Italy: Flat-tax regime - Tax Office Circular no. 17/E

Tax Alert
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Tax Office Circular no. 17/E of 23 May 2017 provides important guidance by clarifying the new optional substitute tax regime for new residents.

The new flat-tax regime is available from FY 2017 and, once elected, runs for 15 years. It can be revoked at any time.

New tax residents can exercise the option for the flat-tax regime if they:

- actually transfer their tax residence to Italy;
- have had foreign tax residence status for at least nine out of the last 10 fiscal years.

Under the flat-tax regime, non-resident individuals who transfer their tax residence to Italy will pay, instead of ordinary tax, a flat-rate substitute tax of EUR 100,000 per year on all their non-Italian-sourced income (and EUR 25,000 for any family member).

The following foreign income is covered by the new tax regime:

- Employment income
- Rental income
- Capital income
- Self-employment income
- Corporate income (with or without permanent establishment)
- Other income.

Transfer of residence

The Circular clarifies that **the individual must actually move to Italy** and confirms the supervisory role of municipal authorities in connection with the necessary registration of the individual in the register of the resident population (the 'Anagrafe'). The authorities may remove an individual from the register if, after visiting the person's home at appropriate intervals, they cannot find the person at that address.

Application for a tax ruling

The Tax Office confirms that tax rulings are optional and that it is advisable for taxpayers to consider whether to check beforehand that they satisfy the requirements for the flat-tax regime. An application can be filed even if the person concerned has not yet moved to Italy. The validity of the ruling is subject to actual transfer of the applicant's tax residence to Italy within the proposed tax period.

CFC rules and tax treatment of dividends and capital gains from preferential tax regimes

The Circular confirms that newly domiciled individuals are subject to neither the CFC rules nor the rules on the full taxation of dividends and capital gains arising from ownership or transfer of shares in companies that benefit from preferential taxation.

Exclusion of one or more foreign states

Taxpayers may exercise the option available under article 24-*bis* (5) of the Italian Income Tax Code, which allows them to cherry-pick one or more foreign countries or territories and exclude the income generated there from the flat-rate substitute tax. They can thus benefit from foreign tax credits, which would otherwise be excluded; however, they will have to pay **inheritance and gift tax on assets located in the countries they have chosen to exclude**.

The new flat-tax regime and treaties against double taxation

The Circular clarifies that individuals who exercise the option offered by article 24-*bis* are also considered to be resident for double tax treaty purposes, unless the relevant treaty (e.g. Italy-Switzerland or Italy-USA) stipulates otherwise.

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