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### CORPORATE LAW

#### Italy strengthens the supervisory bodies for limited liability companies

Under Italian law, statutory auditors (that can act as a body or as a single person) are a corporate body entrusted with the role of: (i) supervising the activity of the management body of the company and its compliance with the law; and (ii) if no external auditing companies are appointed, auditing the accounts and the financials of the company.

In limited liability companies (*società a responsabilità limitata*), the appointment of the statutory auditors is mandatory only in case certain circumstances are met. In this regard, the Italian legal framework relating to limited liability companies has recently been amended in order to extend the cases in which the appointment of an auditing body is mandatory with the aim of preventing the situations of crisis of small and medium Italian companies.

According to the new provisions listed in the Legislative Decree No. 14/2019 (the “New Code of the Business crisis and insolvency”) and in the Law Decree No. 32/2019, Article 2477 of the Italian Civil Code has been amended with respect to the thresholds applicable to the appointment of a controlling body (*i.e.* a Board of Statutory Auditors, a Sole Statutory Auditor and/or a Legal Auditor/Auditing Firm) of limited liability companies (*società a responsabilità limitata*). These thresholds have been reduced, so that more companies will be obliged to appoint a controlling body.

In light of the above, limited liability companies are required to appoint a controlling body in case the same, alternatively:

- are required by law to approve consolidated financial statements;
- control companies subject to mandatory auditing of their financial statements;
- for two consecutive fiscal years meet one of the following triggers:
  - a. total value of the assets in excess of Euro 4,000,000.00;
  - b. total turnover in excess of Euro 4,000,000.00;
  - c. average number of employees exceeding 20 units.

The appointment obligation ceases if none of the above limits is exceeded for 3 (three) consecutive fiscal years.

For the purposes of the first application of the above mentioned provisions, limited liability companies shall comply with the new rules within 9 months from the date of entry into force of the Legislative Decree No. 14/2019; *i.e.* by mid-December 2019.

## Tax Incentives

### Special Tax Regimes to Attract Well-to-Do Individuals in Italy

#### The Res Non-Dom Regime

The Res Non-Dom Regime is an optional, special tax regime available to individuals on condition that they:

- have not been resident in Italy for 9 years out of the 10 preceding the effect of the relevant option – to be preferably verified by filing a tax ruling to the Italian Tax Authorities; and
- move their residence to Italy.

By entering into such regime, the eligible taxpayers may benefit – for up to 15 years – from the payment of a flat, annual substitute tax of Euro 100,000 on income sourced outside Italy, which is therefore excluded from taxation under the ordinary Italian tax rules. The ordinary Italian tax rules will solely apply to the income sourced in Italy.

The Res Non-Dom Regime may also be extended to the members of the principal taxpayer's family (e.g. spouse, children, parents), by paying an additional Euro 25,000 substitute tax for each of them.

The option for the Res Non-Dom Regime also allows the taxpayer to:

- be waived from the annual reporting obligations of investments and financial assets held abroad under the fiscal monitoring provisions;
- be exempt from the payment of the taxes on immovable property and financial assets held outside Italy (so called, respectively, IVIE and IVAFE);
- be exempt from the inheritance and gift taxes on assets held outside Italy.

#### *The Res Non-Dom Regime in pills (art. 24-bis of the Italian Income Tax Code)*

| Eligible Taxpayers   | Annual Substitute Tax on Foreign-Sourced Income  | Additional Tax Benefits  | Duration  |
|--|--|--|---|
| <p><b>Individuals</b> who:</p> <ul style="list-style-type: none"> <li>▪ have <b>not</b> been <b>resident in Italy</b> for 9 years out of the 10 preceding the effect of the option</li> <li>▪ <b>move their residence</b> to Italy</li> </ul> <p><b>Family members</b> of the principal taxpayers:</p> | <ul style="list-style-type: none"> <li>▪ <b>€ 100,000</b></li> <li>▪ <b>Plus € 25,000</b> for each opting member of the principal taxpayer's family</li> </ul> | <ul style="list-style-type: none"> <li>▪ Waiver from <b>fiscal monitoring obligations</b></li> <li>▪ <b>Exemption from the payment of IVIE and IVAFE</b></li> <li>▪ Exemption from <b>inheritance and gift taxes</b> on assets held outside Italy</li> </ul> | <ul style="list-style-type: none"> <li>▪ <b>15 years</b></li> <li>▪ non-renewable</li> <li>▪ revocable</li> </ul> |

## The Pensioners Regime

The Pensioners Regime is an optional, special tax regime available to individuals entitled to a non-Italian pension on condition that they:

- have not been resident in Italy in the 5 years preceding the effect of the relevant option; and
- move their residence to a Municipality located in the Southern Regions of Italy (*i.e.* Sicilia, Calabria, Sardegna, Campania, Basilicata, Abruzzo, Molise and Puglia) with a population not exceeding 20,000 inhabitants.

By opting for such regime, the eligible taxpayers may benefit – for up to 9 years – from the payment of a flat, annual substitute tax of 7% on income sourced outside Italy, which is therefore excluded from taxation under the ordinary Italian tax rules. The ordinary Italian tax rules will solely apply to the income sourced in Italy.

The option for the Res Non-Dom Regime also allows the taxpayer to:

- be waived from the annual reporting obligations of investments and financial assets held abroad under the fiscal monitoring provisions;
- be exempt from the payment of the taxes on immovable property and financial assets held outside Italy (so called, respectively, IVIE and IVAFE).

### *The Pensioners Regime in pills (art. 24-ter of the Italian Income Tax Code)*

| Eligible Taxpayers   | Annual Substitute Tax on Foreign-Sourced Income | Additional Tax Benefits  | Duration   |
|--|---|--|--|
| <b>Individuals who:</b> <ul style="list-style-type: none"> <li>▪ have <b>not</b> been <b>resident in Italy</b> for the 5 years preceding the effect of the option</li> <li>▪ <b>move their residence</b> to a Municipality located in the Southern Regions of Italy with more than 20,000 inhabitants</li> </ul> | <b>7%</b> of the foreign-sourced income         | <ul style="list-style-type: none"> <li>▪ Waiver from <b>fiscal monitoring obligations</b></li> <li>▪ <b>Exemption from</b> the payment of <b>IVIE and IVAFE</b></li> </ul> | <ul style="list-style-type: none"> <li>▪ <b>9 years</b></li> <li>▪ non-renewable</li> <li>▪ revocable</li> </ul> |

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