

Special Italian Tax regime for “new residents” on non-Italian income and gains

Among the provisions in Italy's 2017 Finance Law are a number of measures that aim at encouraging high net worth individuals to move to, live and invest in Italy. There will be an easier entry visa regime targeted at non EU nationals, together with a tax exemption for those interested in changing their residence and settling in Italy. This new tax regime similar to the UK resident but not domiciled regime and other similar schemes.

The Law allows individuals who have been resident outside Italy for nine of the ten preceding tax years to be exempt from Italian taxation on their non-Italian income and gains. This applies to all formerly non-resident individuals regardless of their nationality or domicile, including returning Italian nationals.

The new regime means that while Italian sources of income and gains of these individuals will still be subject to Italian tax, foreign income will not - so long as the taxpayer pays an Italian substitute tax in an annual amount of Euro 100,000.

Legislation

The 2017 Finance Law
([Law, 11 December 2016 no. 232](#), O.G. 21
December 2016 introduces
a new paragraph 24-bis
into the Italian Tax Code
([Presidential Decree 917/1986](#))

This exemption can further be extended to family members at a cost of Euro 25,000 per member per annum. This regime can be used for up to 15 years until the taxpayer opts to withdraw from the regime, moves his/her residence abroad or fails to make the annual payment.

The substitute tax regime does not apply to the disposal of significant shareholdings in the first five years that the regime applies. This means that tax will continue to be paid

in the normal way (and subject to a partial participation exemption) on capital gains on the sale of equity interests carrying more than 20% of the voting rights, or 25% of profits or capital on a winding up. The new regime also contains rules simplifying the normal reporting requirements for foreign assets applicable to residents.

This new regime is only available following a successful clearance application which needs to be made to the authorities. The clearance must be granted before the deadline for filing the annual tax return for the first year of application (generally 31 October of the following year).

Italy's new territorial system seeks to attract high net worth individuals at a time of uncertainty but also of increasing competition for these kinds of regimes. Coinciding with the changes to the UK's resident non-dom regime, along with Brexit and the adoption by a number of other countries of similar rules, this is an interesting move by Italy to ensure that the country does not lose its share of the wealthy.

On 8 March 2017, the Italian Tax Agency published the guidelines - a form and explanatory notes on the procedure.

The Tax Agency confirms that the application should give a presentation of the case and contain the supporting documents with a translation in Italian for any non-standard documents not in the Italian language.

Instructions are also given regarding payment of the Euro 100,000, which is to be paid in one instalment for each calendar tax year by the end of June (e.g. on or before 30 June 2018 for tax year 2017).

Guidance

[Agenzia delle Entrate Web Page](#)

[Provision issued by Director of the Tax Agency](#)

[Tax Agency Circolular no. 17 of 23 May 2018](#)

The Tax Agency have published the [form](#) to be completed by the applicant. Section 1 contains identification of and basic information on the Applicant. Section 2 contains general data such as information about citizenship, tax residence and past jurisdictions or territories of residence. It also asks the applicant to select any territory or territories for which the applicant does not intend to exercise the option of payment of the substitute tax.

Section 3 consists of 20 "Yes" or "No" questions, constituting pointers for the possibility for the Applicant to access the new regime and enabling the authorities to ask further information. The emphasis is very much on ensuring that the individual has really been resident outside Italy. There are no questions regarding the new resident's future intentions. The questions concern whether the applicant:-

1. has had a spouse and/or children who have been resident, domiciled or had their habitual abode in Italy;
2. has had any other family relatives have been resident, domiciled or had their habitual abode in Italy;
3. has had any stable personal, social, cultural, political relations with anyone resident in Italy;

4. has held any corporate office (e.g. as director, member of supervisory body or similar) of any company or entity which is tax resident in Italy;
5. has a child enrolled in a school or training establishment in Italy;
6. has had the habitual use of any real estate for more than 90 days in any tax period;
7. has had the availability, in whatever form of, including through a nominee, of moveable goods registered at a public registry;
8. has had any real estate, apart from that mentioned previously, made available to them, including via a nominee;
9. has had the benefit, including through a nominee, of any significant shareholding in any company with its registered office or a permanent establishment in Italy;
10. has had relations of any kind, including through a nominee, with credit institutions or other financial intermediaries located in Italy;
11. has been in receipt, including via a nominee, of income from land in Italy;
12. has been in receipt including via a nominee, of investment income payable by the Italian State or by Italian resident persons, excluding income and other receipts deriving from bank or post office deposit or current accounts;
13. has been in receipt of income from dependent personal services performed in Italy including income assimilated to employment income pursuant to subparagraphs a) and b) of paragraph 1 of Article 50 of the Income Tax Code
14. has been in receipt of income from self-employment including through a conduit structure, arising from activities carried on Italy
15. has been in receipt, including through a nominee, of business income deriving from activities performed in Italy, including through a permanent establishment
16. has been in receipt, including through a nominee, of miscellaneous income deriving from assets or activities in Italy and as well as capital gains on the disposal for consideration of interests in resident companies, excluding those referred to in subparagraph f) of paragraph 1 of Article 23 of the Income Tax Code
17. has been in receipt, including through a nominee, of income defined in Articles 5, 115 and 116 of the Income Tax Code attributable to shareholders, associates or non-resident participants
18. has been in receipt of any pension or similar welfare payment or any severance indemnity described in sub-paragraphs a) c), d), e) and f) of paragraph 1 of Article 17 of the Income Tax Code paid by the Italian State, or by any person resident in Italy or by any permanent establishment in Italy of a non-resident
19. has been in receipt of income which is treated as employment income pursuant to sub-paragraphs c), c-bis), f), h), h-bis) and i) of paragraph

- 1 of Article 50 of the Income Tax Code paid by the State, persons resident in the territory of the State or by any permanent establishment in Italy of a non-resident
20. has been in receipt, including through a conduit structure, of remuneration for the use of intellectual property, industrial patents and trade-marks, as well as processes, formulas and information relating to experience acquired in the industrial, commercial or scientific field, paid by the Italian State, or by any person resident in Italy or by any permanent establishment in Italy of a non-resident,

Section 4 seeks information regarding any family members who will be covered by the election to pay the additional Euro 25,000 per annum substitute tax.

The form and accompanying information need to be presented by hand or by certified electronic mail. For this reason and given the technical references in the form, the Italian authorities are evidently expecting the documents to be prepared and filed by professional advisers.

See the original form [here](#).

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