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TAX REGIME FOR FOREIGN PENSIONERS

TAX INCENTIVES FOR ATTRACTING HUMAN CAPITAL

- **TAX BENEFITS FOR RESEARCHERS AND PROFESSORS** - Tailored for those engaged in research or teaching roles, offering specialized benefits to encourage their contribution to the academic landscape
- **TAX BENEFITS FOR “IMPATRIATES” WORKERS** - Designed to facilitate the return of Italian citizens or foreign nationals to Italy, providing advantageous tax conditions to ease the transition.
- **TAX BENEFIT FOR NEW RESIDENTS** - Geared towards individuals establishing residency in Italy, offering incentives to newcomers through favorable tax arrangements.
- **TAX BENEFIT FOR FOREIGN PENSIONERS** - Aimed at individuals with foreign pensions, providing a unique tax framework to enhance financial benefits during their residence in Italy.

TAX REGIME FOR FOREIGN PENSIONERS - WHAT IS IT?

- Optional regime of **substitute flat tax for individuals holders of foreign pension income** who transfer their tax residence to a small municipality in the Regions of Sicily, Calabria, Sardinia, Campania, Basilicata, Abruzzo, Molise and Puglia.
- The purpose of the tax regime is to **attract new residents to the Municipalities of the South Italy**, new people with capital and financial resources that can be invested in our country.
- Flat tax with rate of **7%** in relation to all income from foreign sources and/or produced abroad.

IN SHORT WORDS

How long does it last? 10 fiscal years. The tax regime is valid for the tax period in which the residence is transferred and for the following 9 years.

Am I eligible? Subject Requirement:

- Holder of a foreign pension
- Foreign residence minimum 5 previous years
- Transfer of residence to a town in Southern Italy with certain requirements

How much I pay? Flat-rate substitute tax equal to **7%** on foreign income of any category. For income subject to substitute tax, the tax credit for taxes paid abroad is not recognized

THE RESIDENCE CONCEPT

Resident in Italy are those who:

- for most of the tax period, namely for at least 183 days (also considering the fractions of day) , are enrolled in the registers of the resident population
- or have their domicile
- or residence in the territory of the Italian State

Article 43 of the Civil Code - **Notions of residence and domicile**

- "**residence**" as the place of habitual abode
- "**domicile**" as the main place of business and personal interests

These two conditions are alternatives.

Transfer during the year: given that for individuals the tax year coincides with the calendar year, a taxpayer who moves to Italy after 2 July (after 1 July in the case of a leap year) **cannot be considered resident for tax purposes for that year**, as s/he will be resident for less than most of the tax year. The criteria

SUBJECTIVE REQUIREMENTS

The subjects must have the following requirements:

- **Be holders of pension income** and allowances equivalent to them paid by foreign subjects;
- **Not having been resident in Italy in the 5 tax periods preceding** the one in which the option becomes effective;
- Transferring residence from countries with which <https://collascaronieassociati.it/wp-content/uploads/2021/03/3556-1-1.png> administrative cooperation agreements are in force
- **Transfer residence** to Italy in one of the Municipalities belonging to the "**Southern**" territory, with a population of less than **20,000** inhabitants, located in the following Regions: Sicily, Calabria, Sardinia, Campania, Basilicata, Abruzzo, Molise and Puglia;

WHICH REGIONS OF SOUTHERN ITALY?

Municipalities with population not exceeding 20,000 inhabitants, belonging to the territory of the Regions of Sicily, Calabria, Sardinia, Campania, Basilicata, Abruzzo, Molise and Puglia

To verify the requirement, population data is considered resident resulting from the " **Annual municipal population survey**", published on the website of the **National Institute of Statistics (Istat)**, referring to 1 January of the year preceding the one in which the transfer takes place

Does not detect any population changes in subsequent years.

If, however, the taxpayer moves to another municipality in the South, it is necessary to verify the requirement for that municipality

OTHER REGIONS

Municipalities with a **population not exceeding 3,000** inhabitants among those affected by **seismic events** and indicated in Attachments 1, 2 and 2-bis, Legislative Decree. 189/2016. These are, in particular, the seismic events of 24 August 2016, of 26 and 30 October 2016 and 18 January 2017 which affected the **Regions Abruzzo, Marche, Umbria and Lazio**.

PRESENCE OF AN ITALIAN PENSION

The 7% flat tax regime for pensioners who receive income from foreign sources is applicable to pensioners of any nationality **even in the case of receiving an Italian INPS pension**, which remains excluded from the subsidized regime.

Example: individual, pensioner, member of AIRE since 2006 (in Boston) who has accrued pension requirements in different states. In particular in the United States ("US Social Security"), in Belgium ("Service Federal des Pensions Belga") and in Italy (at INPS).

DURATION

10 fiscal years

The tax regime is valid for the tax period in which the residence is transferred and for the following 9, without the possibility of renewing the option

The option is freely revocable even before expiry.

In the case of revocation by the taxpayer, the effects produced in the previous tax periods are guaranteed.

INCOME SUBJECT TO FLAT TAX

Only income generated abroad is subject to the substitute tax.

- income deriving from land and buildings located abroad;

- capital income paid by foreign states or non-residents subjects;
- income from employment performed abroad;
- self-employed income deriving from activities carried out abroad
- business income deriving from activities carried out by permanent establishments abroad;
- capital gains achieved as a result of the sale of equity investments for consideration in non-resident companies;
- various incomes deriving from activities carried out abroad and from assets located abroad
- interest deriving from current accounts and bank deposits held with foreign banks;
- capital gains that may be generated from the sale of the ingots of gold, held in safe deposit boxes at foreign banks;
- dividends received in relation to shareholdings held in foreign companies.

INCOME EXCLUDED

- **Income generated in Italy is taxed according to the ordinary rules.**
- **Foreign income not included in the option**

CHERRY PICKING OPTION

It is possible to exclude the income generated in one or more foreign countries or territories from the application of the substitute tax. In practice, the taxpayer can **choose to tax the income generated in certain jurisdictions (cherry picking) by using the ordinary taxation scheme.**

However, this choice must cover all income generated in the country or territory subject to exclusion. The exclusion of a certain State (or certain States) **may occur at a later time** than the one in force which the option is exercised. However, re-entry is not permitted.

HOW TO OPT IT?

The option is **completed in the tax return statement** relating to the tax period in which the subjects transferred their tax residence to Italy

- **Tax payment: 30/06/XXXX (single payment)**
- **Tax return submission: 30/09/XXX**

The option is considered **tacitly renewed** from year to year, unless there is a hypothesis of cessation of effects, revocation of the option or forfeiture from the regime.

OTHER ADVANTAGES

Inheritance and Gift tax exemption: Any assets bequeathed or gifted by an Italian tax resident are normally subject to Italian inheritance and gift tax. However, you would be taxed only on assets and rights held in Italy

Exemption from paying Ivie and Ivafe: Exemption from paying the tax on the value of properties held abroad (IVIE) and the tax on foreign financial assets (IVAFE)

Shell Company: If your holding include a shell company, the income from it is normally attributable to the beneficial owner. However, if you opt for the flat-tax regime the income produced by the company will be taxed in Italy only if it is deemed to be Italian Income

No additional Tax: You will be able to remit foreign income to Italy without paying any additional tax

Exemption RW form: You will be exempted from tax monitoring obligation in Fiscal Statement

No CFC Rules: The CFC rules do not apply to payers of the flat tax. This is because CFC rules apply when income is produced in countries with a preferential tax regime, while the flat-tax regimes do not make any distinction between foreign state

TAX RULING - EVIDENTIARY RULING VS ORDINARY QUESTION

In Italy there are different types of requests to be submitted to the Revenue Agency.

The "**evidentiary question**" can be presented only and exclusively for the "new residents regime".

For all other types of particular regimes, it is not permitted to use this type of ruling, but the so-called. "**ordinary question**"

What might seem like an insignificant difference in the type of consultation envisaged for the different benefits is, in fact, important. For "new residents", the "evidentiary question" allows the taxpayer (always) to present his complete situation to the Revenue Agency, attaching all the documentation useful to demonstrate, also using the relevant check-list, to obtain an answer which becomes binding for the Revenue Agency on the possibility of applying the relief or not.

The ordinary ruling is applicable **only in the event that there is a situation of uncertainty in the application of the rule on which the Revenue Agency has not yet expressed its opinion**.

CONVENIENCE ASSESSMENT

It is necessary to carry out a comparison between

- this regime
- and what is provided for by the **Conventions against double taxation**.

For the evaluation it is **necessary to take into consideration:**

- if the pensioner is subject only and exclusively to the flat Italian taxation of 7% or if this taxation is added to the levy that the State of the source of the pension treatment is authorized to apply
- pension from private sector or public sector employment

- presence of other income
- level of taxation of the foreign state

The choice of this tax regime entails the non-recognition of tax credits for taxes paid abroad.

The general rule provided for in the OECD conventions is that pensions paid to non-residents are taxed differently **depending on whether they are pensions of:**

- Private sector workers;
- Public sector workers.

Private sector workers

Many conventions provide that private workers' pensions must be subject to taxation only in the State of tax residence of the recipient. This, regardless of the country where he worked and met the pension requirements.

Only when these conditions are met is it possible to obtain the gross pension abroad, to obtain only foreign taxation of the income

Public sector workers

The possibility of obtaining taxation of the pension exclusively in the foreign state of residence does not apply to pensioners who were employees of the Public Administration who emigrated abroad.

These subjects, however, are obliged to suffer double taxation (solution: tax credit for taxes paid abroad).