



Italy: implementing measures of tax breaks for certain immigrant workers and updates to the black list for FTT purposes

Tax Alert

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Implementation of tax breaks for certain immigrant workers

Last year⁽¹⁾, Italy decided to offer a tax break to certain workers who move to Italy, by treating 30 percent of their employment income as exempt from individual income tax (IRPEF)⁽²⁾. The exemption runs for five tax years, starting from that in which the worker's residence is transferred to Italy.

As the implementation rules were published earlier this month⁽³⁾, this Tax Alert describes the main details of the new regime, which applies from tax year 2016.

Who is eligible for the 30 percent exemption?

I. Certain EU or non-EU workers employed by an Italian company

To qualify for the tax break, workers (Italian, EU or non-EU citizens) must meet the following requirements.

- 1) They must not have been a tax resident of Italy in the 5 years prior to moving to Italy.
- 2) They must have an employment contract with one of the following:
 - a) an Italian company
 - b) a company that directly or indirectly controls an Italian company
 - c) a subsidiary or sister of an Italian company.
- 3) They must maintain residency in Italy for at least 2 years and work for most of the time in Italy (i.e. for more than 183 days in a tax year).
- 4) They must hold a management position or be highly qualified or specialized⁽⁴⁾.

(1) The tax break was introduced by article 16 of Legislative Decree no. 147/2015 (the 'Growth and Internationalization Decree').

(2) See our Tax Alert of [23 September 2015](#).

(3) On 8 June 2016, the Ministry of Finance Decree of 26 May, implementing the new regime, was published in Official Gazette no. 132.

(4) The qualification and specialization criteria are specified in Legislative Decrees no. 108/2012 and no. 206/2007, which implement EU directives.

The benefit is also available for EU citizens who:

- i. have a university degree and have been continuously employed or engaged in a professional or business activity abroad for the previous 24 months or more.
- ii. have studied abroad continuously for the previous 24 months or more, obtaining a university degree or a post-graduate qualification.

The tax break cannot be combined with the one introduced for university teachers and researchers who become residents of Italy (article 44 of Law Decree no. 78/2010).

If the worker does not maintain residency in Italy for at least 2 years, the tax break is revoked and penalties and interest are charged on any undue benefits taken.

II. EU workers who moved back to Italy by the end of 2015

Certain employees, independent workers or entrepreneurs who moved back to Italy by 31 December 2015⁽⁵⁾ can opt for the new 30 percent exemption. These individuals are EU citizens with a university degree who resided continuously in Italy for at least 24 months, and then worked outside their home country and Italy for at least 24 months, before moving back to Italy by 31 December 2015, to work and reside.

For these workers, the conditions are less strict than those listed above (e.g. they do not have to be employed by an Italian company) but they must be highly qualified or specialized.

Election must be made in accordance with the rules contained in a recent Statement of Practice issued by the Italian Revenue Agency⁽⁶⁾. For example, the election is effective from 1 January 2016, is valid for tax year 2016 and the next 4 tax years, and cannot be revoked.

Alternatively, such workers are eligible for an 80 percent (women) or 70 percent (men) exemption from IRPEF on their employment, self-employment or business income⁽⁷⁾. In this case, however, the exemption is only for tax years 2016 and 2017.

(5) See our Tax Highlights of [2 February 2016](#).

(6) See Regulation no. 46244 of 29 March 2016.

(7) Under article 2(1) of Law no. 238/2010.

Updating of the black list for financial transaction tax purposes

The Italian financial transaction tax (the 'FTT') is levied on transfers of shares or participating financial instruments issued by companies that have their registered office in Italy, regardless of where the parties to the transaction are resident and where the transfer takes place. The FTT is also due on transactions involving (i) derivatives whose value is linked to that of such underlying shares/participating instruments, and (ii) high-frequency trading. The standard FTT rate is 0.2%.

The FTT must be paid by the party to whom the ownership of the shares is transferred (the transferee). The tax is either (i) applied by the financial intermediary (e.g. bank, trust or investment company), or the notary (if any) involved in the execution of the transfer; or (ii) paid directly by the transferee. Non-resident intermediaries may appoint a tax representative to handle the FTT.

Where more than one intermediary is involved in the execution of the transaction, the tax is paid by the one who receives the order directly from the purchaser or the final counterparty. Moreover, **intermediaries** (i.e. banks, investment companies) **are considered as purchasers or final counterparties of the execution order if they are located in countries on the black list used for FTT purposes** and are involved in any way in the execution of the transaction⁽⁸⁾.

The Director of the Italian Revenue Agency has recently issued two regulations⁽⁹⁾ that update the FTT black list of countries or territories with which Italy has no agreements on the exchange of information and assistance in collecting tax credits.

With effect from 1 January 2016, the **FTT black-list** countries or territories are any country or territory *not* listed below:

Australia, Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Ireland, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, San Marino, Slovakia, Slovenia, South Korea, Spain, Sweden, the United Kingdom, the United States of America.

The two regulations have removed the following countries from the FTT black list (and thus included them in the above list):

- Mauritius, Russia, South Korea, San Marino⁽¹⁰⁾
- Liechtenstein⁽¹¹⁾
- Croatia⁽¹²⁾

(8) Article 19(4) of the Decree of 21 February 2013, implementing the FTT regime.

(9) Regulation no. 84383 of 30 May 2016 and Regulation no. 8988 of 9 June 2016, which update a Regulation of 1 March 2013.

(10) These countries were removed as they have signed an agreement for the avoidance of double taxation with Italy.

(11) Liechtenstein was removed because the Protocol to the Agreement between Liechtenstein and the EU, containing rules equivalent to those contained in the EU Savings Directive 2003/48/EC, came into force on 1 January 2016.

(12) Croatia was removed as it joined the EU on 1 July 2013.

As a side note, recent case law⁽¹³⁾ has ruled that the Italian FTT on derivative instruments is fully legitimate, being compliant with the principles of the Italian Constitution and EU and international law. The case was brought by the Italian subsidiary of a large French banking group (Société Générale).

(13) Judgment no. 4334 of 17 May 2016 of the Court of First Instance of Milan.

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