

BROAD-BASED SHARE OWNERSHIP PLANS AND PREFERENTIAL TAX REGIME: CLARIFICATIONS FROM THE ITALIAN TAX AUTHORITY

Italian Tax Authority Ruling No. 147 of 04.06.2025

- ✓ The Italian Tax Authority (hereinafter, «ITA») clarified that, for the purposes of applying the preferential regime under Article 51, paragraph 2, g) of Presidential Decree No. 917/1986 (TUIR) — which provides, under certain conditions, for the exclusion from taxable income of the value of shares offered to a “*broad base of employees*” (“*generalità dei dipendenti*”) for an annual amount not exceeding EUR 2,065.83 — the requirement concerning the “*broad base of employees*” may allow for the exclusion of certain categories, namely fixed-term employees, general managers, and executives with strategic responsibilities, provided that such exclusion is neither discriminatory nor aimed at tax avoidance. In the case at hand, the company (the “Company”), head of an international group, may consider this requirement satisfied even if the plan is addressed to homogeneous categories of employees and not extended to the entire workforce, as long as any exclusions are not arbitrary but coherent and well-justified.
- ✓ In detail, the ITA clarified that:
 - Based on previous rulings, the tax relief applies not only when shares are offered indiscriminately to all employees, but also when they are offered to specific “*categories of employees*,” provided that the allocations are not “*ad personam*” or discriminatory. Furthermore, the ITA confirmed the interpretation of “*generality*” refers to employees with open-ended (permanent) employment contracts (see INPS Circular No. 11/2001 and Italian Tax Authority Resolution No. 3/E of 2002);
 - The exclusion of general managers and executives with strategic responsibilities from the recipients of the broad-based share ownership plan is legitimate, provided that it is not motivated by discriminatory intent but rather by the need to comply with the remuneration policies adopted by the Company, pursuant to Article 123-ter of the Testo Unico Finanza and Article 84-quater of the Regolamento Emittenti. These executives are subject to a separate incentive scheme — namely, the long-term incentive plan — governed by sector-specific regulations and approved by the relevant corporate bodies. As such, the assignment of free shares would modify the composition of their remuneration package and exceed the limits already set by the approved remuneration policy.

