



## LONDON WORKSHOP 2017

### **UK and Italy Tax & Legal Update 2017**

*The implications for Family Businesses in the wake of Brexit*

Luigi Belluzzo

**Ambasciata Italiana a Londra**

**12 dicembre 2017**



## **A. MOBILITY OF PEOPLE (AND CAPITALS)**



## 1. The «New Italian Tax Resident» regime

INVESTING FOR GROWTH



## 2. The «Golden Visa» New Resident

REWARD WHO INVESTS IN THE FUTURE



## 3. The new «Impatriate» regime

GIVE VALUE TO INTANGIBLE ASSETS

- «New Res» regime: Yearly levy of **€100k as “Substitutive Tax”**: a lump sum on foreign income and capital gains. 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**;
- Domestic income and gains follow general rules; 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;
- **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.
- The «impatriate» regime is alternative to the «new Res» regime
- The «impatriate» gives a direct tax reduction (generally 50% for five tax years)

# 1. The «NEW RES» Italian regime (A)

- New **art. 24-bis** of the Italian Consolidated Tax Code («ICTA»): taxation of foreign income on lump sum basis.
- Applicable to all individuals (including Italian citizens)
- Rule 9 year out of 10 («Tax Residence Test»)
- 15 years maximum
- The New Res regime flat tax covers any income or capital gain (with conditions) to be regarded as not linked to Italian territory AND and Inheritance, Gift Tax, Wealth Tax
- No requirement for fiscal monitoring
- Compliance with CRS and FATCA
- Last but not least: **NO REMITTANCE CONCEPT. There is no problem on transferring foreign exempted income to Italy!!**

## 2. GOLDEN VISA rules

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 and **it is fully cumulative with the «New Res» regime** (art. 24-bis).

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.

### 3. The «New Impatriate» rules (A)

There is set a **strong personal tax reduction** for particular cases such as:

- **Employees, Managers, Professionals and high skilled Workers** (with a bachelor degree) continuously and effectively engaged abroad in the last 24 months: OR
- Students and Researchers abroad in the last 24 months, achieving a degree or a master degree (post lauream) 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.
- **Managers or Employees with high qualifications skills**, not being resident in Italy in the last 5 years before their moving to Italy, working for an Italian tax resident company (group concept is applicable) and are working in the Italian territory and are working with apical position
- **Professors and Researchers**, with a bachelor degree, non occasionally residents abroad, having worked for an University or a private or public known research centre, establishing in Italy their professional activity taking Italian tax residence

A REDUCTION TO IRPEF (PERSONAL TAX) OF 50% (MIN)  
FOR A MAXIMUM OF 5 YEARS

## 4. LET'S GET STARTED! (A)

### THE RULING

**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**

## 4. LET'S GET STARTED! (B)

### THE 9 OUT OF 10 YEARS RULE

- 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.

**Our View: A PRAGMATIC AND SOFT APPROACH TO AVOID ABUSES!!!**

## 4. LET'S GET STARTED! (C)

### AN ASSESMENT PHASE AND A PLANNING PHASE

1. **First meeting** with the candidate and his/her advisors @ one of our offices in Italy, UK, Singapore or Switzerland;
2. **Assessment of the Client specific case.** We deliver a first opinion related to the applicability of the new regime to current client (and family) wealth and estate planning; we can advice and assist foreign advisors in order to balance the planning and achieve targets
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.

## 5. PRACTICAL EXPERIENCES

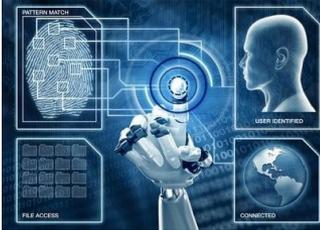
1. We already had cases. Italian major paper dedicated an article to what is to be regarded as case number 1 before authorities.
2. Examples:
  - ❖ The EU citizen moving to Italy with his family, working as board member in many countries
  - ❖ The retired woman planning for the future (of her business family)
  - ❖ The “young entrepreneur” working on finance or fintech
  - ❖ etcetera

**Our view:** it is necessary to clear the way and consider all capital and income flows, within a framework Fatca / CRS compliant!



## **2) MOVEMENT OF INVESTMENTS (AND PEOPLE)**

## Industrial Revolution



Connection between physical and digital systems, complex analyses of big data and real-time settings

Through use of smart machines, inter-connected and connected to internet



*"The Plan for Industry 4.0 is a great opportunity for all companies who want to seize the opportunities related to the **fourth industrial revolution**: the Plan provides a set of organic and complementary measures to encourage investment in innovation and competitiveness"*

Source: Ministry of Economic Development

**OUR VIEW: concrete tools to grow and attract new investors with a corporate tax rate reduced to attractive jurisdiction benchmark!**



**Innovative investments**

**Objectives**

**>10 bn €**

Private investments increase in 2017/18

**+11,3 bn €**

R&D&I private expenditure over the '17-'20 period (exceeding 2% of GDP)

**+2,6 bn €**

Volume of early stage investments mobilized over the '17-'20 period



## 1. Iper-depreciation and Super-depreciation

INVESTING FOR GROWTH



## 2. Tax Credit - Research & Development

REWARD WHO INVESTS IN THE FUTURE



## 3. Patent box

GIVE VALUE TO INTANGIBLE ASSETS



## 4. Startup and innovative SME

ACCELERATING INNOVATION



## 5. New Sabatini

CREDIT FOR INNOVATION

# 1. Iper-depreciation and Super-depreciation

## INVESTING FOR GROWTH

What is it?

- Support and incentives for companies investing in **new assets**, on **tangible and intangible assets** (software and IT systems) necessary for the **technological and digital transformation of production processes**

What advantages?

- **Super depreciation**: depreciation deductible from IRES/IRPEF @ **140%**
- **Iper depreciation**: depreciation deductible from IRES/IRPEF @ **250%**

Who is it for?

- All the subjects of business income

How to accessed?

- Inclusion of the benefit directly in the financial statements (in the tax calculation)
- Through **self-certification** or a **sworn technical expertise** (as appropriate)

# 1. Iper-depreciation and Super-depreciation

## INVESTING FOR GROWTH

### Super depreciation

- Extension of the increased rate of “basic depreciation” (for the purposes IRES / IRPEF) for **investments in new assets**
- Increase may also apply **for instrumental intangible assets (software)** included in the Plan for Industry 4.0

140%

### Iper depreciation

- Further increase the rate of depreciation (IRES / IRPEF) for **investments in new tangible assets** covered by the Plan for Industry 4.0

140% → 250%

### Timing of investments

- Date of delivery or shipment, or, if different, and later, when you experience the effect of the transaction

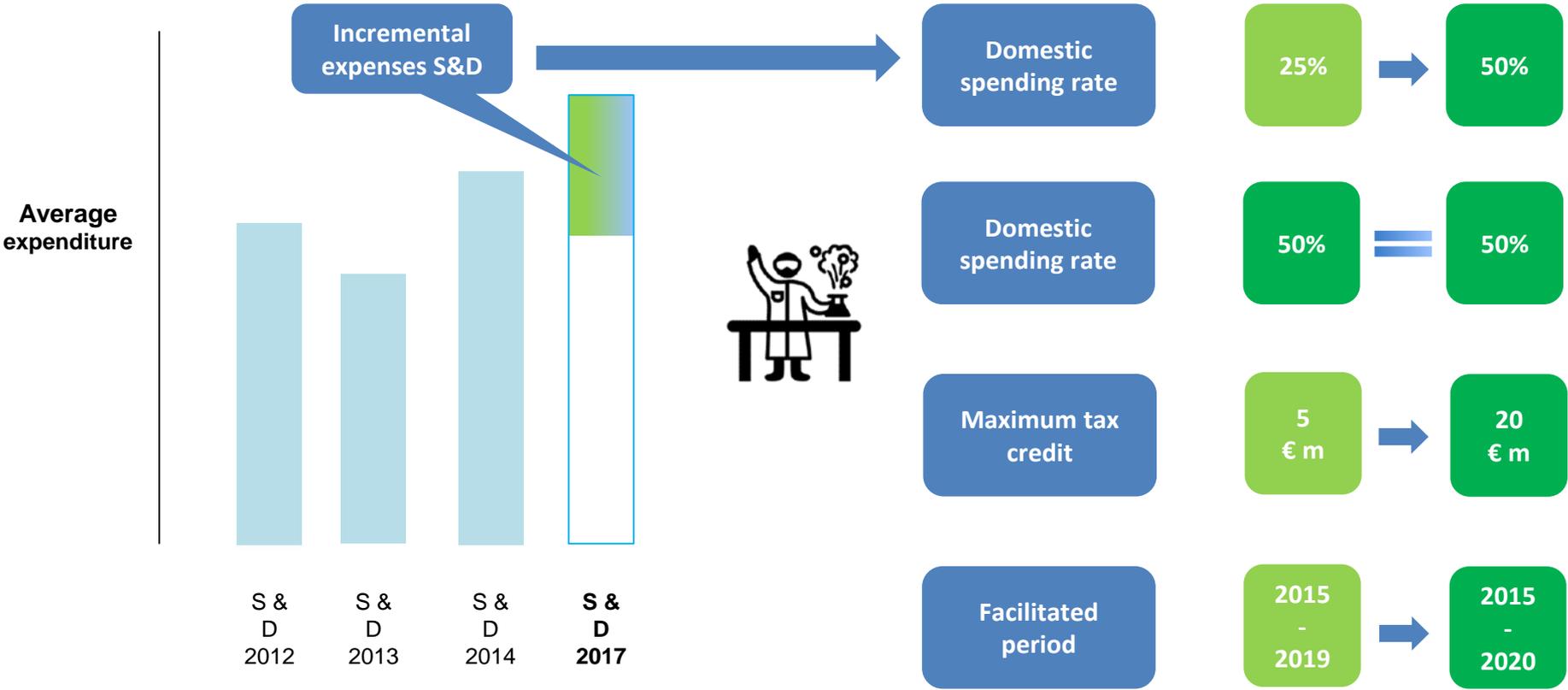
### Relevant period of investments

- **1 Jan 2017 – 31 Dec 2017**
- **1 Jan 2017 – 30 Jun 2018** → if accepted order and payment of advance payments at least equal to 20% by 31/12/2017
- **1 jan 2018** The new Financial Bill refinance the whole incentives

# 2. Tax credit for Search & Development

## REWARD WHO INVESTS IN THE FUTURE

### New Rules



# 3. Patent box

## GIVE VALUE TO INTANGIBLE ASSETS

What is it?

- Make the Italian market more attractive for domestic and foreign investment in the long term
- Encourage the placement and maintenance in Italy of **intangibles** held abroad
- Encourage investment in **Research & Development**

What advantages?

- Reduction of IRES and IRAP tax rates of **50%** (from 2017) on business income related directly or indirectly to the use (or used under license) of intangible assets (reduction applicable to TMs from 2018)

Who is it for?

- All the subjects of business income

How to accessed?

- **Option** to be exercised in the tax return and, in the case of direct use of the intangible asset, obligation of **ruling agreement** with Revenue Agency
- Valid, irrevocably, **for 5 tax years**



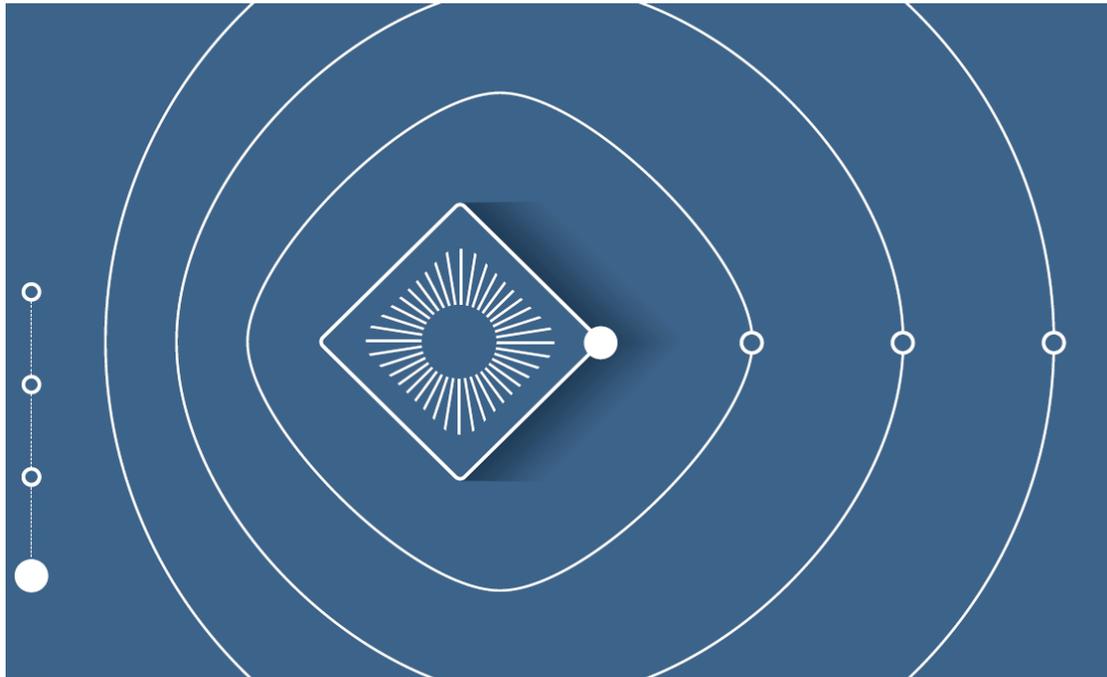
## **C) CASES & EXPERIENCES**

GUIDA ALLA PIANIFICAZIONE PATRIMONIALE:  
FAMIGLIA, CAPITALI E IMPRESE

# GUIDA ALLA PIANIFICAZIONE PATRIMONIALE

## FAMIGLIA, CAPITALI E IMPRESE

Luigi Belluzzo



# INTERNAZIONALIZZAZIONE DELLE IMPRESE

*Guida operativa agli aspetti legali, fiscali e finanziari*

a cura di Belluzzo & Partners



Pianificazione  
e regolamentazione  
del processo

Distacco del personale  
all'estero

Fiscalità nei processi  
di internazionalizzazione

Stabile organizzazione  
e Joint venture

Residenza,  
estero-vestizione  
ed exit tax

Convenzioni contro  
le doppie imposizioni

Imprese estere controllate (Cfc)

Consolidato mondiale  
e credito per le imposte  
pagate all'estero

Flussi reddituali  
da investimenti esteri

Iva all'esportazione

Finanziamenti agevolati

Novembre 2017



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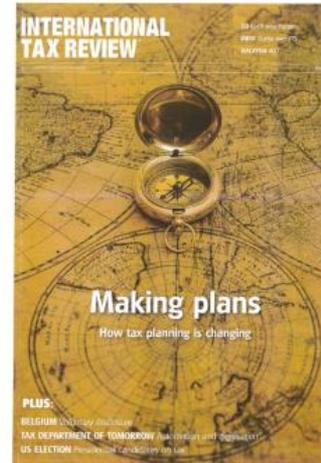


**WE LOOK FORWARD TO HEARING FROM YOU**

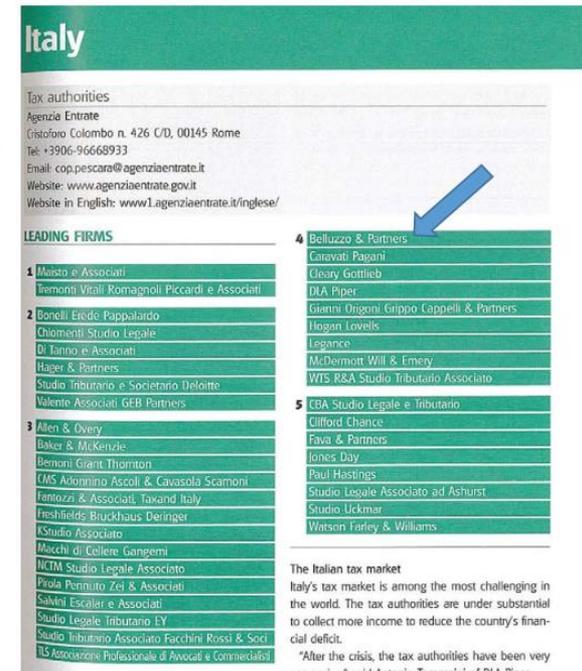
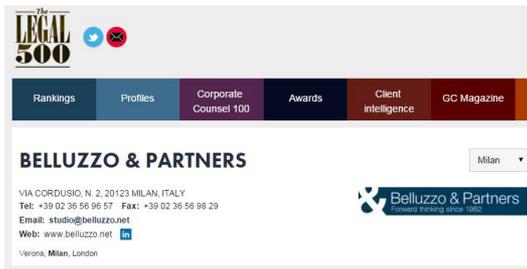
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Chambers and Partners ranks Luigi Belluzzo among Italian top professionals





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