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THE GLOBAL TRADE PLATFORM

Italy on the move

Stefano Loconte writes on Brexit's threats and opportunities and how Italy has taken a frontline role in the reorganization of the international business landscape

When I first heard of the UK remain/leave referendum back in 2013 I realized that, regardless of the outcome, such a major landmark in history would have sparked a host of consequences on a political, social and economic level. That is why I joined 'Select Milano', an independent action group of professionals and executives committed to create 'a permanent bridge between London and Milan'.

Today, Brexit is a reality and it is quite clear that all actors must confront with a rapidly changing environment, posing both threats and opportunities.

The Italian government has taken a proactive approach in creating a favourable environment for businesses and individuals that are considering a relocation of their operations or domicile, and Select Milano is playing a leading role in identifying critical improvements, developing practical solutions and supporting their implementation.

While Italy already has a number of attractive features that go beyond taxation and financial markets, more can be done in attracting companies, investors and wealthy families: some results have already been achieved, and more initiatives are in the pipeline.

As a tax lawyer, I think that the creation of the preferential tax regime for 'new residents', which was recently passed, really represents a major step in this direction: it is the first time ever Italy moved away from the deeply-rooted 'worldwide income taxation' principle, and this is a clear evidence of the commitment to become an attractive location for high-standing individual and families.

This regime, which was strongly sponsored by the Government against opposition from various sides, is somewhat inspired to the successful 'Res non dom' system developed by UK, and specifically targeted to high-standing individuals and families.

Preferential regime for 'new residents'

In a nutshell, taxpayers moving their residence to Italy are entitled to a 15-year period of exemption from ordinary Italian taxation: in exchange for an annual lump-sum tax of €100,000 all income and gains generated abroad can be excluded from the Italian taxable base.

It is worth noting that such exemption is not related to remittance, and foreign income can be freely transferred to Italy, thereby eliminating a number of administrative issues and potential tax claim risks associated with the actual management of foreign funds.

Italy has tackled the challenge to play a frontline role in the reorganization of the international business landscape in the wake of Brexit

Furthermore, the taxpayer is even entitled to 'cherry-pick' source countries in order to exclude them from the forfeit tax and benefit from any applicable Double Taxation Treaty, should this be more appropriate in terms of personal tax management.

Within the family of the new resident, the exemption can be extended on the same terms to eligible members, against a reduced annual tax of €25,000 per person.

There are also substantial inheritance tax benefits to consider: even though Italy is a kind of tax heaven on its own merit for inheritance tax purposes (with standard rates ranging from 4% to 8% of the estate), new residents under the new scheme will enjoy total exemption from Italian inheritance tax on their foreign-held asset for the entire duration of the 15-year lump-sum tax term.

Foreign assets are also excluded from ordinary reporting duties; they can therefore be deposited with foreign banks anywhere in the world without any additional administrative paperwork or taxation either on capital or on dividends and coupons.

From a technical standpoint the Italian 'new residents' regime can be regarded as highly competitive by high-net-worth individuals with substantial passive income from international sources, and may definitely shift balances in the choice of a relocation destination when considered in conjunction with 'soft' elements associated with an Italian personal residence in terms of quality of life.

In my opinion, individuals presently enjoying the UK 'res non dom' regime are definitely among those who should not overlook the opportunities offered by the new Italian regime, both in light of Brexit and of the revision of UK tax system presently under way: it would not only allow them to extend the exemption of foreign income (even if remitted to Italy!) for an additional 15 years term, but would also provide substantial benefits in terms of inheritance tax without the costs and risks of complicated planning structures.

The benefits of the new regime also allow individuals who may be interested in the purchase of Italian real estate to fulfill their desires without worrying about negative tax consequences deriving from claims of an Italian 'deemed residence': the property may be purchased under the favourable 'first housing' treatment (ie. with reduced stamp duty and a lower on-going estate local tax), and any additional wealth kept abroad will not be negatively affected by the Italian tax residence.

Personal relocation in itself is a fairly complicated and cumbersome procedure, and the idea behind the preferential treatment is that of eliminating some of the most common bureaucratic and compliance issues that jeopardized the attractiveness of Italy for high-standing families.

As a matter of fact, the Italian 'new residents' regime has already raised substantial attention in the international market, and some relocations have already taken place: based on my experience so far, there are some technical issues that need to be properly addressed, although they are more related to the country of provenance than to the Italian side.

While the assistance of a professional counsel is strongly advisable to ensure full compliance and proper management of all connected issues, the overall application procedure can be regarded as quite fast and straightforward.

This preferential regime for new residents is definitely the most prominent initiative taken by the Government to improve the appeal of Italy to foreigners, but it is not the only one: additional 'brain redux' and 'carried interest' provisions are definitely worth mentioning, together with the 'speedy-visa' procedure for investors.

Tax breaks for highly skilled immigrant workers

'Brain redux' is a very interesting provision recently introduced by the Italian Government to encourage relocation to Italy of skilled workers that are citizens of any EU country. An extension of the same benefits to non-EU citizens under similar conditions is well under way and should be passed shortly.

This law was initially created to encourage return of workers of Italian citizenship who had moved abroad to take highly skilled jobs in research and management.

A preferential tax regime was created in 2016, whereby 50% of employment (or self-employment) income gained by qualifying individuals is excluded from the taxable base for Italian personal tax purposes, for four years until 2020.

Access to the regime has now been extended not only to Italian executives, professionals and highly specialized employees that are citizens of other EU countries, provided they have not been resident in Italy over the last five years, on the condition that they remain as tax residents in Italy for a minimum of two years.

The tax break will last at least until fiscal year 2020 for 2017 applicants, and it is expected that it will be extended further in favour of those who will join later, in order to cover at least four years of income.

Again, although it is not specifically targeted to the UK in particular, such a provision should be of great interest to companies, executives and professionals affected by Brexit, since it provides a substantial opportunity to relocate to Italy under very favourable conditions.

Requalification of carried interest income for tax purposes

'Carried interest' has to do with the taxation of personal income of investment fund managers derived from the participation in the results of their investment management activity: before recent changes, this income was regarded as employment income for Italian tax purposes, and therefore taxed at ordinary personal tax rates, up to 47%.

Following a recent amendment, this income is now to be regarded as 'investment income' and therefore subject to withholding tax at a flat rate of 26%, under the following conditions:

- fund managers (both employees and directors) must have an overall 'stake' in the underlying portfolio of at least 1%. The stake may be derived from compensation shares, provided they have been taxed as employment income;
- the investment income (derived from the 'special management shares') must be payable under the condition that an amount equal to the initial investment has been paid back to all other 'ordinary' investors, together a minimum return ('hurdle rate') set forth in the prospectus;
- the special shares are held by the managers for at least five years, or until the termination of their assignment.

Considering the fact that Italy is a good location for collective investment vehicles, thanks to the solid regulatory environment, the technical infrastructure and the membership in the EU savings market, this provision looks very much like a direct invitation to fund managers that may be forced to relocate away from London following Brexit.

It is interesting to note that the same provisions apply for income derived from participation in white list investment vehicles: an Italian resident manager can therefore benefit from the regime even if the fund is organized elsewhere.

Investor visa

Last not least, Italy has recently introduced a special simplified procedure for granting residence visas in favour of foreign investors. These provisions are not dependent on the option for special tax regime described above, although they may be obviously connected form a practical standpoint, especially for non-EU individuals that cannot claim the rights of freedom of movement and settlement belonging to EU citizens.

Special 2-year residence permits can be granted in excess of ordinary migration limits, and in some cases they can be renewed for an additional 3 year term.

In order to benefit from these provisions and obtain an 'Investor Visa', the non-resident individual must demonstrate the intention to invest in Italy either:

- €2 million in state bonds, to be kept for at least 2 years;
- €1 million in the share capital of a company located and operating in Italy, for at least 2 years;
- €500,000 in the share capital of registered 'innovative start-ups', for at least 2 years;
- €1 million in donations to philanthropic, cultural or scientific purposes.

It is worth noting that special attention will be given to the source of invested funds and that the fulfillment of conditions required for obtaining the Investor Visa will be strictly scrutinized.

Looking at the future

The size and the pace of changes being implemented by the Italian Government over the last months is quite impressive: although more can still be done, these changes clearly show that Italy has tackled the challenge to play a frontline role in the reorganization of the international business landscape in the wake of Brexit.

Select Milano in is the process of creating a trade bureau in London, in order to promote the role of the Italian financial market in Europe, and has a major focus on the promotion of Milan as a hub for financial services, also leveraging on the existing links between Italian Stock Exchange and LSE.

Overall, there is a clear trend toward a modern framework of tax and legal provisions specifically aimed at attracting international players to Italy and to Milan in particular, which in my opinion should be carefully evaluated by foreign companies and individuals looking for alternative locations for their activities.

Having a strong background in international tax issues and in dealing with Italian tax authorities, my firm has already provided assistance to both companies and individuals in analyzing the implications and costs of relocations projects based on the new regulations: we believe the trend will be developing further as players become more and more aware of the changes imposed by Brexit. ■

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