ITALY INTRODUCES A 15-YEAR PREFERENTIAL TAX REGIME FOR WEALTHY INDIVIDUALS TAKING UP TAX RESIDENCE IN ITALY

Author
Fabio Chiarenza

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Fabio Chiarenza is a tax partner at Gianni, Origoni, Grippo, Cappelli & Partners. He focuses on international tax matters, tax planning, and M&A. He graduated *maxima cum laude* in law in 1999 and holds a master's degree in tax law. He is a regular speaker at national and international seminars on tax issues.

New measures aimed at making Italy an attractive destination for high net worth individuals were contained in the 2017 Italian Budget Law and went into effect on January 1, 2017. The new Italian regime is comparable to the U.K. regime for non-domiciled individuals ("Non-Doms") and to regimes adopted in other countries. In essence, it allows individuals who become Italian tax residents to opt for a flat yearly tax of €100,000 on income from sources outside Italy, regardless of the amount of such income. The new regime, to be elected on the annual tax return, is available for up to 15 years and can be waived at any time during that term.

WHO CAN BENEFIT FROM THE NEW REGIME

To qualify for the option, an individual must have been a tax resident of one or more countries other than Italy for at least nine of the ten years preceding the year in which the individual becomes an Italian tax resident. If this condition is met, the option is available regardless of the taxpayer's nationality (*i.e.*, it is available for both non-Italian and Italian nationals).

SCOPE OF APPLICATION OF THE FLAT TAX

The flat tax, if opted for, will replace any tax to which an Italian tax resident would otherwise be subject on income from sources outside Italy. The only exception is that, during the first five years, the new resident will still be taxed on capital gains from the sale of a "qualified participation" in a company. In the case of a closely held corporation, a qualified participation means (i) an interest to which more than 20% of voting rights is attached or (ii) an interest of more than 25%, regardless of the voting rights attached to it. In the case of a publicly-traded corporation, it means (i) an interest to which more than 2% of voting rights is attached or (ii) an interest of more than 5%, regardless of the voting rights attached to it.

Income from Italian sources will be taxed in accordance with the regime ordinarily applicable to Italian tax residents. No tax credit is available for foreign taxes paid against the €100,000 annual amount. However, an option is available to exclude foreign income arising in one or more countries. This election may be made upon opting for the flat tax, or at any time during the 15-year term. Excluded foreign income will remain subject to ordinary tax rules and may therefore access the relief provided for by the applicable tax treaties.

OPTION ALSO AVAILABLE FOR RELATIVES AT A REDUCED AMOUNT

An attractive feature of the new regime is that if an individual moves to Italy together with family members who also receive income from non-Italian sources, the election for the regime can be extended to those family members, and each of them will be liable for an annual flat tax of €25,000 instead of €100,000. The range of family members who can benefit from the regime encompasses spouses, sons and daughters (including sons-in-law and daughters-in-law), parents (including parents-in-law), and brothers and sisters. Absent sons and/or daughters and their direct closest descendants may benefit as well.

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OTHER TAX ADVANTAGES ASSOCIATED WITH THE FLAT TAX OPTION

Individuals who are Italian tax residents are normally required to report on their annual tax return financial investments and other assets held outside Italy, whether or not such investments and assets produce income, (so-called "R.W. reporting obligations"). In addition, a tax is levied on financial investments ("I.V.A.F.E.") and on properties ("I.V.I.E.") so reported. New tax residents who choose to be taxed under the special regime will also be exempt from R.W. reporting obligations and, consequently, from I.V.A.F.E. and I.V.I.E. However, C.R.S. and F.A.T.C.A. reporting obligations would still apply.

Italian tax residents are normally liable for gift tax and inheritance tax with respect to transfers of assets by way of life time gift or an inheritance or bequest at death, regardless of physical location of the in Italy or abroad. The new regime provides tax relief to individuals on an elective basis. For successions and gifts taking place throughout the election period, inheritance and gift tax is indeed levied only on assets and rights situated in Italy (*i.e.*, the new tax resident will be exempt from gift tax and inheritance tax with respect to transfers of assets located outside Italy).

PROCEDURAL RULES

To benefit from the flat tax, a new tax resident must request a ruling ("*interpello*") from the Italian tax authority (the *Agenzia delle Entrate*) approving the election. The *interpello* must specifically indicate the jurisdiction(s) where the applicant was previously tax-resident, so that the *Agenzia delle Entrate* can exchange information with the tax authority of such jurisdiction(s). The *Agenzia delle Entrate* will have 120 days to approve or deny the request, and if no answer is provided to the applicant within this period, the request is deemed to have been approved. After having obtained a positive ruling, the applicant must make an election to apply the regime before the deadline for the submission of the tax return related to the tax year of transfer.

The new regime cannot be combined with other favorable regimes, such as the one provided for the repatriation of scientists and researchers. Within 90 days of the 2017 Italian Budget Law's entry into force, the *Agenzia delle Entrate* will issue additional regulations regarding implementation.

NEW INVESTOR VISA FOR NON-E.U. NATIONALS

The new flat tax regime is accompanied by changes to Italian immigration laws designed to make it possible for individuals who are not nationals of an E.U. Member

State to avoid restrictions that usually apply to the acquisition of Italian residency, as long as they are prepared to make investments in Italy.

Specifically, an individual can obtain an investor visa on the condition that he or she invests either €2 million in Italian governmental bonds or €1 million in securities issued by a company based and actually operating in Italy. The investment must be maintained for at least two years. The investor visa can also be obtained by making a donation of at least €1 million to a project of public interest in sectors such as culture, education, immigration handling, scientific research, and the like. In addition to fulfilling the investment requirement, an applicant for an investor visa will also be required to prove possession of financial resources that are sufficient to support him or herself during the planned stay in Italy.

The investor visa will have an initial term of two years and, under certain conditions, it will be possible to obtain extensions of three years each. Family members of the investor will be entitled to obtain a "family connection" visa granting residence with the investor.