Tax Flash
May 2019

Italy widens the Attractive Tax Package for Inbound Individuals

Executive summary

Upon recent law amendments made by the Law Decree 30 April 2019 (the "**Decree**") and the 2019 Budget Law, the tax package for individuals moving to Italy became very attractive.

The Decree[1] has significantly amended, as from the 1st of January 2020, the inbound tax regime aimed at making even more attracting for non-resident workers to become Italian tax-resident (the "**Inbound Workers Regime**"). The former 50% income exemption has been widened to 70% (90% in some cases) if certain conditions are met.

The 2019 Italian Budget Law[2] already introduced, as from the 1st of January 2019, a new beneficial tax regime aiming to attract individuals holding foreign pensions and transferring their tax residence to Italy (the "**Foreign Pensioners Regime**"). The latter Regime provides for a 7 per cent substitutive tax of individual income tax ("**IRPEF**") on foreign-sourced income in lieu of progressive tax rates, irrespective of the actual amount of the foreign-sourced income.

The aforesaid regimes add up to the Italian € 100.000 flat tax regime for high net worth individuals moving to Italy, introduced as from 2017 (the "**HNWI Regime**" and, together with the Inbound Workers Regime and the Foreign Pensioners Regime, the "**Regimes**")[3] forming overall a very attractive tax package for individuals who move to Italy.

Conditions

The tax Regimes are allowed to individuals who transfer their tax residence to Italy. Furthermore, prior to the transfer, an individual is required to have had his/her tax residence abroad for a minimum period of time, which varies according to the tax Regime concerned.

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[1] The Decree has further amended the special tax regime for inbound lecturers and researchers which is out of the scope of this document since it has a more limited scope.
[2] Article 1, para. 273 of Law 30 December 2018, No. 145 introduced Article 24-*ter* of the Italian Income Tax Code.
[3] Please see the table below for a brief comparison between the Regimes.

a) Inbound Workers Regime (amended as from 2020)

For employees (*e.g.* salaried works and directors)[4] or self-employees (*e.g.* consultants) moving to Italy as from 2020 – regardless of their citizenship/State of residence and even in the lack of former registration in the list of Italian citizens resident abroad ("AIRE")[5] - it is necessary:

(i) to not having been resident in Italy in the 2 tax years[6] prior to the transfer;
(ii) to commit to be resident in Italy for at least 2 years;
(iii) that the activity is carried on mainly in Italy.

Upon the recent amendments, certain more restrictive conditions are not required anymore[7]. The Regime at stake is also allowed to those taxpayers who will move their tax residence to Italy to carry out a business activity. No interim measures have been provided for taxpayers who already benefit from the Regime under the previous rules.

The inbound employees shall submit a written request to the employer. The inbound self-employees or individuals moving to Italy to carry out a business activity shall opt for in the relevant tax return.

b) Foreign Pensioners Regime (as from 2019)

The Foreign Pensioners Regime may be opted by individuals who:

(i) hold foreign-sourced pension income;
(ii) move their tax residence to an Italian municipality, having a population not exceeding 20,000 inhabitants, located in one of the Southern Regions of Italy (*i.e.* Sicily, Calabria, Sardinia, Campania, Basilicata, Abruzzo, Molise and Puglia);
(iii) come from States having administrative cooperation agreements in force with Italy;
(iv) have not been resident in Italy for tax purposes for the former 5 tax years.

The election shall be made in the income tax return relating to the tax year in which the Inbound Pensioners move their tax residence to Italy and it is effective <u>for 6 years</u> (*i.e.* for the tax year of transfer and for the subsequent 5 years). The option can be revoked from the taxpayer at any time during the 6 years. In the latter case, however, it cannot be restored and becomes not effective without any prejudice to the previous tax year(s).

[4] Also football players are deemed to be employees for Italian tax purposes.
[5] Provided that the individual has been tax resident in a Treaty partner State for the relevant period.
[6] Instead of the previous 5 tax years requirement.
[7] Namely, the requirement of being in possession of high qualification or specialization or holding executive roles.

c) HNWI Regime

Access is allowed to individuals (regardless of citizenship) provided they have been tax resident abroad for at least 9 of the 10 tax years preceding the one in which the option becomes effective.

The option shall be made in the tax return relating to the tax year in which the taxpayer has moved his/her tax residence to Italy or in the tax return for the following tax year. The regime ceases after <u>15 years</u> from the first tax year in which the option becomes effective, with no possible renewal. The option may in any case be revoked by both the principal taxpayer and the family member to whom it has been extended upon request.

Main features

a) Inbound Workers Regime (amended as from 2020)

The Inbound Workers Regime will be even more attractive since:

(i) a 70% income exemption (in lieu of 50%) will be allowed <u>for 5 years</u>;
(ii) a 90% income exemption will be allowed <u>for 5 years</u> to taxpayers moving to the aforesaid Southern Regions of Italy;
(iii) an extension from 5 to <u>10 years</u> will be granted where the taxpayer or a family member purchase a residential property in Italy (regardless of the value or size of the property) during the twelve months before the transfer to Italy or after the transfer. The 5 year extension is further allowed to taxpayers with at least a minor age or economically dependent children. For the 5 year extension period the income exemption amounts to 50% (to 90% for taxpayers with at least three minor age or economically dependent children).

As a matter of example, assuming a salary/remuneration of € 100.000, the 30% taxable income under the standard case would amount to € 30.000 with a due IRPEF equal to approx. € 8.320[8] ending up with an <u>effective income tax rate of approx. 8,32%</u>.

b) Foreign Pensioners Regime (as from 2019)

The Foreign Pensioners Regime derogates to the worldwide taxation principle that generally applies for Italian income tax purposes. The Regime at stake allows to opt for a yearly 7 per cent flat tax on all the foreign-sourced income (not limited to pension income) with the chance to exclude some States from which the foreign income is sourced.

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8 Considering the IRPEF ordinary progressive rates plus approx. 2% local surcharges, without taking into account any possible tax deduction for IRPEF purposes.

Inbound pensioners are (i) exempt from IVAFE[9] and IVIE[10] and (ii) do not have reporting obligations on foreign assets. Finally, the Foreign Pensioners Regime cannot be extended to the family members of the inbound pensioners.

c) HNWI Regime

Income generated abroad (regardless of the type and amount) is subject to the € 100.000 flat tax regime while income generated in Italy is taxed according to the ordinary rules. If the Regime is extended to the family members, the flat tax on the foreign income generated by each member amounts to € 25.000.

However, capital gains resulting from the disposal of substantial shareholdings made during the first 5 tax years under the HNWI Regime may not fall within the flat tax. Therefore, in the event of disposal of the investment before the end of the 5-year period, the capital gain is subject to the ordinary income taxation in Italy.

Likewise the Foreign Pensioners Regime, under the HNWI an exemption is granted from (i) IVAFE and IVIE as well as from (ii) the reporting obligations on foreign assets. As opposed to the Foreign Pensioners Regime, however, an exemption from inheritance and gift taxes on foreign assets is granted.

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[9] 0.20% Italian wealth tax levied on the value of financial securities held abroad.
[10] 0.76% Italian wealth tax on real estate properties held abroad.

The table below summarizes the Regimes.

	INBOUND WORKERS REGIME	FOREIGN PENSIONERS REGIME	HNWI REGIME
CONDITIONS	The individuals must: 1. not having been resident in Italy in the 2 tax years prior to the transfer 2. commit to be resident in Italy for at least 2 years 3. the activity must be carried on mainly in Italy	The individuals must: 1. have foreign-sourced pension income 2. move their tax residence to an Italian municipality having a population not exceeding 20,000 inhabitants located in one of the Southern Regions of Italy 3. come from States having administrative cooperation agreements in force with Italy 4. not have been resident for tax purposes in Italy in the 5 years prior to the transfer	The individuals: 1. must have foreign-sourced income 2. must move their tax residence to Italy 3. must have been no Italian tax resident for at least 9 out of the 10 tax years preceding the one of transfer to Italy 4. the election can be confirmed by an advance approval (ruling) by the Italian Tax Authorities
DURATION	From 5 to 10 years	Up to 6 years	Up to 15 years
ELECTION	Written request/Tax return	Tax return	Tax return
REVOCATION FROM THE TAXPAYER	No	Yes	Yes
INCOME TAX	70% income exemption (that may be extended to 90% in certain cases) for five years. 50% income exemption (that may be extended to 90%) for additional five years in certain cases	7 per cent yearly flat tax rate on the foreign-sourced income (not limited to pension income). Italian-sourced income and any foreign-sourced income that has been excluded on a cherry-picking basis shall be taxed pursuant to the ordinary IRPEF progressive rates (from 23% to 43%, plus surcharges)	Euro 100,000 flat tax for each tax year in which the option is valid (except for capital gains arising from the disposal of foreign substantial shareholdings if occurred during the first 5 tax years in which the HNWI Regime would apply). Italian-sourced income and any foreign-sourced income that has been excluded on a cherry-picking basis shall be taxed pursuant to the ordinary IRPEF progressive rates (from 23% to 43%, plus surcharges)
FAMILY MEMBERS	No	No	Yes (upon a further Euro 25,000 flat tax for each member)
IVAFE/IVIE	No exemption	Exemption.	Exemption
INHERITANCE AND GIFT TAXES	No exemption	No exemption.	Exemption for assets located abroad
REPORTING OBLIGATIONS ON FOREIGN ASSETS	No exemption	Exemption	Exemption

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