



**BDO Seidman, LLP**  
Accountants and Consultants

February 2006

## Subject:

### Recent Changes in Italy's Tax Laws Allow for Step Up in Basis for Certain Assets and a Limited Capital Gains Exemption

# International Tax Alert

The Tax Practice at **BDO Seidman, LLP** is among the largest tax advisory practices in the United States. With more than 30 offices and 250 independent alliance firm locations in the United States, BDO Seidman has the bench strength and coverage to serve you.

As a Member Firm of **BDO International**, BDO Seidman, LLP serves multi-national clients by leveraging a global network of resources comprised of more than 600 member firm offices in 105 countries. BDO International is a worldwide network of public accounting firms, called BDO Member Firms, serving international clients. Each BDO Member Firm is an independent legal entity in its own country

#### **Date/Timing:**

An election for step up must occur by the date of approval of the Italian company's financial statements. The benefit of the step up cannot be realized until 2008.

The participation exemption, which is currently 91 percent for stock sales occurring between December 3, 2005 and December 31, 2006, will be reduced to 84 percent beginning January 1, 2007.

#### **Affecting:**

Multinational corporations with Italian subsidiaries

#### **Amendment to Asset Basis Rules:**

As a part of its 2006 Budget Law, the Italian legislature has included provisions allowing an electing Italian company to step up the basis of certain assets to fair market value. By making the election, the company will be required to pay a 12 percent tax for depreciable assets and a 6 percent tax for non-depreciable assets. The full amount of the taxes is due with the yearly final tax payment which typically occurs in June of the year following the reporting year.

Eligible assets include tangible and intangible assets other than goodwill and inventory that were included in the prior year financial statements. For example, a calendar year company can elect to step up otherwise eligible assets which it included in its December 31, 2004 financial statements. The company can select which asset categories it wants to step up but all assets within that category must be stepped up.

#### FOR MORE INFORMATION & YOUR LOCAL CONTACTS:

Please contact:

**Jack Frame**

330 Madison Ave

New York, NY 10017

Phone: 212-885-8125

Fax: 707-982-0633

Email: [jframe@bdo.com](mailto:jframe@bdo.com)

# Integrity...Trust...Professionalism...Independence...Service

---

## **Amendment to Asset Basis Rules:...(continued)**

Once it has made the election, the company is prohibited from claiming the tax benefit of the election until the third year following the year for which the election is made. Thus, a calendar-year company electing to step up assets for the year ending December 31, 2005 must wait until January 1, 2008 to begin either claiming depreciation on the stepped up basis or recognizing a stepped up basis on the disposition of an asset.

## **Amendment to the Participation Exemption:**

Although it recently reduced the size of its participation exemption that applies to the sale of otherwise qualifying stock held by an Italian company, the Italian legislature has amended its participation exemption regime, again, resulting in a further reduction of the exemption percentage. While the current exemption percentage is 91 percent, this percentage will be reduced to 84 percent for dispositions occurring on or after January 1, 2007.

As was the case before the amendment, the company, to be eligible for the exemption, must have included the stock in the financials in the year the stock was acquired; the company must hold the stock for an uninterrupted period of at least 18 months; and the subsidiary being disposed must have carried out a commercial enterprise in a non-blacklisted tax haven jurisdiction.

---

The information in this newsletter is for general guidance only and is not a substitute for professional advice. The BDO Member Firms accept no responsibility for any actions taken or not taken on the basis of the information in this newsletter.

To ensure compliance with Treasury Department regulations, we wish to inform you that any tax advice that may be contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.