WATSON FARLEY & WILLIAMS

BRIEFING

ITALIAN NON-DOM TAX LEGISLATION: RECENT DEVELOPMENTS

FEBRUARY 2019

- FROM 1 JANUARY 2019, A NEW OPTIONAL TAX REGIME WILL BE APPLICABLE FOR INDIVIDUALS RECEIVING FOREIGN PENSIONS AND MOVING THEIR TAX RESIDENCE TO SOUTHERN ITALY.

On 1 January 2019, the Italian Budget Law introduced a new tax regime for foreign pensioners moving to Italy.

This briefing note aims to provide a brief analysis of the main tax changes introduced.

"THE TAX REGIME APPLIES FOR UP TO SIX YEARS FROM THE FIRST FISCAL YEAR FOR WHICH THE ELECTION IS MADE."

The new tax regime

Art. No. 1, paragraph No. 273-274 of Law No. 145/2018 (i.e. the 2019 Italian Budget Law) introduced into D.P.R. 917/1986 (the Italian Income Tax Code or "ITC") Art. 24-ter, implementing a new optional tax regime[1] applicable from 1 January 2019 for individuals:

- receiving foreign pensions; and
- moving their tax residence from a foreign country to a municipality with no more than 20,000 inhabitants located in Southern Italy[2].

Under this new regime, all foreign income[3] within the scope of the new regime will be taxed at a 7% flat rate in each fiscal year to which the election applies.

1 As part of the "Non-Dom" Tax regime under art. 24-bis of ITC.
2 Paragraph no. 1 of the new art. 24-ter of ITC requires the individual to move their tax residence to one of the following Italian regions: Sicily, Calabria, Sardinia, Campania, Basilicata, Abruzzo, Molise and Puglia.
3 The new regime is not limited to pension income but applies to other foreign income. Domestic income is subject to the ordinary personal income tax (i.e. the Italian personal income tax or "IRPEF") regime.

The 7% flat rate regime applies for up to six years from the first fiscal year for which the election is made (in the relevant annual tax return) and can be revoked at any time within those six years[4].

The individual is allowed to exclude one or more foreign income-source countries from the scope of the optional tax regime on a "cherry-picking" basis. In such cases, the ordinary tax regime will apply to income from excluded countries[5].

In principle, under the pensions article of OECD-style Double Taxation Treaties, pensions paid by foreign entities to individuals resident for tax purposes in Italy are liable to taxation in Italy only[6].

"A 7% FLAT TAX IS DUE IN A SINGLE INSTALMENT BY THE ORDINARY DEADLINE FOR THE PAYMENT OF ANY PERSONAL INCOME TAX OR 'IRPEF' BALANCE."

The 7% flat tax is due in a single instalment by the ordinary deadline for the payment of any personal income tax or "IRPEF" balance (i.e. 30 June following the end of each fiscal year)[7].

The additional requirements for this tax regime to apply are that:

- the individual has not been tax-resident in Italy in the five fiscal years before the one in which the regime begins to apply; and
- the last country in which the individual was tax-resident has an "administrative cooperation" agreement with Italy[8] (e.g. an EU Member State).

The Italian Tax Authority is expected to provide further clarification on this new tax regime.

The main differences between this new tax regime for foreign pensioners (under Art. 24-ter of ITC) and the previous "Non-Dom Regime"[9] (under Art. 24-bis of ITC) are summarised in the following table:

Key features	Non-Domiciled tax regime (Art. 24-bis ITC)	New tax regime for foreign pension (Art. 24-ter ITC)
General requirements	• Moving tax residence to Italy • Receiving foreign income	• Moving tax residence to a municipality in southern Italy with no more than 20,000 inhabitants (i.e. Sicily, Calabria, Sardinia, Campania, Basilicata, Abruzzo, Molise and Puglia) • Receiving a pension from a foreign country

4 While the election is revocable, once revoked, a new election cannot be made.
5 In these circumstances, a foreign tax credit may be claimed in Italy for taxes paid abroad.
6 This should be considered on a case-by-case basis, also with reference to other foreign income, in order to exclude potential double taxation issues.
7 The 7% flat tax cannot be deducted against other taxes or social contributions.
8 The Italian Tax Authority will liaise with the foreign Tax Authority in order to file and double-check the taxpayer's information.
9 Please note that the information in this tax briefing about the Non-Domiciled tax regime is not exhaustive. You can find additional information in our previous tax briefings dated 19th January 2017 and 17th March 2017.

Key features	Non-Domiciled tax regime (Art. 24-bis ITC)	New tax regime for foreign pension (Art. 24-ter ITC)
"Non-residence tax periods"	Tax residence outside Italy for the previous 9 out of 10 fiscal years before the first fiscal year to which the option applies	Tax residence outside Italy for the previous 5 fiscal years before the fiscal year to which the option applies
Country of origin	Any country	Only countries with an agreement for the exchange of administrative information with Italy (e.g. EU Member States)
Taxation	€100,000 lump sum on foreign income	7% flat rate on foreign income
Foreign income and gains excluded from the regime	Capital gains derived from qualifying disposals during the first 5 fiscal years of the option	No exclusions currently
Fiscal years to which the election applies	15 fiscal years	6 fiscal years
Exemption for gift tax and inheritance tax	Yes	No
Quadro RW, IVIE and IVAFE[10]	No	No
Tax regime extendable to applicant's family members	Yes (€25,000 lump sum for each family member of the applicant)	No

10 Quadro RW is part of the Italian annual personal income tax return, reporting any foreign assets owned by the taxpayer. IVAFE is an Italian tax on foreign financial assets. IVIE is an Italian tax on properties located abroad.

Conclusions

The introduction of the new tax regime aims to attract individuals receiving pensions from abroad and moving their tax residence to Italy, as per the previous Non-Dom Regime. However, the 7% flat rate on foreign income may represent an additional and significant tax saving.

FOR MORE INFORMATION

Should you like to discuss any of the matters raised in this briefing, please speak with a member of our team below or your regular contact at Watson Farley & Williams:

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