

Global Mobility Alert

February 2017

New favourable tax regime for high net worth individuals

The Italian Budget Law for 2017 (Law n° 232 issued on December 11th, 2016) introduced two new provisions to encourage so-called “high net worth individuals” to move to Italy.

One of the provision aims at granting VISAs, out of the quotas annually defined, to foreign individuals willing to make investments in Italy.

The other provides for the exemption of foreign investments from Italian taxation (so called “non-domiciled tax resident”).

Conditions to be met

Article 1, para. 152 and following paragraphs introduced article 24-bis into the Italian income tax consolidated text (Legislative Decree 917/1986, hereinafter TUIR).

Based on the content of para.152 and following paragraphs, individuals becoming tax resident in Italy, according to the provisions of Art. 2, para. 2, of TUIR and having investment abroad, could benefit from a flat taxation on foreign income and investment.

According to Art. 2 para. 2, an individual could qualify as a tax resident (ordinary tax resident) in Italy when he meets, for the greater part of the year (i.e. more than 183 days during the calendar year), at least one of the following requirements:

- the individual is registered with the Anagrafe (the register of individuals living in Italy);
- His/her domicile is placed in Italy;
- His/her residence is placed in Italy.

When the individual qualifies as a tax resident (ordinary tax resident) in Italy, any kind of income, everywhere produced is subject to Italian taxation. In case of double taxation of certain income and when allowed, a credit on foreign taxes could be recovered. Furthermore, tax resident individuals are requested to disclose any investment held in a foreign country and are requested to pay wealth taxes on them.

The new provision on non-domiciled tax resident is applicable to any individual who meets both the following requirements:

- becomes an ordinary tax resident of Italy according to the TUIR, as explained above;
- has never been a tax resident of Italy during nine tax years over the previous ten.

Individuals meeting these requirements could choose to apply for the qualification as non-domiciled tax residents.

If so, their foreign income would be subject to a flat tax amounting to 100,000 euro, each year, regardless of the amount of foreign income produced during the tax year. The same treatment would be applicable to their family members, whose foreign income would be subject to a flat 25,000 euro tax (for each member).

Any other Italian sourced income, produced under the qualification of non-domiciled tax resident individual, is subject to the ordinary taxation applicable to the kind of income considered.

Exceptions to the flat tax are capital gains realized during the first five years under the new tax regime on foreign investments and deriving from the sale of qualified shareholdings: these are not subject to the flat tax but rather to the ordinary Italian taxation.

In order to obtain the status of non-domiciled tax resident in Italy, foreign individuals should file an application with the Italian tax authorities, confirming the requirements are met and their status.

The new regime will apply for fifteen years from the first year of tax residency.

Please note that in case of double taxation of foreign income, there is no chance to apply for the foreign tax credit, while the special tax regime remains applicable.

When deemed more appropriate, the individual could choose to apply the ordinary taxation and avoid the double taxation, according to the provision of the Italian tax law and relevant DTT. Furthermore, the application to the Italian tax authorities could specify which of the foreign countries' income the special tax regime should be applied to.

The qualification under the new tax regime gives the opportunity to avoid the following taxes and tax filing obligations for the income subject to the flat tax:

- wealth tax on the investment held abroad, saving 0.2% per year on the value of financial investment and 0.76% per year on the original cost of the real estate properties held abroad;
- filing of the declaration of investments held abroad;
- current Italian Inheritance and Gift Tax (from 4% to 8% depending on the degree of kinship).

VISAs for HNWIs

A permit of stay could be granted to individuals who demonstrate their will to invest money in specific financial products defined by the law (so called "Investment VISA").

The Italian Budget Law for 2017 introduced the new Article 26-bis of Legislative Decree n° 286, issued on July 25th, 1998 (the Immigration code) aiming to attract investments from foreign countries and to provide a favorable way to get VISAs, out of the ordinary quotas defined each year.

The new Article 26-bis of the Immigration code, states that people coming to Italy with the intention to stay for at least two years, could obtain the permit of stay (so called "Investment VISA") provided that, alternatively:

- an investment of 2 million euro is made in Bonds issued by the Italian Government;
- an investment of 1 million euro is made in the capital of a company incorporated and operating in Italy or 500,000 euro is invested in "innovative start-up" listed under the special register with the Italian Chamber of commerce;
- a donation of 1 million euro is made to charities operating in culture, education, immigration management, scientific research or restoration of art.

The investments or the donation should be made within three months from the entrance in the Country and must be maintained during the following two years. When investments are dismissed before the two years or the are not actually made within three months from the first admission in Italy, the Investment VISA is revoked.

Clients interested in receiving more information on the above are invited to contact us for a tailored analysis of their personal situation.

An advance ruling is necessary to benefit from the new tax regime thus, if interested, we invite you to reach out to us immediately to evaluate your personal position.

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