The favourable tax regime of new Italian residents

Tax Newsletter

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By: Antonio Tomassini

The 2017 Budget Law introduced (starting from fiscal year 2017) favourable provisions for people wishing to become tax residents in Italy. It is aimed at wealthy individuals who wish to bring in new capital resources. The regime is inspired by the non-domiciled resident regime which is in force in the UK, Portugal and Malta and could be effective in attracting high-net-worth individuals, especially in those situations when locations have arisen as a consequence of Brexit, or changes in foreign tax legislation.

This is not the only new regime provided for by the law.

Actually, the Budget Law provides for three different regimes, together with a fast-track visa procedure for individuals and their families. The first two regimes are relevant for people, employees or professionals who intend to move to Italy to perform activity as a qualified employee or professional. Those regimes provide for (i) a three-year tax exemption on 90 percent of the remuneration for professors and researchers; or (ii) a five-year tax exemption on 50 percent of the remuneration for managers and professionals.

The third regime, by far the most innovative, provides, upon specific option, for a flat substitutive tax on all foreign source income of new Italian residents. A ruling request shall be submitted for these purposes to the Tax Authorities, clearly identifying the foreign countries in which the income is produced. This substitutive tax is due on an annual basis, for a maximum of 15 years and does not cover Italian sources of income. The main features and requirements of this regime are detailed below:

New Italian Resident - eligible individuals

The regime can be chosen by individuals who have been resident for tax purposes for 9 out of 10 of the previous calendar years, regardless of whether he or she is an Italian citizen. Individuals that have never been resident in Italy for tax purposes (according to art. 2 of the Italian Consolidated Law on Income Tax – TUIR) fall into the definition of the eligible ones.

Unlike the two regimes above for employees and professionals, this regime does not require any particular conditions to be fulfilled for activities to be carried out in Italy.

Substitutive tax regime and exclusions

As a general rule, Italian tax residents are subject to taxation based on the worldwide income taxation principle (ie income tax is due on their worldwide income, regardless of where the source of income is located). Moreover, Italian tax residents are subject to a 0.2 percent tax on the value of certain financial assets located abroad and to a 0.76 percent tax on the value of real estate properties situated abroad.
Those people can opt for a substitute tax regime on income produced abroad by paying a one-off payment of €100,000 for each tax year, with the only exception of capital gains from disposal of qualifying shares. Qualifying shareholdings are those representing more than 20 percent of the voting rights of 25 percent of corporate capital of a company (the thresholds are reduced to, respectively, 2 percent and 5 percent for public companies). Such sources of income are not covered by the substitutive tax if realized in the first five-year period after election: in this period, any possible capital gains are subject to the regular Italian tax regime (as well as the other income produced in our country, which will be taxed under ordinary Italian tax rules). Please note that dividends from such qualifying shareholdings fall within the scope of the substitute tax regime.

This has the clear purpose of contrasting potential abuses of the law to avoid taxation of conspicuous capital gains obtained just before transferring the fiscal residence.

Individuals opting for the regime might extend the substitute tax regime to cover some, or all family members: in this case, a substitutive tax of €25,000 is due for each additional person. The definition of family members to which the regime can be extended is particularly broad and is not limited to a spouse or children.

Additionally, those intending to opt for this regime should pay attention to domestic and overarching conventional norms on residence, partly because the Italian Revenue Agency can exchange information with countries where the new residents were formerly registered.

Income from foreign sources can be remitted into Italy without any additional taxation.

Ruling procedure

To apply for the regime taxpayers have to file a specific ruling to the Italian tax authorities, which can include family members (who will be subject to an additional substitute tax of €25,000 per person). In the ruling request to be filed, the individual can select the foreign countries where the sources of income were produced to include in the substitute tax regime (this is the so-called “cherry picking” principle). The substitutive tax is in fact an “umbrella tax” that covers the taxation of all items of income produced in the countries included in the ruling request.

The countries and the related income produced therein that are not included in the ruling request will be subject to ordinary Italian tax rules, allowing the taxpayer to benefit from a tax credit on taxes levied abroad (conversely this benefit is denied for the income included in the substitute tax regime). The ruling request should not include any specific description of the estate of the individual filing the request, unless it is relevant for assessing whether he or she was resident in Italy in a given period.

An source of income is deemed to have originated abroad (with a “mirror reading” of Article 23 TUIR and without prejudice to that provided by international tax treaties) when (i) the asset generating the income is situated abroad, or (ii) the business generating the income was conducted abroad, or when (iii) the individual remitting the income is resident abroad for fiscal purposes.

Once the Italian tax authorities issue a favourable ruling all foreign income will be admitted to the substitute tax regime for a 15-year period. The option is revocable by the taxpayer at any time and the regime will cease to apply in the event of a failure to pay the €100,000 substitutive tax.

The information included in the ruling request might be exchanged with tax authorities of the relevant countries where the applicants were resident in the relevant period.

Main benefits

1. **Substitutive tax**: the new regime allows certain resident taxpayers to opt for the payment of an annual substitutive tax of €100,000, which is an “umbrella tax”, in lieu of:
   - Income tax on non-Italian sources of income (under Italian laws income includes capital gains)
   - The 0.2 percent tax on the value of foreign financial assets
   - The 0.76 percent tax on the value of foreign real estate

2. **Succession duties**: Choosing the substitutive tax regime allows a full exemption from succession duties (inheritance and donation taxes) on all assets located abroad held by new Italian residents who opted for the
regime (as long as the 15-year period after election has not yet expired). As a general rule, succession duties apply at a rate ranging from 4 to 8 percent on assets, wherever they are located, received by Italian tax residents as a donation or upon succession.

3. **Reporting requirements exemption**: Italian resident taxpayers are subject to reporting requirements with respect to any assets (both financial and non-financial) held abroad. Selection of the substitutive tax regime exempts the individual from all such reporting requirements even if the relevant assets are held abroad without the involvement of any Italian based intermediary. Taxpayers who choose the substitute tax regime are guaranteed full confidentiality vis-à-vis the Italian tax authorities in relation to their non-Italian wealth. To a certain extent, information may automatically flow to the Italian tax authorities pursuant to the Common Reporting Standard (CRS), but taxpayers may keep financial assets in jurisdictions that have not adopted the standard (such as the US).

### Fast-track visa procedure

The new Italian stability law provides a series of incentives related to entry and residence visas for those intending to invest in Italy, as well as an improvement of the tax regime for employees transferring their residence in Italy, therefore increasing the country's fiscal appeal.

The current regulatory framework on immigration inflow has been modified, and Article 26bis of the Consolidated Law on Immigration includes a special premium regime that lasts two years for incoming immigrants who are going to stay longer than three months (renewable, under certain circumstances, for a further three years).

To benefit from such a regime - that leads to obtaining an “investor visa” - the non-residents will have to demonstrate a commitment to invest in Italy either by investing:

1. €2 million in government bonds, to be kept for at least two years
2. €1 million in participation to the share capital of a company residing and operating in Italy
3. €500,000 in the share capital of a company that is an innovative startup registered in a special section of the business register
4. €1 million in philanthropic donations in the fields of culture, education, immigration management, scientific research or cultural heritage restoration

A set of procedures is in place in order to verify compliance with the aforementioned requirements, and the legitimate origin of the lump sum, involving the UIF (financial information unit).

### AUTHORS

Antonio Tomassini  
Partner  
Milan | T: +39 02 806181  
Rome | T: +39 06 68 88 01  
antonio.tomassini@dlapiper.com