Italy: New favorable tax regime for resident high net worth individuals

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In brief

The Italian Parliament recently approved the 2017 Italian Budget Law (the Budget Law) which contains a specific provision for individuals that migrate their tax residency from abroad to Italy. Such individuals are allowed to opt for their non-Italian sourced income to be taxed in Italy through the application of a yearly forfeiture substitutive tax, at a fixed amount of 100,000 Euros (hereinafter the ‘non-domiciled tax regime’). To elect such treatment, the individual must meet several requirements, including previous non-Italian tax residency and an advance ruling obtained from the Italian tax authorities.

In detail

Background

On December 21, 2016, the 2017 Budget Law was published in the Italian Official Gazette after its approval by the Italian Parliament on December 7th. The Budget Law contains a number of tax related provisions aimed at fostering investments in Italy, among other goals.

Under Italian law, individuals with tax residency in Italy are taxed on a worldwide basis, i.e., on their income wherever sourced. No exceptions to this general rule have been permitted until now.

Pursuant to the Budget Law provisions, individuals that migrate their tax residency in Italy are now allowed to opt for their non-Italian sourced income to be taxed in Italy through a ‘non-domiciled tax regime’ - a yearly forfeiture substitutive tax at a fixed amount of 100,000 Euros. Under the regime, tax will not be due on the value of real estate and financial investments located abroad due to the wealth tax.

What are the requirements?

In order to opt for the favorable regime, individuals must:

(i) move their tax residency to Italy

(ii) have been tax resident outside of Italy for at least nine out of the ten tax periods preceding the one for which the option is exercised, and

(iii) obtain a mandatory advance ruling from the Italian tax authorities.

Does the ability to participate in the ‘non-domiciled tax regime’ expire?

The option expires after 15 years and is revocable at any time but, if revoked, cannot be restored.

Is an individual’s family members entitled to benefit by the ‘non-domiciled tax regime’?

The option can be extended to the individual’s family members provided that they fulfil the above mentioned conditions, i.e., tax residency migration and previous non-Italian tax residency. In such a case, each family member included in the option would be subject to a yearly forfeiture substitutive tax on non-Italian sourced income at a lower fixed amount of 25,000 Euros.
How does the ‘non-domiciled tax regime’ work?
Under the new provision, taxpayers are allowed to rule out from the ‘non-domiciled tax regime’ the income sourced in determined countries. Accordingly, for income sourced in said chosen countries, Italian individual taxes apply according to the ordinary rule, including the recognition of a credit for taxes paid therein.

In order to avoid abusive effects, under the optional regime, capital gain arising from the disposal of a ‘qualifying shareholding’ within the first five years from the option shall be taxed according to ordinary Italian tax rules, leading to a maximum taxation of 23%. A shareholding is defined as ‘qualifying’ when it entitles the holder to more than 20% of the voting rights in the ordinary shareholders’ meeting or it represents more than 25% of the share capital of the company. Such percentages are reduced to 2% and 5%, respectively, in the case of listed companies.

Furthermore, if the Italian tax resident opts for the ‘non-domiciled tax regime’, he/she would be subject to Italian inheritance and gift taxes solely with respect to assets physically located in the Italian territory.

What is the new investor programme?
The Budget Law also introduces a new category of visa called the ‘investment visa’ for foreign investors who would like to invest at least one million Euro in Italy in a company that has a legal seat in Italy, or two million Euros in Italian Public Bonds, or one million Euros as a donation aimed to support public projects in preservation of cultural heritage, managing of immigration and organizations operating in the field of research. The investments in Italian Public Bonds or in the Italian company must be granted for a minimum period of two years.

The investment visa will allow the foreign citizen to obtain an Italian resident permit for two years, with the possibility to extend it for additional three year periods. The dependents will be allowed to join the investor in Italy and receive a family permit of stay.

The investors must file a list of specific documents to demonstrate their investments in Italy. After that, Italian Immigration offices will evaluate them and if all the requirements are met, they will issue the authorization to obtain the proper visa.

Please consider that the investment program is applicable just for individuals who themselves actually make the investment.

The takeaway
Mobility programs should consider whether this ‘non-domiciled tax regime’ will provide favorable financial benefits for their mobile employees working in Italy. Depending upon the employee’s specific situation (e.g., their compensation etc.), this new regime could lower the Italian tax burden for such persons. If the company tax-equalizes their mobile workers, this could yield cost savings. The ‘non-domiciled tax regime’ is born as a favorable tax provision for individuals who have larger investments and income outside Italy; but it may be extended also to employees who transfer into Italy and have more significant financial investments abroad such as a company incentive plan.

Note that as an alternative to the ‘non-domiciled tax regime’, employees that move to Italy may also pursue a special favorable tax regime applicable to Italian source employment income. The so-called ‘inbound favorable tax regime’ can provide a reduction of the employment income equal to 50%.

An advance ruling from the tax authorities should be obtained; PwC can assist with this process. It would be advisable to start this process immediately so the election applies for the 2017 tax year.
Let’s talk

For a deeper discussion about this issue, please contact your Global Mobility Services engagement team or one of the following professionals from PwC Tax and Legal Services Italy:

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