

## **Alert** | Structured Finance/Real Estate/Tax



**March 2021**

### **Game Changer Tax Ruling for Italian Real Estate Investments**

Due to changes to the Italian Securitisation Law made in 2018<sup>1</sup>, Italian securitisation SPVs can now invest in real estate assets and registered moveable assets (e.g. cars, vessels, aircrafts).

Even though the change was made more than two years ago, real estate investors have rarely used such SPVs as their preferred investment structure, due mainly to some uncertainties as to their tax treatment.

On 2 March 2021 a game-changer tax ruling<sup>2</sup> clarifying the treatment of real estate SPVs was issued by the Italian Tax Authorities.

In brief, the ruling confirms that no income taxation is levied on the profits made by the SPV. This is because the profits are in fact attributable to the noteholders.

In addition, RE SPVs are subject to the VAT regime and, as such, can recover any VAT paid in connection with the activity.

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<sup>1</sup> Law no. 145 of 30 December 2018.

<sup>2</sup> Ruling 132/E.

Finally, the ruling confirms that, as for securitisation notes backed by receivables, the payment of the notes to non-Italian white list investors are not subject to withholding tax.

Italian securitisation structures are simple and cost effective. Historically investors have invested in Italy through real estate investment funds managed by asset management companies. Though an investment through a fund requires a minimum dimension and is not practically viable for small investments. While structures through investment funds will for sure remain the best solution for certain types of investments, as a result of the clarification obtained from tax authorities, we believe that Securitisation vehicles will become a very attractive alternative for real estate investors.

**We offer a Q&A video session to clients and contacts who are interested.**

*\* This GT Alert is limited to non-U.S. matters and law.*

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