 lett. a) - c-bis) of TUIR, provided that interests or land are sold against payment.

In order to redetermine the value of non-listed participating interests and of land, the following activities are required by 15 November 2023:

- a qualified professional must prepare and certify the assessment of the participating interest or land;
- the concerned taxpayer must pay the whole amount of the substitute tax or its first instalment - in case of payment by (three equal yearly) instalments.

As concerns the revaluation of the cost of securities, shares or entitlements traded in regulated markets or in multilateral trading facilities held at 1 January 2023, new paragraph 1-bis of art. 5 of Law 448/2001 provides for the possibility to assume – instead of the cost or purchase value – the normal value determined based on the arithmetic mean of prices recognized in December 2022 under art. 9 para. 4 lett. a) of TUIR.

## New 16% substitute tax rate

The revaluation of the tax cost of (listed and non-listed) participating interests and of land for 2023 provides for the application of the substitute tax under a 16% rate.

The possibility to pay the amount in three equal yearly instalments is confirmed. In this case, the first instalment is due by 15 November 2023.

Instalments must be of equal amount and the second and third ones:

- are due, respectively, by 15 November 2024 and 15 November 2025;
- must be increased by interest equal to 3% per year, starting from 15 November 2023.

## Possibility to release UCIs shares and life insurance policies

Under paragraphs 112-114 of art. 1 of Budget Law 2023 allows investors (for the first time) to release the higher value of shares relevant to mutual funds and of life insurance policies, thus annulling for tax purposes the surplus that would be subsequently generated at the moment of collection of the proceed by the individuals who subscribed the funds or hold the abovementioned policies.

Specifically, for the income indicated, the law provides for the possibility to pay a 14% substitute tax in order to align the value of the investment with the market value and avoid the rise of a surplus subject to 26% ordinary taxation, which would be the result of the difference between the current value of the investment and the relevant purchase/ subscription cost.

### **Release of UCIs shares**

As concerns UCIs, Law no. 197/2022 provides for the possibility to consider the income deriving from the sale or refund of shares of undertakings in collective investment UCIs as realized, through the application of a 14% substitute tax. .

**Exercise of the option** - The option at issue must be exercised by 30 June 2023 through a proper notification to the intermediary holding a custody, administration, portfolio management or other stable relationship.

Failing a custody, administration, portfolio management or other stable relationship, the option can be exercised in the tax return related to year 2022 by the taxpayer who pays the substitute tax by the deadline for the settlement payment of income taxes due in relation to the tax return.

**UCIs shares that benefit from the release** - The option for the release of income from UCIs is applied to all shares pertaining to the sale homogeneous category held on 31 December 2022, as well as at the option exercise date (which must occur by 30 June 2023).

As expressly stated in the regulation, the option for the release of income from UCIs cannot be exercised for shares held within portfolio management relationships for which the asset management option, under art. 7 of Legislative Decree 461/97, was exercised.

### **Release of insurance policies**

Regarding insurance policies, Law no. 197/2022 allows releasing income under art. 44 para. 1 letter g-quater) of TUIR, made up of the difference between the value of the mathematical reserve on 31 December 2022 and paid premiums, by paying the 14% tax substitute to income taxes.

**Insurance policies that can be released** - The provision at issue applies to those life insurance policies that concern (i) the duration of human life and (ii) capitalization contracts, according to the classification under art. 2 para. 1 of Legislative Decree dated 7.9.2005 no. 209 (code of private insurance) - respectively, number 1 and 5. Therefore, life insurance policies under number 3 (so-called “unit linked”) are excluded.

**Exercise of the option and payment of the substitute tax** - The option at issue is exercised upon request of the taxpayer and the substitute tax is due by 16 September 2023.

As expressly provided by the law, insurance policies for which the option is exercised cannot be surrendered before 1 January 2025. Insurance policies expiring by 31 December 2024 are also excluded from the scope of the provision. Should your situation be relevant with reference to the cases described above, please feel free to contact us for any clarification you may need and for a more detailed analysis prior to the possible application of the rule.



Our professionals remain available for any further information requests.



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