

## Italy – flat Tax for high-net-worth individuals

### New favorable optional tax regime for “high-net-worth individuals” transferring their tax residence to Italy (“Non-Dom Regime”) and its impact on real estate located outside Italy

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On December 7, 2016 the Italian parliament approved the Budget Law 2017, which has introduced, effective from January 1, 2017, a special optional tax regime for individuals who transfer their tax residence to Italy (so called “Non-Dom Regime”).

In brief, the Non-Dom Regime for eligible new Italian tax residents provides for a substitutive flat tax on personal foreign-sourced income, including income from real estate located outside Italy.

According to the Non-Dom Regime, eligible taxpayers can choose which income, from which country or countries, to tax with the substitutive flat tax (the so-called “cherry picking” principle). Any income generated in other countries excluded from the Non-Dom Regime is subject to ordinary Italian income tax and, therefore, will benefit from tax credit on taxes paid abroad (under ordinary limitations) and from relevant tax treaty protection (if any).

#### 1. The conditions for the new regime:

##### Individuals:

- have to become Italian tax resident according to the article 2, paragraph 2 of the Presidential Decree no.917/1986 “Italian tax code”(1). In case of doubt regarding the country of tax residence, an advance ruling procedure may be started in order to ask Italian tax office opinion on whether the individual qualifies for the Non-Dom Regime. The tax authorities would require filling in a specific checklist on tax residence requirements;
- must have been non-tax resident in Italy in at least 9 of the 10 years prior to the first year of effect of the option;
- have to elect for the regime in the tax return relating to the first year of application.

#### 2. The benefits of the option for the new regime

The optional tax regime allows the new Italian tax residents to pay a flat tax of €100,000 for themselves and of €25,000 for their relatives.

The following types of foreign income are eligible:

- a. Rental income, including income from real estate located outside Italy;
- b. Capital income (e.g. interest, dividend, etc.);
- c. Employment income;
- d. Self-employment income;
- e. Corporate income (with or without permanent establishment);
- f. Other income.

This special regime also provides:

- that foreign assets (including real estate) are not subject to reporting obligations and are exempted from wealth taxes
- for an exemption from donations and inheritance tax related to assets (including real estate) held outside of Italy.

Ordinary taxes will however still be applied on:

- a. Capital gains from ‘qualifying holdings’, realized in the first five fiscal years;
- b. Italian-source income.

The option for the Italian Non-Dom Regime cannot be combined with other favorable regimes, such as the one provided for the repatriation of scientists and researchers and the de-taxation of both employment and self-employment income for new residents in Italy.

(1) An individual qualifies as Italian tax resident if he satisfies just one of the following 3 conditions for the greater part of the fiscal year:

a. he/she is enrolled in the Register of the Italian resident population;

b. he/she has the centre of vital and economic interests in Italy;

c. he/she is physically present in Italy.

Please note that the tax residency requirements can be a complex matter to ascertain, in particular in absence of a Residency enrolment.

# TECHNICAL UPDATE

### 3. Wealth tax and monitoring purposes for foreign assets (including real estate) in the absence of election for flat tax regime

As mentioned above, the new Budget Law also offers an exemption from monitoring obligations (RW Form filing) and from related wealth tax payments.

Hence, if new Italian tax residents do not exercise the mentioned option, they are required to pay wealth tax due on foreign assets and to report in their tax return the value of all assets held outside Italy. Such assets include real estate, financial investments, bank accounts, precious metals, art-works, luxury automobiles and yachts.

With specific reference to foreign real estate reporting requirements, the RW Form in relation to the real estate properties is required only at the time of acquisition, or in case of changes during the tax period in relation to the value previously stated by the taxpayer.

The wealth tax on the value of real estate held abroad ("IVIE") is 0.76% and the value of the property is the cost declared in the purchase deed. If this is unavailable, the property's value is its market value at the end of the year (or holding period) in the country where it is located. For property situated in Member States of the EU or EEA, the cadastral value is used if available.

IVIE is reduced to 0.40% for a main dwelling and its annexes. In this case, up to the amount of tax due, there is an allowance of €200. This allowance is proportional to the portion of the year in which the property is used as the main dwelling and to the percentage of ownership. There is a further allowance of €50 for each child, up to the age of 26, provided that the child habitually lives in the property and is registered as a resident there.

### 4. Duration of the optional new flat tax regime

The new regime is available from fiscal year 2017 (the relevant tax return will be submitted in 2018) and, once elected, will run for 15 years. It can be revoked at any time. The special arrangements will terminate immediately if tax is not paid, or is only partially paid, by the tax payment deadline of every year.

The option can be revoked by the individual, but, if revoked, can no longer be reactivated.

Please note that in order to take advantage of the new regime starting from the fiscal year 2017, tax residence will have to be moved by the end of June 2017.

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