

## **A QUICK OVERVIEW ON THE NEW ITALIAN TAX REGIME FOR “NEW ITALIAN RESIDENT INDIVIDUALS”**

### **INTRODUCTION**

The 2017 Italian Budget Law, in force since 1<sup>st</sup> January 2017, introduced a new favourable tax regime for individuals deciding to move their tax residence to Italy, regardless of their nationality and the last State where they had their tax residence.

The new tax regime forms part of a series of measures aimed at attracting high-net worth individuals to Italy (including new rules offering reduced rates of income tax for highly skilled professionals).

### **THE NEW ITALIAN RESIDENT TAX REGIME**

The new tax regime waives the ordinary Italian personal income tax regime (“**IRPEF**”) – according to which the income tax base of an Italian resident individual is made up of his worldwide income – and provides for a more favourable tax treatment. That is to say, this regime provides for the application of a yearly €100,000 substitute flat tax covering any foreign source income earned by the new Italian resident. Moreover, an additional yearly €25,000 substitute tax – covering the same kind of income – can be paid by each of his family members, who also have the option if their tax residence is moved to Italy and wishes to benefit from the same regime. The substitute tax must be paid in a one-off lump sum, for each tax period in which the option is valid, and within the deadline for paying the balance of IRPEF, that currently falls on 30<sup>th</sup> June following a given fiscal year.

Nothing changes with respect to any Italian source income, that would continue to be subject to IRPEF at progressive rates up to a maximum of 43%.

The new tax regime is granted for a maximum of fifteen years/tax periods.

Unlike the “*resident but not domiciled*” tax regime currently in force in the United Kingdom, the remittance to Italy of any foreign-source income covered by the substitute tax does not trigger any further taxation in Italy.

As mentioned above, the substitute tax covers all foreign source income earned by the new Italian resident individual. In this respect, it is worth considering that according to Italian tax legislation, income is normally deemed to be foreign-sourced when (a) the asset from which it is derived is located abroad, (b) the activity from which the income derives is carried out abroad or (c) the payer is resident abroad.

The new resident opting for this tax regime may decide to exclude one or more foreign States from its scope of application (therefore, almost cherry picking), with the consequence that any income arising from an “excluded State” will be taxed pursuant to the ordinary income tax regime.

In the case of application of the regime, the domestic tax credit for taxes paid abroad by the new resident individual does not apply (except for the income deriving from the “excluded States”).

Capital gains arising from the disposal of foreign qualified shareholdings are outside the scope of the substitute tax, if occurred during the first five tax periods and ordinary taxation therefore applies. Such five-year tax period starts, in any event, from the first tax period of Italian tax residency.

The Italian controlled foreign companies (“**CFC**”) rules do not apply to shareholdings held by the new Italian resident individual in non-Italian resident companies, if the foreign company is a resident, for tax purposes, of a State covered by the substitute tax (*i.e.*, not excluded by the cherry picking option). Conversely, Italian CFC rules apply, at the level of the Italian entity, if the foreign company is controlled by an Italian resident company.

According to the Italian tax authorities, individuals opting for the application of the new tax regime are considered as “resident” for the purposes of the *Double Tax Treaties* entered into by Italy (“**DTT**”) since they are taxed in Italy on their worldwide income, although the foreign income received is subject to the substitute flat tax (unless the specific DTT provide otherwise).

## **ELIGIBILITY and Application**

Individuals can apply for this regime upon submission of the income tax return related to the tax period in which they have transferred their tax residence to Italy, or upon submission of the income tax return related to the tax period following the one in which the tax residence has been moved to Italy.

Taxpayers can also apply for the new tax regime by filing an advance ruling to the Italian tax authorities within the deadline for the submission of the tax return related to the tax period during which they have moved their tax residence to Italy. The ruling is optional but it could be helpful to receive a formal confirmation about the eligibility to the regime. The ruling request can be submitted even before the taxpayer has acquired Italian residency.

In order to be eligible for the application of the new regime, individuals must have been considered as non-residents for at least nine out of the ten tax periods preceding the one in which the option’s validity starts.

Under the regime, taxpayers are also exempt from wealth taxes (*i.e.*, tax on financial assets held abroad, “**Ivafe**” and tax on foreign real estate properties, “**Ivie**”) and they are not subject to tax monitoring rules regarding assets held abroad. However, qualified shareholdings are subject to Ivafe and to a reporting obligation in the Italian tax return during the first five tax periods of validity of the option. Moreover, in case of exclusion of one or more foreign States from the territorial scope of application of the regime (see further below), assets held in those States are ordinarily subject to Ivie and Ivafe and must also be reported in the Italian tax return in order to fulfil the tax monitoring regulations.

Furthermore, under the regime, transfers upon death and gifts of assets located abroad are not subject to Italian inheritance and gift taxes. Such exemption applies regardless of the residence of the heir/beneficiary and of the value of the asset/right transferred. Transfer of assets to trusts can also benefit from this exemption. Inheritance and gift taxes are due only in case of transfer of assets within the Italian territory.

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Given that the applicability and the actual tax efficiency of this new tax regime must be evaluated on a case-by-case basis, Grande Stevens Studio Legale Associato’s Italian Tax Department, in cooperation with Grande Stevens International, would be glad to provide a more in-depth analysis of the new tax regime and guidance to verify its suitability to your specific requirements.

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