

Employee Stock Options in the EU and the USA

FINAL REPORT

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Italy

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Italy

1. General remarks

1.1 History

1.1.1 Stock option plans have never been extensively implemented in Italy. The first experience of stock option plans occurred in the 1970s, when some stock option plans were introduced by large enterprises (e.g. Fiat), especially for social equality purposes. They then became less common until the last two to three years, when plans again started to be implemented in connection with internet company start-ups, and as a result of a recent amendment to the tax law providing for a favoured tax regime for employee share purchase plans and stock option plans.

1.1.2 There were no specific rules regarding stock option plans until 1997¹. Law Decree 314/97 introduced ad hoc rules for the purpose of implementing stock option plans².

1.1.3 The taxation of stock options was reformed in 1999, with the new rules coming into force from January 2000. According to the Italian legislator, the previous rules resulted in tax evasion because of the lack of specific aims and limits. This was seen as being to the detriment of the genuine purpose of a stock option plan which is to create a shared interest in the company's results among the employees. The new rules distinguish between plans addressed to all employees and plans addressed to some categories of employees (e.g. directors, managers, etc...)

1.1.4 The Italian authorities have not introduced plans aimed at specific companies or sectors. Usually a company tailors a plan to meet its specific goals. Approximately 12% of Italian managers and 6% of Italian employees are involved in stock option plans.

1.2 Current situation

1.2.1 The Italian Government is currently considering a number of propositions in relation to stock options:

- A prohibition on granting stock options to directors in the financial sector.
- The compulsory lapse of options if there is negative business performances.
- A limit that the value of stock options granted to an individual must not be higher than three times the individual's annual salary.

¹ law decree 314/97

² Art. 48, par. 2, lett. g) and g-bis) of the Italian Tax Code (ITC) as amended by Law decree 314/97 and 505/99. Law Decree 505/99 has amended the tax-favoured regime provided for share option plans. Furthermore the law has been clarified through a Circular Letter issued by the tax authorities as follows:

- n. 326/97
- n. 207/99
- n. 30/00
- n. 98/00
- and n. 29/01

- 1.2.2 Although it is likely that these measures will be introduced, it is not envisaged that this will occur soon. Furthermore a bill is under discussion regarding the establishment of a Company Fund, which will be restricted to employees, and will benefit from a tax-favoured regime.

2. Key features of stock option plans

- 2.1 There is no minimum or maximum period for which options must subsist. The choice of participants is entirely at the company's discretion subject to discrimination laws (see section 6.2). The company may decide to give different rights to different employees in relation to the number of shares or goals to be achieved to exercise an option. There is no restriction on the value of shares under option that may be granted to an employee.
- 2.2 There are no restrictions over the nature of shares over which options may be granted; however there is a restriction on the type of company that may grant options. An Italian S.r.l. (a limited company incorporated by units (quotas) not shares) cannot implement a stock option plan.
- 2.3 Tradable options are very uncommon and it is possible to grant options with a favourable tax treatment provided the options are non-tradable and certain other conditions are complied with, which are as follows:
- The exercise price paid by the employee is equal to the normal value of shares at grant date (see section 3.2).
 - The amount of shares assigned to the individual employee does not exceed more than 10% of the voting rights in the ordinary shareholders' meeting or more than 10% of the capital or equity of the offering company.
 - The options are issued by the employer or by a related company of the employer (i.e. a group company).
- 2.4 Most Italian companies operating employee stock option plans meet the conditions for favourable tax treatment.

3. Taxation

3.1 Time of taxation

- 3.1.1 Both tradable and non-tradable options can be granted.
- 3.1.2 For tradable options an income tax liability arises at the date of grant of the option.
- 3.1.3 For non-tradable options an income tax liability arises at the date of exercise, unless the options qualify for tax favoured treatment, in which case no tax liability arises at exercise.

3.2 Taxable gain

- 3.2.1 For tradable options the taxable gain is calculated by taking the difference between the normal value of the options at the grant date and the price paid by the employee on option grant, if any³.
- 3.2.2 The option is valued on the basis of a comparison with the normal value of securities having similar features, if listed, or by applying Black-Scholes valuation of the underlying shares.
- 3.2.3 For non-tradable options, the taxable gain is calculated as the difference between the normal value of shares at exercise and the exercise price paid by the employee. Any price paid on option grant is also deductible.
 - 3.2.3.1 The normal value for unlisted shares is a proportionate value of the net worth of the company. In Circular letter, no. 30/E of the 25 February 2000, the Ministry of Finance has confirmed that, in case of unlisted shares the net equity of the company is represented by the fair market value of the company (and not by the book net value), resulting from a sworn expert opinion⁴.
 - 3.2.3.2 The normal value for listed shares is determined as the average settlement price during the last month (e.g. if the purchase occurs on 22 December the closing price for each trading day over the period from 22 November to 22 December is taken and the average closing price for that period computed)⁵.
- 3.2.4 For non-tradable options that qualify for tax favoured treatment, no tax arises at grant and the benefit that arises at exercise is free of tax.

3.3 Type of tax

- 3.3.1 Income tax, regional tax, and municipal tax (where applicable) are payable at the date of grant in respect of tradable options and at the date of exercise for non-tradable options that do not qualify for tax-favoured treatment. Income tax rates range from 18% up to 45%, regional tax rates range from 0.9% up to 1.4% and municipal tax rates range from 0 to 0.5% where applicable. Municipal taxes are dependent on the city concerned; only a few cities operate municipal taxes.
- 3.3.2 Compulsory employee social security contributions at a rate of 10% are due on the grant of tradable options and the exercise of non-tradable options that do not qualify for tax-favoured treatment. For individuals enrolled on the social security system after 31 December 1995, social security contributions are capped at €78,507. No social security contributions apply if the options are exercised when the employee is no longer employed by the company (e.g. retired employees)⁶.

³ Article 9, Paragraph 4 Letter c) of the ITC

⁴ Article 9, Paragraph 4 Letter b) of the ITC

⁵ Article 9, Paragraph 4, letter c) of the ITC

⁶ Circular Letter of Social Security Authorities n. 11 of January 22, 2001

3.4 Capital gains taxation

- 3.4.1 A capital gain arises when an employee disposes of shares acquired on exercise. The gain is subject to capital gains tax at a flat rate of 12.50% for disposals of non-significant shareholdings; or at flat rate of 27% for disposals of significant shareholdings⁷.
- 3.4.2 The taxable gain at sale is calculated as the difference between (i) the sale price and (ii) the acquisition cost. Where options have been subject to tax at exercise as employment income, then the taxable gain is equal to the difference between (i) the sale price and (ii) the normal value of the shares at the exercise date. In both cases, the taxable gain is net of related costs (e.g. brokers fees, stamp duty, notary fees, excluding interest and tax paid abroad).
- 3.4.3 No social security contributions are due on the sale of shares.
- 3.4.4 If the shares are sold at a loss, the loss can be offset against other capital gains in the year and can be carried forward for four years to be set off against capital gains from the sale of shares. Claims must be made within four years following the end of the year in which the gain or loss is realised.
- 3.4.5 There is no wealth tax in Italy.

3.5 Tax consequences for the company

3.5.1 *Social security contributions*

- 3.5.1.1 In the case of both tradable and non-tradable options compulsory employer social security contributions are due at a rate of 32% to 34%. These rates are determined according to the company sector of activity. The Italian Social Security Authority establishes these rates every year. For individuals enrolled on the social security systems after 31 December 1995, social security taxes are capped at €78,507. No social security contributions apply if the options are exercised when the employee has ceased to be employed by the company (i.e. retired employees). There is no social security in respect of tax favoured options.

3.5.2 *Corporate tax deduction*

- 3.5.2.1 The employing company will be entitled to claim a deduction against its profits for corporation tax for the costs of a stock option plan. There are no specific requirements for securing a deduction. This is however a grey area, and an advance ruling is advisable.

⁷ “Significant shareholdings” are those exceeding 20% of the voting rights (2% for listed shares) or, in any case, exceeding 25% of the capital or of the equity (5% for listed shares).

3.5.2.2 Generally only actual expenses incurred in operating stock option plans are allowable against corporate tax as costs sustained in relation to a compensation in kind paid to Italian employees. Such costs are not deductible for IRAP (regional tax) purposes. Corporate expenses can be deducted for Italian company tax purposes when:

- The expense is certain.
- The amount of the expenses can be objectively determined.
- The expenses are registered in the fiscal year concerned (e.g. accrual basis).
- The expenses can be allocated to activities that give rise to taxable business income (inherence principle)⁸.

3.5.2.3 For a listed company, some information must be given in the Company's annual reports (number of options granted, option outstanding, vesting period, exercise price etc). Based on the above, costs deductible could be:

- The initial costs of establishing the plan.
- The administration costs.
- If shares are bought on the market by the company in order to satisfy option exercises, the difference between the purchase cost for the company and the exercise price paid by the employee; if shares are issued, the company does not incur any actual costs therefore no deduction is allowed.

3.5.2.4 The corporate tax deduction will be claimed at the time the cost is actually borne, typically, when the employee exercises the options.

3.5.2.5 The deduction is claimed by filing the Italian tax return. The return must be filed by 31 October (for electronic filing) or 31 July (for paper filing) following the year concerned.

3.5.2.6 If costs are recharged by an Italian company to another group company, then the charging company cannot deduct these costs.

3.5.2.7 If costs are recharged from another group company, the amount deductible is limited to the actual cost borne by the "parent company" in granting such benefit to the employee. If the cost recharged is more than the actual cost (e.g., it also includes the "opportunity cost" incurred by the parent company) the excess amount cannot be deducted.

3.5.2.8 To ensure recharged costs are deductible it is strongly advisable for the local company to enter in to a recharge agreement in order to support the conditions required for the deductibility of the cost, so that the recharged company can account for the cost in accordance with the accrual basis principle.

⁸ Article 62 and 75 of ITC

3.5.2.9 However, it should be noted that a recharge agreement would not be sufficient to justify a deduction if the value recharged does not reflect the actual cost sustained in relation to employees, but is instead created, e.g. an opportunity cost.

3.5.2.10 On a prudent basis the recharge agreement should contain at least the following items:

- How the cost of the recharge is determined.
- The date of grant and exercise of the option.
- The calculations to determine the cost recharged.
- The timing and conditions of recharge etc.

3.5.3 *Other*

3.5.3.1 Stamp duty applies where a transfer is executed between:

- Individuals (€0.072 per €51.65).
- Individual and authorised intermediary (€0.026 per €51.65).
- Authorised intermediaries (€0.0062 per €51.65).

3.5.3.2 Stamp duty is not applicable where the transfer:

- Relates to shares listed on a stock exchange (authorised by the Italian SEC) executed in the market.
- Relates to shares listed on a stock exchange (authorised by the Italian SEC), executed outside the market between (i) an authorised intermediary, and (ii) and authorised intermediary and non-resident individual.

4. Issues for employees

4.1 Reporting obligations

4.1.1 For both tradable and non-tradable options, the employee must report any transfers of money or shares, from abroad to Italy, from Italy to abroad, or between countries outside Italy if the total in a tax year exceeds €10,329. In addition the employee must report the value of investments held overseas at 31 December in a tax year if their value exceeds €10,329. These transactions must be reported on Form RW of the Italian tax return by 31 July of the following year or by 31 October where the tax return is filed through an authorised intermediary⁹. These reporting obligations do not apply to transactions that take place within Italy.

⁹ Article 6 and 7 of Law Decree 461/97

- 4.1.2 Where an Italian resident financial intermediary holds the shares no reporting obligations arise in the hands of the employee.
- 4.1.3 These reporting obligations apply to both tradable and non-tradable options.
- 4.1.4 The employee has a reporting obligation in relation to the sale of the shares. He must report the sale price and the acquisition cost of the shares on Form RT with the Italian tax return. Taxes must be paid by the same deadline as income taxes, usually 20 June of the year following the year concerned. Form RT must be filed together with the Italian tax return by 31 July of the following year or 31 October if the tax return is filed through an authorised intermediary. If the shares are held by an Italian resident intermediary and sold through him no reporting obligations arise in the hands of the employee.

4.2 Cashflow issues

- 4.2.1 If the employee has paid money for the grant of the stock option and does not then go on to exercise the option, he will not be entitled to a refund of his money.
- 4.2.2 To alleviate any cash flow problems for employees as a result of incurring a tax liability, the company can loan sufficient funds to employees (but not to directors), in order to pay the tax due. Employees can do cashless exercises, under which shares deriving from option exercise are immediately sold and the proceeds partially used for meeting income tax and social security contributions.
- 4.2.3 If a loan is given to employees under an employment relationship, an amount equal to 50% of the difference between the interest calculated at the “Official Rate” (i.e. Tasso Ufficiale di Riferimento, T.U.R.) at the end of each tax year and interest calculated at the effective rate applied is not considered as employment income¹⁰.

4.3 Change in employee’s residence status

- 4.3.1 If the employee is tax resident at the exercise of the option but was not tax resident at the date the option was granted, the tax position would not change unless it is possible to sustain that options have been exclusively granted in connection with the foreign employment. In such a case income derived from stock options is not taxable in Italy¹¹.
- 4.3.2 If the employee is not tax resident at exercise but was tax resident at the date of grant, the employment income related to employment activities performed in Italy by a non-resident individual is subject to Italian taxes. Therefore, ignoring the possible effects of double tax treaties, the tax authorities might tax the taxable benefit arising on option exercise where:
- The employee was still enrolled on the Italian payroll at exercise.

¹⁰ Article 48, paragraph 4, letter b) of the ITC

¹¹ Article 20 of the ITC (“Taxation of non-resident individual”)

- Was Italian tax resident at grant and also for the greater part of the period between grant and exercise.
 - There was a recharge of the costs to the Italian local affiliate.
- 4.3.3 If the employee was not resident at grant, is not resident at exercise but was resident in between, income derived from stock options will not be taxable in Italy provided that:
- The employee is not enrolled in the Italian payroll.
 - The employee is non-Italian tax resident at exercise.
 - There was no recharge of the costs to the Italian local affiliate.

5. Issues for employers

5.1 Reporting obligations

- 5.1.1 The local employer has reporting obligations in relation to the exercise of options (for non-tradable options) and grant of options (for tradable options). The information that needs to be reported is the taxable benefit and related tax and social security contributions. This information must be reported in the employee's monthly payslip, and the employee's annual statement (Modello CUD and the Modello 770). The information must be reported by the end of the month concerned (in the employees wage cheque) and by the end of March following the year concerned (in the year end statement of compensation) and by 30 June following the year concerned (in the withholding agent's tax return).
- 5.1.2 The employer has no reporting obligations on disposal of shares.

5.2 Withholding obligations

- 5.2.1 The local employer has a withholding obligation in relation to the exercise of non-tradable options that do not meet the conditions for tax-favoured treatment and in relation to the grant of a tradable option. The employer must withhold at the employee's marginal tax rate from the employee's monthly salary.
- 5.2.2 To the extent there is a shortfall in meeting the withholding requirement this can be recovered by claiming the necessary money from the employee. The employee has a legal obligation to pay the money to the company, either in cash or by authorising the company to withhold money from his future salary.
- 5.2.3 The payment must be made to the authorities on Filing Form F24 by 16th of the month following the month concerned.
- 5.2.4 The employer has no withholding obligations on disposal of shares.

6. Legal issues

6.1 Process/timeframe

6.1.1 It takes approximately two to three months to implement a stock option plan in Italy.

6.1.2 The following steps will need to be considered:

- Drafting plan documentation.
- Decision regulating the provision of shares to satisfy option exercises under the plan.
- Shareholder approval to the plan¹².
- If necessary, filing of a prospectus with CONSOB (Italian SEC)¹³.
- Grant of options.

6.2 Employment law

6.2.1 Consultation with the Works Council on the terms of a proposed stock option plan is desirable where there is a large number of employees involved (over approximately 20,000).

6.2.2 Italian law forbids differentiating between male and female workers unless the employer can demonstrate an objective justification for such differentiation, unrelated to gender¹⁴.

6.2.3 The employee does not have a specific right to damages for the value of stock options in the case of unfair or unlawful dismissal. However, if the employee takes action through the Courts and the Judge determines that dismissal was unjustified or invalid, the following remedies are generally available:

- Reintegration and payment of damages (minimum six monthly payment).
- Where the reintegration is not accepted by the employee, the employee may ask the employer for an indemnity equal to fifteen months' base pay.

6.2.4 If the employer seeks to re-engage the employee, the employee must respond to the employer's request within 30 days, otherwise the employment relationship is terminated¹⁵.

¹² Italian Civil Code Rules

¹³ Italian Securities & Exchange Commission Authority Regulation (CONSOB)

¹⁴ Italian Constitution

¹⁵ Law n. 108/90 (art. 1 and 2)

6.2.5 The situation set out above differs slightly in the case of companies having less than 15 employees.

6.3 Data protection

6.3.1 The employer should obtain written consent from the employee before processing any personal data required in respect of the stock option plan. Furthermore, the employee has the right to:

- Update, amend or, if necessary, supplement the data.
- Challenge, for valid reasons, the processing of the information regardless of whether the information is relevant for the purposes for which it was collected.
- Erase, or demand that the data be held anonymously, or block the data provided in breach of the law. This includes data which need not be held in connection with the purposes for which they have been gathered or subsequently provided¹⁶.

6.3.2 Where the personal data is processed without having the written consent of the employee, the employer is punishable with imprisonment of up to two years. These penalties are not strictly enforced, since the employer is already required to obtain the employee's consent to manage his/her personal data at hiring.

6.4 Stock exchange issues

6.4.1 Usually a shareholders' meeting is necessary to:

- Approve the plan.
- Choose the method of providing shares for the stock option plan¹⁷.

6.4.2 The stock option plan can be implemented under Italian civil code provisions using the following corporate structures:

- Capital increase of the company¹⁸.
- Capital increase of the company but only applicable to shares offered to employees¹⁹.
- Purchase of own shares²⁰ from the market.

6.4.3 In practice, shareholders normally approve the board's recommendations.

¹⁶ Privacy Authority. Law n. 675/96 (following the EEC Directive on privacy)

¹⁷ Italian Civil Code.

¹⁸ (Article 2441, fifth paragraph civil code)

¹⁹ (Article 2441, last paragraph civil code)

²⁰ (Article 2357, Civil Code)

- 6.4.4 Where the stock option plan involves more than 200 individuals (excluding executives), a full informative prospectus should be filed with CONSOB 5 days before the purchase period begins (some exemptions exist)²¹.
- 6.4.5 If an “Information Prospectus” related to a stock option plan has already been submitted and approved by a securities regulatory body of an EU Member State in accordance with EC Directive n. 80/390, that “Information Prospectus” together with a “supplementary note” which refers to the plan in Italy has to obtain CONSOB (the Italian securities regulatory body) approval.
- 6.4.6 If no “Information Prospectus” has been approved by any EU securities regulatory body, then a “full” information prospectus has to be filed with CONSOB disclosing the following information:
- Cautionary information for investor.
 - Issuer’s business.
 - Corporate body.
 - Ownership structure.
 - Shareholder equity.
 - Financial situation and Profit & Loss account of the issuer.
 - Recent performance and prospects.
 - General information on the issuer and capital.
 - The financial instrument.
 - Recent operation concerning the financial instrument covered by the offering.
 - Company's Bylaws.
- 6.4.7 A financial intermediary must be involved with the placement of shares in Italy.
- 6.4.8 There are no restrictions on employees holding foreign shares (or options over foreign shares) in Italy.

6.5 Securities law

- 6.5.1 There are no securities law restrictions on the number of individuals who can participate in the plan and nor are there any requirements to file/register the plan except for the filing of the prospectus mentioned in 6.4 above. The prospectus if required must be filed 5 days before the offering period.

²¹ Consolidated Text of Finance (CTF), Law 58/98, art. 94 and ss. CONSOB Regulation 11971/99.

- 6.5.2 If the company omits to file a prospectus when required, CONSOB may ask for the suspension of the offer until a prospectus is filed; should the offering company not respect the suspension, an administrative penalty ranging from one tenth up to one half of the total value of the financial instruments offered may apply. The penalty cannot exceed €100,000. If it is not possible to determine a value of the total amount of the financial instruments offered, the penalty may range from €5,000 to €100,000²².

6.6 Financial assistance

- 6.6.1 Companies cannot grant loans or guarantee personal debts, whether directly or indirectly, to members of the board of directors or to general managers. This rule also applies when loans are granted or personal debts are guaranteed, through the controlling of controlled companies. This rule is not applicable to companies in the banking sector.
- 6.6.2 The penalties/implications for failing to comply with this rule for officers/directors are criminal penalties of imprisonment from one to three years and a fine ranging from €200 to €2,000.

6.7 Other

- 6.7.1 There are no foreign exchange control requirements in Italy.
- 6.7.2 Prior to exercising options the employee has no rights, e.g. voting, dividend²³ etc. The formalities required to enable an employee to transfer his shares depends on the kind of shares involved:
- If listed, the shares must be sold through an authorised intermediary²⁴.
 - If non-listed, endorsement and registration in the shareholder's book is necessary.
- 6.7.3 Some transactions are subject to Stamp Duty²⁵. Transactions in small unlisted companies give rise to stamp duty but this would not usually be an issue for stock option plans as such companies would not normally operate them.

²² 2624 c.c.

²³ CTF and Stock Exchange Regulations

²⁴ Article 2003 and ss of Civil Code

²⁵ Decree 3278/1923 as amended)

7. Sourcing shares for stock option plans

- 7.1 Shares can be sourced to meet the exercise of stock options by either new shares or purchase of shares on the market. Either of these can take place at any time.
- 7.2 If a company purchases shares on the market, it can hold its own shares subject to certain conditions²⁶:
- The nominal value of the shares purchased cannot exceed 10% of the capital stock.
 - Only those shares that have been fully paid can be acquired, within the limit of existing profits and available reserves.
- 7.3 A shareholders meeting must approve the purchase; such meeting should determine the operating procedures, should resolve what the maximum number of shares that can be purchased is, and should set out any other terms and conditions relating to such share acquisition (for example, determining the period during which the acquisition should be completed – such period cannot exceed eighteen months).
- 7.4 For listed companies, purchases of own shares under some Civil Code rules must be made by means of a public offer to buy or exchange or in the market, according to procedures agreed with the market management company so as to ensure equal treatment of shareholders²⁷.
- 7.5 The rule set out in 7.4 does not apply to purchases of own or parent company shares held by employees of the issuing company, subsidiary companies or the parent company and allotted or subscribed for in accordance with the Italian Civil Code.
- 7.6 It is possible for a subsidiary to hold shares in its parent²⁸ under the same conditions described above within a limit of 10% of the capital stock of the parent company. This is in addition to the 10% limit referred to in 7.2.1 above. The company should set up an unavailable reserve for an amount equal to the value of the parent company shares held and no voting rights are attributed to these shares.
- 7.7 This rule also applies to listed companies for purchases of listed shares made under Article 2359 bis of the Civil Code by a subsidiary.

8. Role and influence of existing shareholders

- 8.1 Shareholder approval is generally required as set out in section 6.4 above.

²⁶ Article 2357 of Civil Code

²⁷ Art. 132 of TUF

²⁸ Art. 2359-bis c.c.

9. Accounting

- 9.1 Italian accounting principles do not give any guidance in respect of accounting for stock options.
- 9.2 In the absence of any guidance, the general principle for drawing up the company's financial statement is based on the “cautionary principle”. The cautionary principle holds that between grant and exercise, the company can voluntarily accrue in the balance sheet a fund for the increase in value of the shares as of 31 December each year. Only when the options are exercised, will the actual cost borne by the company in purchasing and providing shares to the employee be shown as a cost in the Profit & Loss account²⁹.
- 9.3 From a tax perspective, the cost is deductible only when it is certain³⁰.
- 9.4 From a tax perspective, costs are deductible only in the year of exercise. The accounting impact is shown in the main body of accounts and related report³¹. Companies view the accounting neutrally at present.
- 9.5 There is no guidance on how to account for shares held in trusts.

10. Miscellaneous

- 10.1 Italy recognises the use of trusts through the ratification of the Aja Convention dated 1 July 1985. Trusts however are not commonly used in conjunction with employee stock option plans. Fiduciary companies are commonly operated in conjunction with stock option plans. Employees could given shares in a fiduciary company, established by the employing company (or the holding company of the group) as a vehicle for stock option plan purposes. Italian fiduciaries can allow the issuing company to control employee voting rights.

11. Special points of note

11.1 Mitigation of income tax

- 11.1.1 There are no special rules allowing the mitigation of income tax for income that accrues over a number of years.

11.2 Mitigation of social security contributions

- 11.2.1 There are no special rules allowing for the mitigation of social security contributions on stock options.

²⁹ Art. 2423-bis of Civil Code

³⁰ Art. 75, of the ITC

³¹ CONSOB Note 11508 of February 15, 2000

11.3 Mitigation of tax on sale of shares

11.3.1 There is no scope for mitigation of tax on the sale of shares.

11.4 Special provision for SMEs

11.4.1 There are no specific stock options plan provisions for SMEs.

Note: Individual country reports have been prepared covering employee stock options in the EU and the USA. These individual reports are of a general nature and subject to change based on individual circumstances. PricewaterhouseCoopers has also provided the EU with an overview report. This overview report sets out the basis on which the individual reports were prepared and should be referred to as necessary. In particular, it should be noted that the information in the reports is current as at 1 January 2002, unless otherwise stated. In the case of certain known subsequent changes, reference may be made on occasion but a full update exercise has not been carried out. Further information can be obtained from PricewaterhouseCoopers.