Highlights

- Regime available to individuals transferring their residence to Italy (after a 9 out of 10-year period of residence abroad)
- Flat taxation of foreign-source income (€ 100,000)
- Possibility to extend the benefit to relatives
- Exemption from reporting obligations, inheritance / gift taxes and wealth taxes

New tax regime for individuals transferring their residence to Italy

On December 7, 2016 the Italian Parliament approved Budget Law 2017, which will enter into force on January 1, 2017. Art. 22 of Budget Law 2017 deals with special tax regimes for individuals that transfer their tax residence to Italy. Such regimes are meant to make the transfer of individuals to Italy appealing and attract mainly high new worth individuals and skilled employees. In particular, Art. 22 introduces an optional flat substitute tax on foreign-source income and gains, as better explained below. Aside to such new regime, Budget Law 2017 also broadens an existing partial exemption regime for Italian-source employment income (so called “impatriate regime”); however the two regimes cannot be cumulated.

1. The conditions for the new regime

The option for a substitute tax on foreign-source income and gains is available to individuals (whether Italian or foreign nationals) that acquire Italian tax residence. Such optional regime is subject to the following conditions:

i. The individual must have been non-resident of Italy for Italian tax purposes in at least 9 of the 10 years prior to the first year of effect of the option.
ii. The option, to be communicated in the annual tax return, may be exercised subject to obtaining a positive ruling, which must confirm that the individual may qualify for the optional regime.

2. The effects of the option for the new regime

The optional regime is as follows:

i. All foreign-source income and gains are subject to a substitute tax (in lieu of the levy of income tax according to general rules) equal to 100,000 Euro per year (such income and gains are not subject to any additional income taxation, even if remitted to Italy).
ii. As a sole exception, capital gains on substantial shareholdings realized in the first 5 years of effect of the option, even if they meet the conditions to qualify as foreign-source, are subject to income tax under general rules with the benefit of a foreign tax credit (subject to general conditions and limitations).
iii. The individual can opt for income and gains sourced in one or more foreign States to be subject to income tax under general rules. The exclusion may allow the individual to benefit from reduced taxation/treaty relief in the State where the income and gains are sourced (and foreign tax credit in Italy), if the treaty in force with the foreign State contains a specific subject to tax condition.
iv. Foreign assets are not subject to reporting obligations and are exempt from wealth taxes.
v. Foreign assets are not subject to inheritance and gift tax.

3. Duration of the optional new tax regime

The option for the substitute tax regime is effective up to a maximum period of 15 years. The option can be revoked by the individual, but, if revoked, is no longer available.

4. Possible extension to relatives

The substitute tax regime can be extended to one or more qualifying family members against the payment of an annual substitute tax of 25,000 Euro (rather than 100,000 Euro) per family member benefitting from such a regime. Therefore, if e.g. two spouses transfer their tax residence to Italy and both of them wish to benefit from the substitute tax regime, the overall annual substitute tax would be 125,000 Euro.

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