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The new special “res non-dom” tax regime in Italy

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On the basis of the successful experiences recorded by some foreign coun-

tries (e.g. the UK, Portugal and Malta), Italy has introduced the “resident non-domiciled” regime for all individuals who want to transfer their residence in Italy after having lived abroad for over

nine years.

The aim of this new legislation is to attract high net worth individuals who might be encouraged to move to Italy

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and, consequently, to bring capital to the country.

In fact, according to the new Article 24-bis of the Italian Tax Code (TUIR), if an individual applies for this particular tax regime, he/she will be subject to a flat taxation on all the income produced outside Italy, instead of the ordinary taxation, disregarding the worldwide taxation principle.

The substitutive tax is fixed at EUR 100,000 per year for all individuals who qualify, according to Article 2 of the Italian Tax Code, as an Italian tax resident and return to Italy after being a tax resident in a foreign country for nine years continuously. The flat tax substitutes the personal income tax (IRPEF) on the same income and, as opposed to the general rules regarding the double imposition, no Italian tax credit could be claimed. An interesting point is that the new fixed tax also substitutes the succession taxes, except the inheritance tax on assets located in Italy at the time of demise of the individual.

Moreover, the special tax regime is also applicable to the family members who file the same request to the Italian Tax Authority. Indeed, for all members covered by the option, the flat tax is equal to EUR 25,000 per year and it is payable instead of the personal income tax on all income produced abroad.

However, the taxpayer may choose to exclude certain countries from the flat tax system, which are duly mentioned in the request filed to the Italian Tax Authority (so-called “cherry picking”). Therefore, income derived from the countries excluded will be subject to ordinary taxation and tax credit may be claimed.



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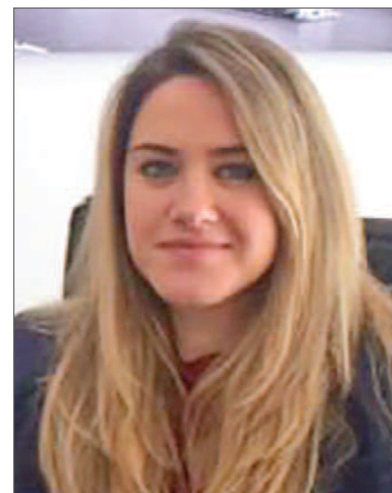
Another important point to underline is that, if the taxpayer applies for the “res non-dom regime”, he/she will be exempted from reporting obligations concerning assets held abroad and so he/she will not be obliged to fill out the “RW form” included in the Italian tax return. Consequently, he/she is also exempted from payment of wealth tax on real estate held abroad (IVIE) and from wealth tax on financial assets held abroad (so called IVAFE).

This represents a great opportunity, both in terms of privacy and in terms of tax compliance obligations, for all taxpayers who prefer not to disclose assets held abroad to their personal tax advisor and who additionally do not want to collect all the documents needed to complete the RW form every year or to calculate all the taxes on income produced abroad.

The special tax regime could last for a maximum of 15 years, starting from the beginning of the validity of the option.

The tax effects cease to exist if the option is surrendered by the taxpayer or if the flat tax is not paid on the due dates.

In terms of the procedure, in order to apply to the “res non-dom” regime, the taxpayer should file a preliminary ruling request to the Italian tax authority in order to obtain, within 120 days, a confirmation that the submitted case fulfils the conditions required for granting the benefits. If no answer is provided by the above period, the request is deemed approved.



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In addition to the above, it is also worth noting that the 2017 Budget Law introduced a special “light procedure” for issuing visas to foreign investors.

In fact, as an exemption from ordinary immigrant rules, a special two-year residence permit could be issued if the non-resident individual demonstrates his aim to invest in Italy either: at least EUR 2 million in state bonds or EUR 1 million in share capital of a company which operates in Italy or EUR 500,000 in share capital of an “innovative start-up” or EUR 1 million in donation to Italian entities for philanthropic, cultural or scientific purposes.

It would also be worth focusing on why Italy would benefit from new residents and what the immediate expectations are in relation to the above law change. Of course, the new legislation could provide new wealth opportunities for Italy, since it targets high net worth individuals, such as successful athletes, managers at the end of their career, investors or individuals who earn royalties or residents not domiciled in the UK approaching the 15-year deadline set by the 2017 non-dom reform. Therefore, the aim is clearly to attract more capital to Italy by encouraging new wealthy residents who, owning assets abroad, would have been discouraged by the high taxes due on “worldwide income”.

Additionally, the purpose is also to make the Italian tax system more competitive compared with other European

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tax systems which already provide that special regime. Indeed, over one hundred requests applying the new “res non-dom” regime have already been filed with the Italian tax authority so far. The result is quite successful, considering that the law has only recently been approved and the expected “implementing measures”

usually provided by the Italian tax authority have not yet been issued.

Finally, a crucial role is played by tax advisors. In order to correctly approach the matter, expert advice given by highly specialised professionals is really important for both the procedural aspects and the convenience of the new regime.

Consequently, in terms of wealth management, proper analysis of the tax benefits related to flat tax instead of ordinary taxation, evaluation of the risks of double taxation and the convenience of strategic “cherry picking” are extremely significant before choosing to qualify as “res non-dom” in Italy.