Italy: the new fiscal incentive for *high net worth individual* now in force.

According to the Italian Budget Law 2017, published in December 2016, the national economy will be placed back on track by promoting and enhancing investments from outside the Country. Herein we will focus on a new fiscal policy aiming at encouraging *wealthy individuals* to move their fiscal domicile within Italian borders.

The ambitious goal is going to be pursued through *flat tax rate for income made abroad*, an engaging measure in terms of social and economic spin offs, also providing a noteworthy, though limited, exception to the *progressive* tax system[i].

Getting straight to the point, the fiscal incentive - for those who will take up their tax residence in Italy - will consist of a *new flat tax rate* of EUR 100.000, based only on the *income made abroad*. The incentive may be extended to other family members by paying a further EUR 25.000 *per capita*.

Firstly, eligible applicants will be those *high net worth individuals* who have not been domiciled in Italy for at least the past *nine years* in the last decade.

Secondly, it will be regarded as *foreign income or income made abroad*, income from land and properties owned and located abroad, capital gains and income related to employment or self-employment activities[ii]. It's really interesting to notice how, in order to avoid any misuse of the *flat tax rate*, it shall not be considered applicable to the *transfer of qualified equity interests* that will remain subject to the ordinary taxation regime[iii].

Furthermore, where an individual receives foreign income from more than one source, they have the option to exclude the foreign income from a few of those sources, as long as this has been declared at the time of the application[iv]. However, it constitutes a clear derogation to the *worldwide income taxation principle*[v] pursuant to which once a residence is elected, one should declare all income made worldwide, in order to prevent double taxation.

As to the conditions to exercise the option, the fiscal benefit has to be nominated by the deadline for the submission of *tax returns* and shall not exceed the duration of *fifteen years* starting from 2017. Additionally, given its nature to be applied regardless to the taxpayer income bracket, the full amount shall be paid in a lump sum (failing which the benefits shall be revoked).

The individual has also the option to submit a specific request to the *Assessment Central Department of the Italian Tax Agency*. To do this he will need to provide his personal data, current residence and information on the foreign income he receives that has been excluded from the statement[vi]. The Agency shall check if the application satisfies all the conditions required by the Revenue Authority order and give its opinion on the case; however the contributor may exercise the option to receive the flat tax rate before receiving the Agency evaluation.

Lastly, in a *check- and- balance* perspective, the individual who intend to take advantage from the benefit will not be entitled to receive both, flat tax benefits and other fiscal incentives provided by the law[vii], at the same time.

Nevertheless, since the flat tax replaces any personal income tax normally applied to foreign income[viii], it may constitute a tempting alternative for those who are subject to an ordinary or less advantageous taxation system, not being only intended to attract wealthy foreigners, but also to call upon *high net worth Italians* to return back to their homeland.

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[i] The Italian Consolidated Tax Law, accepted by Decree n. 917 and dated December 22, 1986 ("T.U.I.R"), has been amended by Article 1 (par. 152 -154 and par. 157 -159) of the Budget Law 2017 (dated December 8, 2016, no. 232) by adding art. 24 bis. On March 8, 2017, the Italian Revenue Authority implemented the new Article 24 Bis T.U.I.R., thus stating the conditions for the exercise of the new fiscal incentive.

[ii] A quick cross-reference of T.U.I.R. provisions suggests interpreting the meaning of the expression in accordance with art. 165, paragraph 2 and art. 23, that lists the incomes to be considered as made within national territory (by non- resident taxpayers).

[iii] i.e. *transfers of qualified equity interests* made in the past five years (See article 67, par. 1, c) T.U.I.R.).

[iv] Accordingly, they will be entitled to a tax credit pursuant to art. 167,T.U.I.R.

[v] See art. 3, par. 1, T.U.I.R.

[vi] See Italian Revenue Authority Measure, dated March 8, 2017, related to the exercise, modification and revocation of the option given by article 24 bis T.U.I.R.

[vii] See new fiscal incentives provided by Article 44, Decree n. 78/2010 and by Article 16, Legislative Decree n. 147/2015 ("Provisions related to the growth and internationalization of companies") as modified by article 1, paragraphs 149 -151 Budget Law 2017 directed to *university professors and researchers* and *highly skilled experts*. In both cases the benefits are applicable on the same fundamental ground as flat tax rate, namely taking up the fiscal residence in Italy.

[viii] e.g. I.V.I.E. on immovable properties, I.V.A.F.E. on financial instruments, bank account and savings account tax or gift and inheritance tax.