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Favourable Tax Regime for New Residents and Wealth Planning Opportunities

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The Italian “res non-dom” regime (“**Regime**”) allows individuals who become resident in Italy for tax purposes to opt for a yearly flat tax of €200,000¹ on income deriving from sources outside Italy, regardless of the amount of such income.

In order to opt for the Regime, eligible taxpayers must not have been resident in Italy for tax purposes for at least nine out of the 10 years preceding the year in which Italian tax residency was obtained. Once 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).

The Regime is optional and provides for a yearly substitute flat tax (“**Substitute Tax**”) of €200,000 on foreign sourced income received by individuals who have transferred their tax residence to 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 interest”² in business entities.³

No tax credit against the €200,000 annual amount is available for payments made for foreign taxes.

Income from Italian sources will be taxed in accordance with the Regime ordinarily applicable to Italian tax residents.

The option can be voluntarily terminated and may not last for more than 15 years.

The taxpayer may carve out foreign income deriving from a given jurisdiction (“**Excluded Jurisdictions**”). In this case, foreign tax credit is available. An Excluded Jurisdiction can be chosen when opting for the Regime, or at any time during the 15-year term.

Even if the 15-year term has not expired, the option is revoked if the taxpayer:

- a) does not pay, in time, in full or in part, the Substitute Tax; or
- b) transfers his/her tax residence outside Italy.

If an individual moves to Italy together with family members who also receive income from non-Italian sources, the option can be extended to those family members, and each of them will be liable for an annual flat tax of €25,000 instead of €200,000.

However, each member of the family who opts for the Regime must also meet the eligibility requirements. In addition, if the Regime is revoked on the basis of one of the above-mentioned reasons, the tax benefit also comes to an end for family members who opted for the Regime.

Other Tax Advantages Associated With the Regime

In principle, individuals who are residents in Italy for tax purposes must include in their annual tax return financial investments and other assets held outside of Italy, whether or not these investments and assets generate income (“**RW reporting obligations**”). In addition, a tax is levied on financial investments (“**IVAFE**”) and on properties (“**IVIE**”).

New tax residents who choose to be taxed under the Regime will also be exempt from RW reporting obligations and from IVAFE and IVIE.

In principle, Italian tax residents are normally liable for gift tax and inheritance tax on transfers of assets by way of lifetime gift, inheritance or bequest at death, regardless of the physical location of the assets, whether in Italy or abroad. According to the Regime, during the election period, inheritance and gift tax will only be levied on assets and rights situated in Italy. In other words, new tax residents will be exempt from gift and inheritance tax on transfers of assets located outside Italy.

Procedural Rules

The eligible taxpayer may opt for the Regime on:

- a) the filing of the income tax return for the fiscal year in which he/she acquired tax residence in Italy (“**First Applicable Taxable Year**”); or
- b) the filing of the income tax return for the fiscal year subsequent to the First Applicable Taxable Year.

The taxpayer may file a specific ruling request with the Italian Tax Authorities setting out the following:

- a) his/her personal data including his/her Italian tax identification number;
- b) that he/she has not been resident in Italy for tax purposes for nine of the 10 previous fiscal years;
- c) the jurisdiction(s) in which he/she has been resident for tax purposes in the fiscal year preceding that of the exercise of the option; and/or
- d) the Excluded Jurisdictions.

Pre-Immigration Assessment

Before a foreign individual considers relocating to Italy, it is essential to carry out a thorough analysis of existing foreign asset holding structures (such as trusts, foundations or holding companies). Understanding whether these structures are compliant with the Italian legal system is a relevant issue from both a tax and civil law perspective.

Post-Immigration Assessment

Once the foreign individual has moved to Italy, there are several implications in terms of the matrimonial property regime, in relation to pre-marital agreements and succession planning. The Italian/European legal system considers, as a general principle, the place of habitual residence of a couple – and of a person, limited to the purpose of inheritance – as the main criteria for determining the applicable law and not nationality – the law of which can only govern these matters in the case of an express choice.

Regarding the inheritance implication, the choice of the law applicable to the succession of a new resident is even more important in cases where the new resident comes from countries where the applicable law is determined by the place where the property is located. In such cases, the succession will be governed by different laws depending on where the assets are located, with the possible consequence that the succession plan drawn up in accordance with the succession rules of one country may not be compatible with the rules of another country, in particular with regard to the mandatory rules of Italian law on the rights reserved to the so-called “forced heirs”. It should be noted that both the matrimonial property law and inheritance law have no tax consequences and only affect the allocation/distribution of assets in the event of the acquisition of property during the marriage, its dissolution or the opening of the succession.

Planning Tips

Legislative Decree No. 139 of September 18, 2024 introduced the option for the settlor of a trust to choose to pay the applicable (donation) tax either at the time of each transfer of the assets or rights to the trustee’s trust fund or to pay such tax upon the transfer of the same assets or rights to the beneficiaries. The new provision is particularly appealing to new Italian residents who wish to take advantage of provisions established under the Regime. In fact, for successions opened and gifts made during the tax periods covered by the Regime, inheritance and gift tax, as mentioned above, will be due only on the assets and rights

located within the Italian territory at the time of the opening of the succession or making the donation.

Pending the necessary clarifications, on the basis of the wording of the new legislation, the settlors who have opted for the Regime could take advantage of the early taxation of the transfer of (foreign) assets into the trust, thereby benefiting of an exemption when the assets are transferred from the settlor to the trustee and when these same assets will be transferred from the trustee to the beneficiaries.

Endnotes

- 1 Please note that Law Decree No. 113 of August 9, 2024 increased the amount of the flat tax from €100,000 to €200,000. The new measure of the flat tax applies to individuals who move to Italy after August 10, 2024.
- 2 “Qualified interest”: equity securities, other than savings shares, and rights through which participations may be acquired, representing overall (i) more than 20% (2% in case of equity securities listed on regulated markets) of voting rights exercisable at ordinary shareholders’ meetings, or (ii) more than 25% (5% in case of equity securities listed on regulated markets) of the equity or other participation in the capital.
- 3 According to the non-public position of the Italian Tax Authorities, the ordinary taxation can be avoided by filing a ruling with the Italian Tax Authorities illustrating that the taxpayer intends to remain in Italy for more than five years.



Fabio Chiarenza is Head of the Tax Department. He has extensive experience in all areas of taxation, with a particular focus on M&A, corporate and structured finance, real estate, private equity as well as tax planning for individuals. He advises domestic and foreign investment banks and companies in connection with the structuring of investments. Fabio Chiarenza is frequently involved in the tax aspects of cross-border M&A transactions, innovative securitisations, structured financial products and derivatives. Fabio Chiarenza also advises clients during audits, assessments and assists them in relation to litigation and tax rulings.

He is a member of the Italian Bar and is admitted to practise before the Italian Supreme Court ("Corte di Cassazione").

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Vittorio Zucchelli specialises in tax matters relating to domestic and international M&A transactions as well as transfer pricing and supply chain restructurings.

He has advised large domestic companies with reference to their Italian and foreign tax matters.

Prior to joining the firm, he worked for a leading international tax firm.

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Valentina Ottani Sconza is an expert in legal and tax matters related to the management of large assets. She has over 15 years of experience in the field of private wealth, with a focus on family strategy and heritage engineering. She offers private clients complete solutions in terms of transmission, protection and destination of assets.

Oriented towards solving the needs of the private sector, she has a wealth of specific experience on the relevant civil and tax aspects as well as in the anti-money laundering discipline related to this field, advising trustees and being called upon to assist in the context of civil and tax litigation. She is a member of the Italian Bar.

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