



Memorandum No. 2/2020

Perugia,

January 13, 2020

To our

Clients

Their registered offices

Re: Tax incentives for attracting human capital in Italy – tax regime for High-net-worth individuals new residents (Article 24-bis DPR 917/86)

Dear Clients,

The Italian tax system provides for numerous tax regimes dedicated to people who decide to move to Italy to work or live.

For example, if professors and researchers, currently residing abroad, decide to move to Italy, they can benefit from fiscal incentives for the income generated in Italy.

A tax incentive is also in place for so-called “impatriates” workers. They are:

- graduates who have worked abroad
- students who have obtained an academic qualification abroad
- managers and workers with high qualifications and specializations.

Moreover, a Tax regime for new residents “**High-net-whort individuals**” (Article 24-bis of the TUIR) is dedicated to who move to Italy regardless a specific work activity. High-net-worth individuals moving their tax residence to Italy are enabled to apply a substitute tax to their foreign income, amounting to €100,000 for each fiscal year, in lieu of the Italian Income Tax.

What is it

The tax regime for new residents is dedicated to individuals transferring their residence to Italy and envisages **a substitute tax on their foreign income**. This beneficial regime aims at enhancing investments and attracting to Italy high-net-worth individuals.



Who can access the regime

This tax regime is available for "newly resident" individuals in Italy, who (regardless of their nationality or domicile) **have been non-tax resident in Italy for at least 9 years out of the 10 years preceding their transfer to Italy**. The incentive regime may be also extended to the family members of these individuals.

Benefits

High-net-worth individuals transferring their tax residence to Italy are enabled to **apply a substitute tax to their foreign income**, amounting to **€100,000 for each fiscal year**, in lieu of the Italian Income Tax. Therefore, this taxation represents an alternative to the application of the ordinary taxation and the option is valid for a period of 15 years. The election for the regime may be extended to family members through the payment on their foreign income of a substitute tax amounting to €25,000 per member. Taxpayers may access to the regime submitting an advance tax ruling to the Italian Revenue Agency or exercising the option for substitute taxation in their tax return. Individuals transferring their tax residence have to pay inheritance and donation tax only for properties and assets existing within the Italian territory.

The requirement of moving to Italy

All the benefits require the transfer of the residence for tax purposes to Italy by the person who intends to use it. Furthermore, prior to the transfer to the Italian territory, the individual is required to have had his/her tax residence abroad for a minimum period of time of 9 years out of the 10 years.

The concept of residence for tax purposes

According to Article 2 of the Italian income tax code, individuals resident in Italy are those who, for most of the tax period, namely for at least 183 days (or 184 days in the case of a leap year), are enrolled in the registers of the resident population or have their domicile or residence in the territory of the Italian State.

The notions of residence and domicile refer to the civil law concepts (Article 43 of the Civil Code), which defines "residence" as the place of habitual abode and the "domicile" as the main place of business and personal interests. These two conditions are alternatives: the existence of only one of them is sufficient to suggest that a person is qualified, for tax purposes, as resident in Italy.

The incentives apply from the tax year in which the person becomes fiscally resident in Italy, having regard to the period of application of the incentives and their duration. Given that for individuals the tax year coincides with the calendar year, a taxpayer who moves to Italy after 2 July (after 1 July in the case of a leap year) cannot be considered resident for tax purposes for that year, as s/he will be resident for less than most of the tax year. For example, those who enroll in the population register of the resident population from 2 July 2020 are not considered fiscally resident in 2020 and, therefore, cannot access the tax benefits for that tax year, unless they have actually moved the domicile or residence before that date.

Income concerned

Only income generated abroad is subject to the substitute tax. Income generated in Italy is taxed according to the ordinary rules.

The following items of income fall within the scope of the regime:

- income from self-employment generated from activities carried out abroad
- income from business activities carried out abroad through a permanent establishment
- income from employment carried out abroad
- income from a property that the new resident owns abroad.

They also include:

- interest from bank accounts paid by non-residents
- capital gains generated by the new resident following the sale of unqualified shareholdings in foreign companies.

Income excluded

Capital gains resulting from the sale of qualified participations (held in companies and non-resident entities) made **during the first 5 tax periods** of application of the tax incentive cannot be subject to the substitute tax. This is to avoid that the individual who holds a qualified shareholding in a foreign company able to generate a considerable capital gain, decides to move his/her residence to Italy for the sole purpose of benefiting from the tax incentive.

Therefore, in the event of sale of the investment before the end of the five-year period, the capital gain is subject to the ordinary tax provided for by Italian law.

It is possible to exclude the income generated in one or more foreign countries or territories from the application of the substitute tax. In practice, the taxpayer can choose to tax the income generated in certain jurisdictions (cherry picking) by using the ordinary taxation scheme. However, this choice must cover all income generated in the country or territory subject to exclusion.

Additional effects of the option

With the option, **further benefits** are granted to both the principal taxpayer and to the family members to whom the scheme is extended:

- exemption regarding foreign assets and investments¹;
- exemption from the payment of the tax on the value of properties held abroad (*Ivie*)²;
- exemption from the payment of the tax on the value of financial assets current accounts and savings accounts (*Ivafe*)³.

The exemption from the reporting requirements and from the payment of *Ivie* and *Ivafe* is only valid for the jurisdictions included in the option. Therefore, in relation to the income or financial assets held in those States that are excluded from the regime, the requirements regarding monitoring, *Ivie* and *Ivafe* and the payment of the taxes ordinarily due have to be fulfilled.

Inheritance and gift taxes

Those who have exercised the option are granted **exemption from inheritance and gift taxes** for assets and rights held abroad.

In the case of transfer by inheritance or gift during the period of the substitute tax regime, the inheritance and gift tax will have to be paid only for assets and rights held in Italy. The exemption also applies to the family members who have joined the scheme.

Duration of the regime

The regime ceases after **15 years** from the first tax period in which the option becomes effective, without the possibility to request a renewal.

¹ In essence, the **obligation to report, in the annual tax return**, investments and financial assets abroad able to generate taxable income in Italy.

² The **Ivie** is a tax due on the value of **real estate** located abroad and held as property or other real right by individuals residing in the territory of the Italian State, regardless of their use.

³ **Ivafe** is a tax payable by Italian residents on **financial assets** held abroad as property or other real right.

Once the regime has ceased, foreign income becomes part of the total income of the resident taxpayer and is subject to ordinary income tax (Irpéf). Moreover, for family members, the effectiveness of any extension of the option is no longer valid, regardless of the period for which they have benefited from the regime.

Revocation

The option for the substitute tax **can in any case be revoked before its expiration** by both the principal taxpayer and the family member to whom it has been extended⁴.

The revocation must be made in the same way as for the option and will be effective starting from the tax period referred in the tax declaration.

Our firm is available for any further clarification or information needed as well as for any assistance required.

Simone Bucaioni



⁴ In the event of revocation by the principal taxpayer, the family members to whom the option was extended will also be affected, regardless of whether they exercised their right of revocation independently. Conversely, the revocation made by family members will only affect them.