



GMS Alert

Tax Decree: updates on “special tax regime for inbound”

Premises

Article 16 of the Law Decree n° 147 released in September 2015 (in the following also “the Decree”), introduced the “special tax regime for inbound”, becoming applicable in January 2016. The original law provision was subject to several amendments and clarifications by the Italian tax authorities. More recently, Law Decree n° 34 in force since May 1st, 2019 (also known as “Decree for the Economic Growth”), provided for some adjustment of art. 16, paragraph 1 aiming to simplify and to open the application of the special tax regime to a wider panel of individuals (artists, sportsmen and woman, employees, self-employed and individuals coming to Italy to start their own business).

1. What has changed?

The new version of art. 16, as amended by the Decree for the Economic Growth, widened the kinds of income falling under the partial exemption from Italian taxation. The list includes now not only that deriving from employment and self-employment, already included into the previous version of the law, but also income assimilated to employment for tax purposes and business income (the latter ruled by paragraph 1-bis of art. 16 of the Decree).

Individuals acquiring Italian tax residency in 2019 (as a consequence of moving to Italy in the first part of the year), will fall under the previous version of art. 16 of the Decree thus they will have to meet the following requirements:

- 1) To qualify as non-tax resident of Italy for the five years before their arrival to Italy;
- 2) To commit to live and to work in Italy for at least two years;
- 3) To work for a company resident of Italy through a direct employment or via assignment from a foreign parent company of the Italian one.
- 4) To work predominantly in Italy (i.e. 183 days per year at least);
- 5) To cover an executive role or to meet the conditions to be regarded as highly qualified employees.

For individuals acquiring Italian tax residency from 2020 (e.g. as a consequence of moving to Italy in the second part of 2019) the new version of art. 16 will be operative. Amended, laxer, requirements will be taken into consideration in order to apply the special tax regime for inbound. More specifically, individuals will have to meet the following:

- 1) They should have qualified as non-tax resident of Italy for the two years preceding the arrival to Italy;
- 2) They should commit to live and to work in Italy for at least two years, qualifying as tax resident of Italy according to art. 2 of the Italian tax law;
- 3) They should work predominantly in Italy (i.e. 183 days per year at least).

The updated list allows the application of the special tax regime to a wider panel of individuals. The fact that individuals moving to Italy will not be

requested to have a specific qualification or a specific role, implies that any individual will be allowed to benefit from the special tax regime.

2. Measure of the exemption and duration

Another remarkable change, introduced by the Decree for the Economic Growth, is the adjustment of the percentage of income subject to tax and the relating increasing number of years for which the special regime could apply. The general rule provides for the exemption of 70% of the income (up to December 31st, 2019 the part exempted will be 50%) for five years (the first year of tax residency and the following four). When the individual meets one of the following, the part of income subject to tax decreases, reaching 10% and the number of years of application increases, up to ten.

- Individuals moving the residency in Abruzzo, Basilicata, Calabria, Campania, Molise, Puglia, Sardinia or Sicily will benefit from the 90% exemption of the income, since the first year of tax residency and for the following four.
- Individuals with one child under the age of 18 or dependant, even in pre-adoption foster-care and
- Individual buying a property in Italy, after the transfer to Italy or during the twelve months previous to the transfer

can benefit from the exemption of the income at the general exemption rate of 70% for the first five years and for further five years, applying the 50% exemption rate, for a total ten years of partial exemption.

When the individual has three children under the age of 18 or dependant, even in pre-adoption foster-care, income will be exempted from taxation in the measure of 70% for the first five years and for the following five the percentage will increase to 90.

3. Special provision for Italian citizens

According to paragraph 5-ter of art. 16, Italian citizens, not registered with AIRE while living abroad before moving to Italy, since January 1st, 2020, will be able to benefit from the partial exemption from taxation, on condition that they qualified as tax resident of a foreign Country, according to the content of the Double tax treaty in place.

4. Amendments of the special regime for teachers and researchers

The Decree for the Economic Growth provided amendments to art. 44 of Law Decree n° 78/2010 with reference to the number of years the exemption could apply. Teachers and researchers becoming tax resident of Italy since January 1st, 2020 and being non-tax resident of Italy for the previous two years, can benefit of the 90% exemption provided by art. 44 for five years, instead of three, as stated by the previous version.

The 90% exemption applies for further three years, for a total of eight years, to teachers and researchers with one child under the age of 18 or dependant, even in pre-adoption foster-care or when the individual purchases a property in Italy after the transfer or even during the twelve months previous to the transfer.

The regime can be applied up to eleven or thirteen years when the individual has two or three children under the age of 18 or dependant.

In case of lack of registration to the AIRE during the years preceding to the return to Italy, the regime could apply on condition that individuals qualified as tax resident of a foreign Country, according to the content of the Double tax treaty in place.

Contacts

We will be glad to assist you with any further clarification you may need.



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