Italy

New tax measures to attract foreign pensioners to Italy

Executive summary
The 2019 Italian Budget Law introduced a new special tax regime, aimed at attracting individuals who hold foreign pensions to transfer their tax residence to one of southern Italy’s municipalities. This is known as the “Foreign Pensioners’ regime” as it requires the individual to already be in receipt of a foreign pension. Starting from 1 January 2019, beneficiaries of this special regime, may opt to pay a substitutive tax of 7% on all foreign source income in lieu of the progressive tax rates (which range from 23% to 43% plus 3% as local taxes).

This is a tax measure very similar to the 2017 “New Resident regime”, aimed at attracting high net worth individuals by allowing them to pay a flat tax of EUR100,000 on their foreign sourced income, irrespective of the actual amount of income.

Background
Under Italian tax law resident taxpayers are taxed on a worldwide basis. Therefore, foreign pensions and almost all foreign source income are liable to individual personal income tax, which currently ranges from 23% to 43%, plus local taxes up to 3%. Income from capital, dividends and capital gains are generally taxed at 26%.

The special regime, which took effect from 1 January 2019, allows taxpayers holding foreign pensions, who have not qualified as Italian tax residents for at least the previous five tax periods, to opt for the application of a flat tax of 7% to all foreign source income.

Taxpayers can opt for the flat tax of 7%, regardless of their age and citizenship if they:

► Transfer their tax residence from a country with an administrative cooperation agreement with Italy to one of the following Italian southern regions: Abruzzo, Basilicata, Calabria, Campania, Molise, Puglia, Sicily and Sardinia, in a Municipality with a population of less than 20,000 inhabitants; and
► Have not been tax residents in Italy for at least five tax periods prior to the transfer to Italy; and
► Currently are in receipt of a foreign pension.

There remains some doubt as to which countries qualify as holding an administrative cooperation agreement with Italy but this will include countries that are a member of the European Union.

How to claim the benefit
Taxpayer can exercise the option for the flat tax in the tax period in which they transfer the tax residency to Italy; the option can be exercised through the first Italian tax return and it is valid for that tax period and the following five tax periods.

By claiming the special tax regime, taxpayers will be exempt from additional income tax, local taxes and wealth taxes on all foreign source income. Moreover, for the entire length of the option no foreign asset monitoring obligations apply.
The flat tax should be paid in a lump sum, for each period of the application and within the ordinary deadline for paying individual income taxes. Ordinary individual progressive income tax still applies to Italian source income.

The Italian tax authorities did not issue any information about whether it is possible to renew the option after the first six tax period.

Other features
Notwithstanding the many similarities with the 2017 “New Resident regime”, introduced to attract high net worth individuals, the “Foreign Pensioners regime” has certain particular features:

- No anti-abuse clause applies to capital gains realized from the disposal of qualified shareholdings in the first five years.
- Inheritance and gift taxes are not covered by the 7% flat tax.
- The option cannot be extended to family members (unless such members currently hold foreign pensions).

When considering the option for this special regime, the overall costs should be carefully considered, as a foreign tax credit cannot be claimed on foreign income that is the subject to the substitute tax regime. On the other hand, the new regime application will exempt the taxpayer from the monitoring obligations and the payment of the wealth tax.

The option can also be applied only to some foreign countries; it does not apply to foreign source income everywhere. Where an individual who elects for this option also has income from a country not covered by this, the ordinary progressive income tax rates would apply to income from that country and foreign tax credits would be available.

Next steps
The procedure requires detailed tax and legal planning in the individual’s home country and in Italy. Where individuals are looking to make use of this regime, the eligibility requirements, domestic tax law and current assets and estate structure should be carefully analyzed in order to assess how the new rules affect tax position and overall tax costs.