

TAX BENEFITS FOR NEW RESIDENTS IN ITALY

Italy offers an optional substitute tax regime for personal income tax (IRPEF) and local surcharges accessible to individuals (and their family members upon request) who transfer their tax residency to Italy. This regime covers income produced abroad.

Advantaged Income

The foreign-produced income eligible for the substitute tax includes income generated abroad based on criteria reciprocal to those used to identify income produced within the state. Therefore, foreign-produced incomes include:

- Real estate income from land and buildings located abroad;
- Capital income paid by foreign states or non-resident entities;
- Employment income earned abroad;
- Self-employment income derived from activities carried out abroad through a fixed base;
- Business income from activities conducted by permanent establishments abroad;
- Capital gains from the sale of shares in non-resident companies;
- Other incomes from activities carried out abroad and from assets located abroad (including incomes from the sale of virtual currencies to the extent that such activities are not deposited in an account held with an Italian intermediary).

Additionally, the following are considered as produced abroad:

- Business income produced abroad in the absence of a permanent establishment;
- Interests from bank and postal current accounts;
- Capital gains from the sale of non-qualified shares in listed companies.

The substitute tax regime also applies to incomes derived from ownership, through an intermediary, of liquidity or real estate properties. Profits and capital gains from shares in companies resident in states with privileged tax regimes are included in the substitute tax regime. In this case, there's no obligation to report the perceived profits in the tax return.

Income produced by a foreign-controlled company is not taxed transparently on the controlling shareholder, who is not required to report the relevant shareholding in the tax return.

Excluded Income

The substitute tax does not apply to capital gains from the sale of qualified shares realized in the first five tax periods of the option's validity, which remain subject to the ordinary tax regime.

For individuals who opt for the substitute tax regime starting from the second tax period of fiscal residency, the first year of residency in Italy is also considered for the purpose of the five-year period. Individuals may opt out of the substitute taxation for income produced in one or more foreign states or territories, with specific indication during the option exercise or subsequently.

Once the exclusion choice is made, it is irrevocable.

For income produced in said states or territories, the ordinary regime applies, and a tax credit for foreign-produced income is available.

The Substitute Tax

A substitute tax on foreign-produced income is applied regardless of the income amount, set at 100,000 euros for each tax period the option is valid.

For each family member involved, the amount is reduced to 25,000 euros per tax period.

The tax is paid in a lump sum by the due date for income tax balance payments. If the individual has suffered withholding taxes in Italy on foreign source income in the year of acquiring residency, these

can be offset or refunded. A specific declaration can be made to intermediaries to avoid any withholding tax.

The Option

Conditions

Subjective conditions allow individuals who transfer their residence to Italy and have not been fiscally resident in Italy for at least nine tax periods out of the ten preceding the option's start period, to access the regime.

The option may be extended to one or more family members if they also meet the conditions.

The regime applies even to individuals transferred to states or territories with privileged taxation, considered residents unless proven otherwise.

Preliminary ruling

A favorable response to a specific "probatory" inquiry submitted by the deadline for the tax return of the period in which residency is transferred to Italy is required to exercise the option. In the past, the Revenue Agency has considered the ruling optional.

Exercise the option

The option is perfected, alternatively, with the submission of the tax return relating to the tax period in which the person transferred his tax residence to Italy, or to the following tax period.

Even a taxpayer who has paid the substitute tax by the legal deadline but has not finalized the option in his tax return, may regularize his position by "remission in bonis" within the deadline for submitting the tax return relating to the following tax period, by paying a penalty of €250.

The option must indicate the jurisdiction or jurisdictions in which the individual and family members were last resident for tax purposes prior to the exercise of the option.

Effects of the option

For the tax periods in which the option is valid, there is an exemption from the obligation to fill in the RW form and pay IVIE and IVAFE. These exemptions also apply to family members covered by the option.

On the other hand, during the first five years of the validity of the option, the obligation to indicate in RW form the value of the foreign participant's qualified participations, that may generate taxable capital gains in that period, remains.

The effects of the option are not cumulative with the facilitation to encourage the return to Italy of researchers residing abroad and the facilitation for the return of workers.

Duration, revocation, and forfeiture of the option

The option has a duration of fifteen years and the possibility of renewal of the regime upon expiry is excluded.

The option is revocable, even for one or more family members, and causes for termination or decadence are provided for in the following cases:

- fifteen years after the first tax period of validity of the option;
- omitted or insufficient payment, in whole or in part, of the substitute tax to the extent and within the terms provided for by law; in this case, the effects produced in previous tax periods are not affected;
- transfer of tax residence to another State or territory, with effect from the tax period in which the person loses residence in Italy for tax purposes.

The option is deemed to be tacitly renewed from year to year, unless there is a case of termination of the effects, revocation of the option or lapse from the regime.

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