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LEGAL INFORMATION NEWSLETTER

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We are pleased to provide you with the new issue of our legal information newsletter.

Topical legal questions are discussed and those related to issues that you might encounter.

We hope that you will find it of interest. We would welcome any comment you might have.

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**NEW MEASURES INTRODUCING A FAVOURABLE TAX REGIME FOR NEW RESIDENT INDIVIDUALS**

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**Introduction** - Law No. 232 of 11 December 2016 (the Budget Law for 2017) entered into force on 1 January 2017 and introduced a favourable tax regime for new resident individuals.

Details on the main measures regarding individual taxation are summarized below.

**New Tax regime** – Individuals transferring their residence to Italy for tax purposes, after residing abroad for at least 9 of the previous 10 tax years, may opt for the application of a substitute tax on their foreign income, except capital gains on substantial participations realized within the first 5 tax years of exercising the option.

Individuals opting for the new favourable regime will pay a **flat substitute tax of EUR 100,000** and additional EUR 25,000 for each qualifying relative, in each tax year.

In addition, foreign assets will not be subject to wealth taxes, i.e. the tax on financial assets held abroad by Italian tax resident individuals (*imposta sul valore delle attività finanziarie detenute all'estero*, IVAFE) and the tax on immovable property held abroad (*imposta sul valore degli immobili situati all'estero*, IVIE), or inheritance/gift tax and

the related reporting obligations will not apply.

However, individuals may opt to exclude from the application of the regime foreign income arising in one or more countries, in order to apply the general tax rules and benefit from the applicable treaty relief.

**Option length** – The option is valid for 15 tax years; however, it may be revoked and ceases to have effect in the case of failure of payment of the tax due.

The option must be exercised before the deadline for the submission of the tax return related to the tax year of transfer, after receiving a positive ruling from the Italian Tax Authorities (ITA) and communicating the last country of residence before the transfer.

As we are mentioning herein below, the Italian Tax Authorities have issued a regulation providing for specific implementing rules.

**Favourable tax regimes for inward expatriates** - The favourable tax regime for qualifying professors and researchers who, after working abroad for at least 2 years, start working in Italy has been permanently confirmed.

In addition, the favourable tax regime for inward expatriates, introduced by Legislative Decree No. 147 of 14 September 2015 has been amended.

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In particular, individuals who, after continuously residing for at least 5 tax years in a foreign country, transfer their tax residence to Italy and intend to reside there for at least 2 tax years may benefit from a 50% exemption from income tax on their employment and self-employment income, subject to certain conditions.

The regime applies for the tax year in which the transfer of residence occurs and the following 4 tax years.

The tax regime is also available to EU citizens and citizens of third countries that have an effective tax treaty or exchange of tax information agreement with Italy, provided that:

- they have a university degree and continuously worked in a country other than Italy in the previous 24 months; or
- they continuously studied in a country other than Italy in the previous 24 months and obtained a university degree or a post degree specialization.

#### **Earned income credit for pension income-**

Individual taxpayers earning pension income may benefit from a tax credit equal to an amount up to EUR 1,880 for taxable income not exceeding EUR 8,000.

For taxable income between EUR 8,000 and EUR 15,000, the credit is calculated under the following formula:

$$1.297 + 583 \times [(15,000 - \text{taxable income}) \div 7,000]$$

For taxable income between EUR 15,000 and EUR 55,000, the credit is calculated under the following formula:

$$1.297 \times [(55,000 - \text{taxable income}) \div 40,000].$$

**Credits for expenses** - Individual taxpayers may benefit from a tax credit equal to 19% of expenses for qualifying primary and secondary education, up to EUR 717 for tax year 2017 and EUR 786 for tax year 2018 per student.

The threshold will be increased to EUR 800 starting from tax year 2019.

In addition, the following tax credits have been extended until 31 December 2017:

- the tax credit granted for certain expenses incurred for the improvement of the energy efficiency of immovable property, equal to 65% of documented expenses;
- the tax credit granted for certain expenses incurred for the refurbishment of immovable property, equal to 50% of documented expenses; and
- the tax credit granted for expenses incurred for the purchase of furniture linked to the same refurbishment.

**Investment credit** - The tax credit for investments made in start-up companies that qualify as innovative under Law Decree No. 179 of 18 October 2012 and has been amended and permanently confirmed.

Individuals investing in an innovative start-up company may deduct from the income tax due 30% of the amount invested up to EUR 300,000 each tax year.

To benefit from the tax incentive, the investor must maintain the equity participation in the innovative start-up company for at least 3 consecutive tax years. The tax credit also applies in relation to investments in qualifying innovative small and medium-sized enterprises (SMEs).

#### **Tax on entrepreneurial income** –

Qualifying entrepreneurs, general partnerships and limited partnerships may opt for the application of the new tax on entrepreneurial income (imposta sul reddito imprenditoriale, IRI).

Under the new regime, business income will be excluded from individual taxable income and subject to separate taxation at the rate of 24%.

Only retained earnings will be subject to separate taxation, while outflows will be deductible and fully taxable in the hands of the entrepreneurs or partners for individual tax purposes.

The option is valid for 5 tax years and renewable.

Revaluation of certain assets – Qualifying individuals may elect, by 30 June 2017, to step up the value of participations in unlisted companies and qualifying land held on 1 January 2017, by paying a substitute tax at the rate of 8%.

**Substitute tax on qualifying premiums** - A substitute tax of 10% applies to premiums connected to increases of productivity, quality, efficiency and innovation received by qualifying employees of private companies, up to EUR 3,000 per year.

**Exemption of agricultural income** – For tax years 2017, 2018 and 2019, income from the ownership of farmland and agricultural income is not included in the taxable income of qualifying farmers and agricultural entrepreneurs for individual income tax purposes and related regional and municipal surcharges.

**Implementation rules** – On 8 March 2017, the Italian Tax Authorities (ITA) issued Protocol No. 47060 providing for implementing rules with respect to the favourable tax regime for new residents introduced by Law No. 232 of 11 December 2016 (the Budget Law for 2017).

Under article 24-bis of Presidential Decree No. 917 of 22 December 1986, qualifying individuals transferring their tax residence to Italy may opt for the application of a substitute tax on their foreign income, with the exception of capital gains on substantial participations realized within the first 5 tax years of exercising the option.

They may also choose to exclude from the application of the regime foreign income arising in one or more countries, in order to

apply the general tax rules and benefit from the applicable treaty relief.

The option must be exercised in the annual income tax return related to the tax year of transfer or to the subsequent tax year.

Qualifying individuals may also apply for a tax ruling. ITA clarified that applications may be submitted – electronically, via registered mail or in person – to the Central Directorate of Assessment (Direzione Centrale Accertamento).

Applications must state:

- the individual's identification data and tax number, as well as his address, if already resident in Italy;
- indication of tax residence abroad for at least 9 of the previous 10 tax years;
- the country or countries of residence prior to the transfer; and
- the countries for which the individual opts not to benefit from the application of the substitute tax.

Furthermore, the applicant must complete a specific checklist and, where relevant, submit supporting documentation.

With respect to the payment procedure, qualifying individuals must pay a flat substitute tax of EUR 100,000, plus an additional EUR 25,000 for each qualifying relative, for each tax year of exercising the option.

The payment is due by the same deadline as the payment of the balance of individual income tax, i.e. 30 June of the following year.