

Mobility: Tax alert

February 2023

Italy

Italian Budget Law for 2023: Tax measures for Italian tax-resident individuals and Italian land-rich entities

Executive summary

On 29 December 2022, the Italian Government approved the Budget Law for 2023 that entered into force as of 1 January 2023.

The Law provides for several tax measures, including:

- ▶ The extension of the flat tax scheme (so-called "*regime forfettario*") and the introduction of a new flat-tax rate scheme for certain categories of taxpayer (so-called "*flat tax incrementale*")
- ▶ 5% flat-tax rate on amounts paid by the Swiss Old-age and survivors' insurance (OASI) and Occupational Retirement, Survivors and Disability Pension Plans (BVG) to Italian residents
- ▶ The introduction of a specific set of rules for the taxation of crypto assets
- ▶ Non-resident capital gains tax on indirect transfer of Italian real estate

Tax measures

There has been an extension to the flat-tax rate scheme for individuals engaged in business, arts, or professions (so-called "*Regime forfettario*"). In this regard, the maximum amount of profits which are eligible for this scheme has been increased from €65,000 to €85,000.

Under the flat-tax scheme, there will be only one tax rate of 15% - or 5% for the first 5 years of activity where certain conditions apply. This will replace ordinary taxes (*i.e.*, personal income tax, additional regional and municipal surcharges,).

The new law has introduced a temporary flat-tax rate, valid only for 2023, for individuals who earn self-employment income. Such individuals may choose a substitute flat tax rate of 15% to be applied on the difference between the self-employment income for 2023 and the highest self-employment income declared in the three previous tax years (*i.e.*, 2020, 2021 and 2022) less 5% of the highest self-employment income declared in those three tax years. The maximum amount on which the 15% flat tax is applied cannot exceed €40,000. This one year only choice is not available to individuals who opt for the *regime forfettario*.

The Law provides that amounts paid by the OASI and BVG pension systems to Italian residents are subject to a flat-tax rate of 5% where such amounts are not held through an Italian financial intermediary. Until now, in fact, the 5% flat-tax rate was applied only if such amounts were received through an Italian intermediary.

This will apply retrospectively from September 2015. However, the Italian tax authority will not refund any taxes already paid.

Crypto Assets

For the first time a comprehensive set of tax rules has been introduced for crypto assets.

In particular, gains from the redemption, sale, exchange, or holding of crypto-assets - with a threshold of exemption equal to €2,000 will be subject to a 26% tax rate. This is to be applied on the difference between the consideration received or the market value (if the crypto assets are exchanged) and the purchase price paid

Taxpayers may redetermine the value of crypto assets held on 1 January 2023, by paying a 'step-up' tax of 14% in one instalment by 30 June 2023, or in three annual instalments by 30 June 2023, 30 June 2024 and 30 June 2025, based upon the market value of the crypto assets.

The new law also extends the financial monitoring obligation to Italian resident individuals holding crypto assets during the year. This appears to apply to all crypto assets, regardless of whether they are held in Italy or elsewhere.

The new law also introduces a voluntary disclosure regime for any reporting failures with respect to crypto assets held as of 31 December 2021. In this regard, taxpayers must submit a specific tax return reporting their crypto-assets and pay a reduced penalty both on the value and the income produced by these assets.

A 0.2% stamp duty rate will also be applied on the market value of crypto assets irrespective of whether any such announcement has been made by a financial intermediary in Italy.

Non-resident's capital gains on indirect transfer of Italian real estate

The new law provides that capital gains realized by foreign investors from the disposal of shares in a non-resident company or entity whose total value comprises more than 50%, at any time during the 365 days before the transfer, from the direct or indirect investment in Italian real estate assets, are taxed at a rate of 26%. This regime will not, however, apply to the transfer of shares listed in regulated markets.

Next steps

Since the new tax provisions are effective from 1 January 2023:

- ▶ Individuals who realize income from self-employed or business activities should evaluate whether to choose the flat-tax schemes (i.e., regime forfettario and the new flat-tax incrementale)
- ▶ Crypto investors, in light of the new tax framework, should assess how the new obligations will affect their Italian tax compliance position
- ▶ Also, non-residents holding non-resident 'real estate vehicles' will be affected so should evaluate the impact of the new territoriality rule on their cross-border investment structures in real estate located in Italy

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