

Recent Legislation on the Tax Regime Applicable to Inbound Workers, Qualified Lecturers and Researchers

This contribution describes the recently amended regime providing for tax incentives to foreign and/or Italian workers and lecturers/researchers transferring their residence to Italy.

1. Introduction

Article 5 of Legislative Decree No. 34 of 30 April 2019 (the "Decree")¹ amends the existing tax regime provided for workers, lecturers and researchers, improving legislation that was already favourable.

The new provisions will be applicable to listed individuals who move their tax residence to Italy as of 1 January 2020.

It is worth noting that this legislation integrates a tax package clearly aimed at attracting foreign and Italian resources in order to improve the growth of the Italian economy. Specifically, the legislation follows the "flat tax" regime (EUR 100,000 per year), which applies to wealthy individuals moving their residence to Italy and replaces the ordinary personal income tax applicable to any kind of non-Italian source income.²

The difference between the two regimes is that, whilst the flat tax incentivizes foreign source income, the legislation discussed herein provides for a substantial exemption of Italian source income.

2. Existing Legislation

2.1. Tax regime for inbound employees and self-employed individuals (article 16 of Legislative Decree No. 147 of 14 September 2015)

Article 16 of Legislative Decree No. 147³ introduced a special regime for inbound individuals – foreign or Italian citizens – in order to encourage highly qualified workers to transfer to Italy.

The regime provides for a 50% tax exemption of Italian-source employment and self-employment income realized by individuals moving their residence to Italy by

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1. IT: Legislative Decree No. 34 of 30 Apr. 2019, converted into Law No. 58 of 28 June.

2. This regime is regulated by IT: Income Tax Consolidation Act, Presidential Decree No. 917/1986 (*Testo Unico delle Imposte sui Redditi*), Primary Sources IBFD, art. 24-bis, as introduced by IT: Legislative Decree No. 232 of 11 Dec. 2016, art. 1, para. 152.

3. IT: Legislative Decree No. 147 of 14 Sept. 2015.

31 December 2019. The 50% exemption is granted for a period of 5 years only.

The requirements for application of the existing regime are as follows:

- the applicant must perform managerial and executive roles or must be highly qualified/specialized in accordance with the guidelines provided by an implementing decree;
- the applicant must not have been resident in Italy during the 5 fiscal years preceding the year in which the transfer of residence is perfected;
- the applicant must remain resident in Italy for at least 2 fiscal years;
- the applicant must provide his services to an Italian resident company and the activity must be predominantly carried out in the Italian territory; and
- the employment relationship needs to be with an Italian resident company, with an Italian or foreign company that – directly or indirectly – controls the Italian resident company, is controlled by the Italian resident company or is controlled by the same company that controls the Italian resident company.

2.2. Tax regime for lecturers and researchers (article 44 of Legislative Decree No. 78 of 31 May 2010)

Lecturers and researchers moving their residence to Italy by 31 December 2019 can benefit from a 90% tax exemption in respect of employment and/or self-employment income realized in Italy in the performance of their services. The exemption is granted for a period of 4 years.

In order to take advantage of this regime eligible individuals must:

- hold a university degree or equivalent title and, once established in Italy, perform in Italy teaching and/or research activities;
- have performed their activity outside of Italy at public or private universities or research centres for at least 2 consecutive years; and
- have been resident abroad for at least the above-mentioned period.

3. The Legislation as Amended by the Decree

3.1. Amendments to the tax regime for inbound employees and self-employed individuals

The Decree has substantially amended the existing legislation, making it even more attractive.

The most relevant amendment concerns the current requirement that the applicant be highly qualified/have specialized skills. Such skills are no longer required and, therefore, any employee or self-employed individual will qualify for the regime subject to fulfilling the other conditions. This amendment clearly broadens the scope of application of the regime and thus facilitates a transfer to Italy of categories of individuals who were previously excluded (for example, sportsmen).

As the new regime will be applicable as of 2020 (as explained in section 1.), the benefits of the amendments will not extend to workers who moved their residence to Italy prior to 2020.

Further, the regime has been amended as follows:

- the tax exemption has been increased to 70% (currently 50%) of employment and self-employment income that will be realized by the applicants. For professional sportsmen, however, the exemption is limited to 50% and they are also required to pay an annual contribution equal to 0.5% of taxable income;
- the above exemption is also granted in respect of business income realized by individuals starting a new business activity in Italy (as of 2020);
- the new regime is granted to individuals who will not have been resident in Italy in the 2 years preceding the year in which the residence is to be transferred (the period is currently 5 years); and
- as explained herein, applicants no longer need to fulfil a requirement to perform managerial and executive roles or be highly qualified/specialized employees.

The Decree provides for an extension of the timeframe of the regime from 5 to 10 years if the following requirements are met:⁴

- the applicant has a child under the age of 18 years; or
- the applicant purchases a residential property in Italy following the transfer of his residence to Italy or during the 12 months preceding the transfer.

If the above requirements are met, the applicant will enjoy the 70% exemption for the first 5 years and a 50% exemption for the remaining 5 years.

The amendments have further improved the attractiveness of the regime by increasing the tax exemption to 90% if the applicant moves his residence to one of the Southern Italian regions (Abruzzo, Molise, Campania, Puglia, Basilicata, Calabria, Sardinia or Sicily).⁵

4. The extension does not apply to sportsmen.

5. This provision also does not apply to sportsmen.

3.2. Amendments to the regime for lecturers and researchers

The amendments regarding lecturers and researchers (moving their residence to Italy as of 2020) essentially relate to an extension of the timeframe of the regime, subject to specific conditions.

Generally, the timeframe has been extended to 6 tax years (currently 4 years). If, however, the lecturer/researcher has a child under the age of 18 years or purchases a residential property in Italy, the timeframe is increased to 8 years. If there are two children (under the age of 18) the timeframe is 11 years (13 years if there are three or more children).

4. Conclusions

The regime analysed herein provides for a significant opportunity to attract human resources to Italy in various economic sectors.

It integrates the tax package designed for individuals, as it complements the flat tax regime. In fact, whilst the flat tax regime is aimed at incentivizing individuals with significant foreign source income, the regime commented on herein encourages individuals whose income is predominantly Italian sourced to transfer to Italy.

It is also important to note that the amendments brought about by the Decree will have a relevant impact on the scope of application of such legislation, as they broaden the category of eligible workers.

For example, sportsmen, such as soccer players, will potentially be entitled to the 50% tax exemption with regard to income received from the Italian football club (subject to fulfilment of certain other conditions).

Last, but not least, it is worth noting that the amended legislation also facilitates the repatriation of Italian citizens who have not enrolled in the register of Italian citizens living abroad (AIRE).

Failing to fulfil this formality was a major obstacle to workers/lecturers/researchers moving back to Italy under the former legislation. Now, the only requirement that they will need to comply with is being resident in a country with which Italy has a tax treaty that is in force.