



## *The Italian 2017 Financial Bill*

### THE ATTRACTION OF ITALY

**The «New Italian Tax Resident» rule  
Schengen Visa for non EU citizens**

**Belluzzo&Partners**

## AT A GLANCE

- Yearly levy of €100k as “Substitutive Tax”: a lump sum on foreign income and capital gains (optional from fiscal year 2017). Domestic income and gains follow general rules;
- GOLDEN VISA available for non EU applicant aimed at investing or make charity following the new rules;
- For foreign assets the law sets an extended exclusion for IHT, Gift Tax, Wealth taxes and the so called “*fiscal monitoring*” (RW). Domestic Assets are ordinarily taxed;
- With yearly option, the New Resident tax base is reduced to Italian domestic source income and gains!
- Applicable to foreign and Italian citizen for a maximum of 15 years;
- Applicable only once, in caso of exit it is not possible to rejoin the new regime.

# VISA FOR INVESTORS

The legal framework of migration is amended by law and introduces a **two-year special visa regime** - the so called “*visa for investors*” - applicable to entry and residence in Italy for a period of more than three months.

The new procedure is intended to attract potential Investors and HNWI to Italy.

The Applicant is required to:

- A. Invest at least € 2 million in government bonds** ( to be held for at least two years); **or**
- B. Invest at least € 1 million in equity instruments** in the share capital of an Italian resident and operating company (to be held for at least two years) **or invest at least € 500.000 in the share capital of innovative start-up; or**
- C. Donate € 1 million to philanthropic projects** (culture, education, migration management, scientific research and recovery of artistic assets).

The visa is issued by a diplomatic or consular representative.

The visa is revocable if the investment and/or donation has not been made within 3 months as of the date of entry in Italy, or if the investment is disposed of before the two-year expiry date. **The visa allows family reunification.**

**The Applicant must certificate the source of the funds.**

There are ordinary compliance issues, with a specific path for the “golden visa” regime.

# THE NEW TAX RESIDENT REGIME

New **art. 24-bis** of the Italian Consolidated Tax Code («ICTA»): taxation of foreign income on lump sum basis.

- **§ 1. Individuals transferring their tax residence to Italy according to art. 2, par. 2 ICTA, could opt to be subject to a lump sum tax, [...], on any foreign income and gains as described in art. 165, par. 2 [...].**
- **§ 5. Individuals as described in § 1, could opt for the disapplication of the lump sum tax on foreign income realized in certain foreign countries [...]. In this case, the foreign income will be subject to the ordinary taxation with the consequent applicable tax credit.**
- **§155 of the the 2017 Financial Bill: [...] a non-regulatory decree of the Foreign Minister, as jointly agreed with the Minister of the Interior, will identify the facilitations when dealing with applications for visa and residency permit applicable to those transferring their residence to Italy according to art. 24-bis ICTA [...].**
- **§. 158 of the 2017 Financial Bill: with reference to succession and gifts whereby the de cuius/donor is subject to the “new Ita res” tax regime according to art. 24-bis [...] inheritance and gift tax [...] are due only on assets and rights existing in Italy upon the date of the succession or the gift .**

# CONDITIONS

The “New Ita Res” regime (available as of January 1, 2017) has been officially commented by the Tax Authorities with Circular letter n. 17/E/2017 of May 23 (the “Circular”).

The Tax Authorities position is pragmatic and confirms the positive aspects of the new legislation.

**The “New Ita Res” regime is open to all individuals, including Italian citizens!**

**It is accessible for individuals moving their tax residence to Italy** according to general Italian tax laws, with the following conditions:

- The transfer of residence to Italy (according to Article 2, paragraph 2 ICTA) must be effective and is subject to control by the municipalities (see the Circular);
- Individuals must have not been resident in Italy for at least 9 out of the 10 years prior to the first year of effect of the option (the so called **“9 out of 10” rule**);

# CONDITIONS

- «New Ita Res» regime is valid **for a maximum period of 15 years;**
- «New Ita Res» Applicant **can opt out at any time, but only once.**
- The «New Ita Res» may exercise the option for the new regime in the tax return or request a **ruling to the Tax Administration (which must answer within 120 days or it is assumed to be positive)**. On March 8th the Director of the Italian Tax Office delivered a document which clarifies that there is no mandatory need of submitting a preventive ruling in order to access the new tax regime which remain nonetheless highly advisable to prevent potential objection by the Italian tax authorities;

# LET'S GET STARTED!

**YES**

If ruling is submitted, Italian Tax Authority must reply within 120 days (plus additional 60 days if auxiliary documentation is required). The ruling procedure provides certainty about the condition that the law sets for the optional regime

**NO**

If NO ruling is submitted, the special tax regime is activated as the candidate signs the option within the ordinary term of tax return related to the specific tax year (i.e. end of June 2018 for tax year 2017)

We advise to proceed with an assessment phase with Applicant to the new regime in order to verify the best solution for the specific case and consequently wisely plan all formalities

## «NEW ITA RES» REGIME

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- An **annual lump sum of € 100.000** is to be paid on foreign income and capital gains;
- Exemption for fiscal monitoring (RW) and Italian wealth taxes (Ivafe and Ivie) on foreign assets;
- Exemption for Inheritance and Gift Tax in relation to assets existing outside the Italian territory;
- An annual lump sum of € 25.000 (1/4 of the ordinary amount) is due per **each other member of the family to whom the option is extended**;
- A specific anti abuse rule excludes from the new regime capital gains realized on foreign qualified participations during the first 5 years of the new regime;



## «NEW ITA RES» REGIME

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- CFC rules are generally not applicable (see the Circular);
- Non-Italian source income arising from interposed entities is absorbed by the annual substitutive tax whilst Italian source income arising from interposed entities (both resident in Italy or not) is subject to the Italian ordinary tax rules (see the Circular);
- The Circular states specific rules in case the “New Ita Res” is director (sole or member of the board of directors) of non-Italian companies. If he is the sole director of a foreign operative company, the income of the company is generally not attracted to taxation in Italy as a consequence of a deemed Italian residence of the company itself;
- The exclusion of certain countries from the new regime implies that the income deriving therefrom will be subject to the ordinary Italian tax rules (e.g., it will be subject to wealth taxes, IVIE and IVAFE, to fiscal monitoring (RW), to IHT and gift taxes etc.) ;
- Last but not least: **NO REMITTANCE CONCEPT. There is no problem on transferring foreign exempted income to Italy!!**



## **A FEW PRACTICAL CASES**

# «NEW ITA RES» REGIME - CASE 1



UK-RES-NOT-DOM

GBP 400k gross salary



€ 30 M  
OFFSHORE  
BANK



SWISS Chalet  
French Villa

## «NEW ITA RES» REGIME - CASE 1

A foreign citizen has worked in London (as “not-dom”) for the last 20 years and **he/she is now going soon to retire**. He/she owns €30M of bankable assets held offshore; a Villa on the French Riviera; a chalet in Saint Moritz; and earns directors fees for 400k. After proper assessment and estate planning he/she moves to Italy and makes an application for the new regime purchasing an house in Milan for €3M and moves €2M to an Italian bank as “pocket money” to be invested.

The taxation would be:

- a flat lump sum of €100.000 covering any foreign sourced income, including income deriving from the €28M bankable assets.
- There is no need to move bank (e.g. US or CH) and/or the asset manager (e.g. this can easily remain based in London) and the provider of business services.
- On the Italian Real Estate there is an annual wealth tax (around 0,76% of the cadastral value). Eventual income on the bank account is going to be taxed at 26% and a wealth tax of 0,2% on bankable asset is to be paid.

## «NEW ITA RES» REGIME - CASE 2

An **entrepreneur** (e.g. Turkish) sold the entire group he founded 50/50 with his wife 30 years ago, to a private equity in 2016 and decides to move to Italy, leaving his financial asset to a foreign bank, in full compliance. He already owns a holiday villa Italy and now with his wife is going to live there as his main home. From there he want to reinvest part of his wealth on entrepreneurial activities. The sons of the couple are all well off and living out of the family.

He is going to pay a €100k lump sum every year. His wife is going to pay €25k only.

He is going to invest €500k on Italian start ups and this would give him the right for the “Investor Visa” (for the whole family).

On his house he will pay taxes as an ordinary Italian resident. On his/her wealth (eg. bankable assets on a foreign bank) he is not going to pay any more tax in Italy and when money is gifted to the children (e.g. with a Family Trust) no tax is due in Italy. For income related to Italy source activities he pays ordinary taxes, but for activities performed from other jurisdiction (via wise structuring) he is not going to pay more taxes in Italy.

Regarding his assets in Turkey, he pays taxes there according to the treaties. If he wants the ordinary regime in Italy he has to opt out of the new regime for Turkey only, resulting in him receiving the tax credit for Turkish taxes, following the worldwide income principle for Italy.

# «NEW ITA RES» REGIME - CASE 2



Formerly TURKISH RES  
NOW NEW ITA RES



€ 2 M ITALIAN BANK



New Italian Villa



€ 50 M  
OFFSHORE  
BANK



London House



Art &  
Collectable Goods

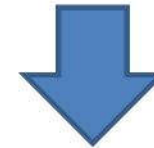
# «NEW ITA RES» REGIME - CASE 3

€ 300 k  
gross salary



CHILDREN

Italian Villa



€ 50 M  
OFFSHORE

BANKS London House



## «NEW ITA RES» REGIME - CASE 3

A couple of European East Country citizen lives in London since 2008. He is a UK res-not-dom and owns a group of foreign company via 2 sub holding, one in Luxembourg and one in HK. They have 3 children still at schools.

Their wealth planning is structured through offshore trusts, in full compliance, with reserved powers following the rules.

His trust owns 50M in a couple of offshore banks and the London House (GBP12M) is now hit by the “enveloped property” new rules. They are considering moving to Italy where they buy an Italian villa.

He is going to pay a €100K lump sum every year. His wife is going to pay €25K New Italian resident regime.

He is going to invest in Italian start ups and this would give him the right for the «investor Visa» ( for the whole family).

Regarding his wealth structuring there is no immediate need to change it, although some opportunity may be given with the aim of a full optimization.



- **There is no need to modify International estate planning for international clients!!** It is perfectly clear that the new regime allows the Applicant to discuss his/her international business and estate planning locally (there is no kind of “*shadow director rule*”).
- **Full privacy granted** (no disclosure or monitoring of foreign income and assets);
- **No remittance issue:** the new regime gives total freedom in order to transfer foreign source income to Italy (e.g. to purchase a house).
- **Full compatibility with working in Italy;** completely different from the “Swiss global regime”.
- **15 years maximum:** longer than the “Portuguese regime”.
- **ITALY is a G7 / G20 country and a beautiful place to live!!**
- Italian local banking and business services are efficient.
- ITALIAN tax burden and bureaucracy can be managed with an accurate international estate planning in **full (tax) compliance with international rules**. The “**New Ita Res**” is treated as **tax resident in Italy for CRS, FATCA and EU directives;**
- Should, for any reason, the Italian rules be changed in the future, the system allows certitude for the past and present years because of the tax ruling!

# REQUIREMENTS -- CHECKLIST

- On March 8, 2017 the Commissioner of the Italian Tax Authorities published the required “*check list*” the candidate must fulfill to access the new regime ;
- The check list provides for 20 questions (*yes or no*) which basically set for an understanding of main issues related to the necessary resident test “*9 out of 10 years*”.
- **IN SHORT:**
  - whether spouse and/or sons have been resident, domiciled or with abode in Italy;
  - whether other family relatives have been resident, domiciled or with abode in Italy;
  - whether exists stable relationships that have personal, social, cultural, political basis with other people resident in Italy;
  - whether the Applicant is within a board (e.g. director, statutory auditor or similar) of a company and/or an entity which is tax resident in Italy;
  - whether sons/daughters attend school or training courses in Italy;
  - if real estate, company participations or movable goods enrolled with the Italian public register (e.g., cars or ships) have been usually utilized for at least 90 + 1 days during each tax year;
  - if there have been formal contacts or relationships with Italian financial intermediaries;
  - further queries are related to the availability in Italy, directly or indirectly (e.g., because of fiscal interposition), of income in the last relevant years.

**A PRAGMATIC AND SOFT APPROACH TO AVOID ABUSES!!!**

## STEP BY STEP

1. **First meeting** with the candidate and his/her advisors @ one of our offices in Milan, Verona, London, Singapore or Lugano;
2. **Assessment of the Client specific case.** We deliver an opinion related to the applicability of the new regime to current client (and family) wealth and estate planning;
3. **Application** in order to enroll as «**Italian New Tax Resident**»;
4. **Advisory and Compliance** in relation to his/her Italian and foreign Assets and Income; we include tax return and one stop service for the HNWI and his/her family capitalising on our expertise about «UK res-not-dom» within our London Office in the last ten years.



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Luigi Belluzzo is a member of *STEP Advising families across generations*, he is currently the *Step Italy Chair*, and a member of *IFA International Fiscal Association*.



**WE LOOK FORWARD TO HEARING FROM YOU**

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# RANKING & AWARDS

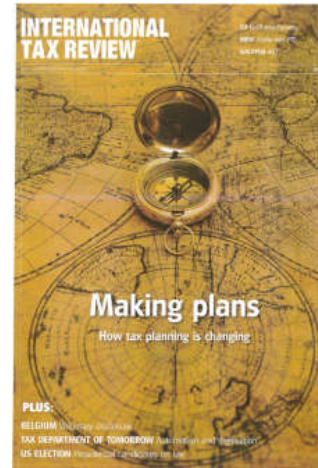


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WEALTH MANAGEMENT

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From 2015 **Top Legal** ranks Luigi Belluzzo and Belluzzo&Partners among Italian top tax specialists in the Wealth and Family Business fields.  
May 18, 2017: Wealth Management – Professional of the year Award to Luigi Belluzzo

**THE LEGAL 500**

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The Italian tax market  
Italy's tax market is among the most challenging in the world. The tax authorities are under substantial to collect more income to reduce the country's financial deficit.  
\*After the crisis, the tax authorities have been very

**Tax 2016 Awards**  
by legalcommunity

**CHAMBERS AND PARTNERS**

Chambers and Partners ranks Luigi Belluzzo among Italian top professionals

**Premio INTERNAZIONALE LE FONTI 2014 WINNER**



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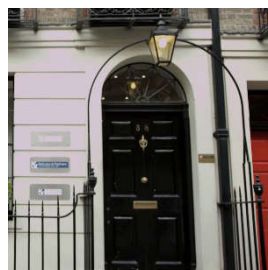
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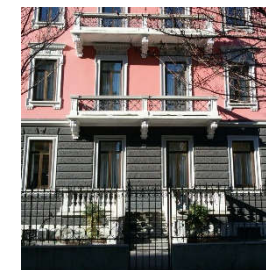
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