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Italy – Moves to Introduce New 30% Relief for Inbound Expatriates

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For the first time, Italy has a favorable tax regime for skilled employees coming to Italy for employment. It includes expatriate employees (and not only locally hired employees as in the past) who are working for a foreign company that controls or is controlled by an Italian resident company either directly or indirectly.

Why This Matters

For many years Italy has experienced a competitive disadvantage with other countries due to the absence of any specific expatriate tax regime for inbound expatriates.

A new Decree¹ introduces specific tax breaks for individuals taking up residence status in Italy (e.g., inbound expatriate employees), resulting in an abatement of 30 percent of taxable income.

This could help lower employers' costs tied to expatriate employees working in Italy.

Context

Over the years, the Italian government has experimented with various tax incentives to reverse the so-called "brain-drain" from Italy and encourage highly qualified Italians to return to Italy to take up employment. For non-discrimination purposes, these incentives have also extended to other EU nationals taking up employment in Italy.

KPMG Note

Rules in existence prior to the new Decree have been complex and also have had apparent issues tied to their age- and gender-related bias. Another fundamental issue has been that previous reliefs have been clawed back if the employee subsequently left Italy within a certain time-frame. New rules introduced in the Stability Law of 2016 (which we discuss further below) are designed to address some of these issues.

New Expatriate Tax Regime Introduced

Article 16 of the Legislative Decree n. 147 – 14 September 2015 (called "Growth and Internationalization Decree for Enterprises") introduces a new favorable tax regime for skilled employees coming to Italy for employment.

The new rules are summarized at a high level in the table on the next page.

Requirements	Duration	Tax advantages
<p>A) Not resident in Italy in the previous five fiscal years before the transfer;</p> <p>B) Remain resident in Italy for at least two fiscal years;</p> <p>C) The work activity has to be carried out for an Italian resident company and the employment relationship needs to be with an Italian resident company or a company that controls an Italian resident company or a company controlled by an Italian resident company directly or indirectly (parent companies);</p> <p>D) The work activity has to be carried out mainly in the Italian State;</p> <p>E) Individuals have to perform managing or directing roles or must be highly qualified/specialized employees.</p>	<p>Starting from the year in which the individuals became Italian tax residents and for the following 4 fiscal years (total of 5).</p>	<p>National Income Tax: abatement of 30% of taxable income.</p>

KPMG Note

We at Studio Associato Consulenza legale e tributaria are still awaiting certain important clarifications regarding the application of the new rules, in particular the implementation and definitions of the terms mentioned above.

Previous Regime (Law 238 of 30 December 2010)² Continues to Apply

Law no. 238 dated 30 December 2010 contained tax incentives for workers outside of Italy who returned to Italy to live and work. The purpose of this law was – and continues to be – to encourage, through tax relief, people who developed formative or professional experiences abroad to return to Italy to work as an employee or self-employed worker.

The existing rules under Law no. 238 were extended to individuals who moved to Italy by December 31, 2015 by the 2016 Italian Budget Law (also known as the “Stability Law of 2016”)³. Consequently, the tax incentives under Law no. 238 apply for the next two fiscal years (FY2016 and FY2017).

The favorable tax regime created by Law no. 238 applies to an individual who meets the following requirements:

- EU citizen;
- Hired by an Italian employer;

- Born after January 1, 1969 (age limit);
- Lived continuously for at least 24 months in Italy;
- Has decided to return to Italy after studying, working, or gaining post-graduate qualifications abroad.

This so-called “brain drain” tax regime, modified by the 2016 Italian Budget Law, provides a tax incentive in the form of lower taxation, up through the tax period which ends on 31 December 2017. The IRPEF (*L'imposta sul reddito delle persone fisiche*) taxable basis for employment income, self-employment income, or business income, is reduced to 20 percent for female workers and to 30 percent for male workers (abatement of 80 percent and 70 percent of taxable income, respectively).

Individuals who already benefit from Law no. 238 and who meet the requirements to avail themselves of the rules under the new Legislative Decree n. 147 – 14 September 2015, will be granted the option to choose between the two different regimes. (Again, we are still awaiting important clarifications regarding the interaction between the two different reliefs.)

KPMG Note

An interesting point of the new law is the potential applicability for the first time in Italy of a special tax regime for inbound expatriate employees who are in Italy for a minimum of two years.

Clarifications are expected from the Italian tax authorities with reference to various issues. It is clear that the work activity has to be carried out mainly in the Italian State, but doubts remain regarding the consequences of business trips abroad during the Italian work period.

Finally, further important clarifications are awaited regarding qualifications and employment activities, not least as to whether the new rules apply only to EU nationals or to other nationals as well. Given the potential importance for employers sending employees to Italy, Studio Associato Consulenza legale e tributaria will provide an update as soon as further news is received.

Footnotes:

- 1 Legislative Decree n. 147 – 14 September 2015. *Decreto Legislativo 14 settembre 2015, n. 147, “Disposizioni recanti misure per la crescita e l'internazionalizzazione delle imprese,”* (Gazzetta Ufficiale Serie Generale n.220 del 22-9-2015).
- 2 Law 238 of 30 December 2010. *Legge 30 dicembre 2010, n. 238, “Incentivi fiscali per il rientro dei lavoratori in Italia”* (Gazzetta Ufficiale n.9 del 13-1-2011).
- 3 Law 208 of December 28, 2015 (2016 Italian Stability Law). *Legge 28 dicembre 2015, n. 208, “Disposizioni per la formazione del bilancio annuale e pluriennale dello Stato (legge di stabilit  2016).”* (Gazzetta Ufficiale n.302 del 30-12-2015 - Suppl. Ordinario n. 70).

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