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In this issue:

Italy: New tax regime for inbound pensioners 1
United States: US and French Authorities reach agreement on creditability of French CSG and CRDS taxes 2

Italy:
New tax regime for inbound pensioners

Overview

On December 30, 2018, the Italian government ratified Article 1, Paragraph 273-274 of Law No. 145, which introduces a new tax regime for inbound pensioners who move their tax residency to Italy.

Main provisions

Starting in fiscal year 2019, inbound pensioners will be subject to a 7 percent flat tax on any foreign-sourced income and will not be able to claim a foreign tax credit in case of double taxation. Additionally, any income produced within the Italian territory will be subject to ordinary taxation rules.

Inbound pensioners can opt to claim a foreign tax credit by limiting the application of this tax regime to income derived just from one or more countries. The foreign tax credit, if available, will apply to income derived from the countries excluded from the regime; however, any income that remains after the application of the foreign tax credit will be subject to ordinary taxation rules and rates.

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From a timeline perspective, this new regime is valid for the first year in which eligible individuals move their tax residency to Italy and for the following five tax years.

Eligible taxpayers

The taxpayers eligible for this regime are individuals who:

- Qualify as Italian tax nonresidents for the five tax years preceding their move to Italy;
- Receive pension income paid by a foreign country;
- Were previous tax residents in countries with mutual administrative agreements with Italy; and
- Elect to live in a southern Italian municipality with a population that does not exceed 20,000 inhabitants.

Other considerations

Eligible taxpayers must apply for the new regime directly through their Italian individual tax returns.

Also, taxpayers who were previous tax residents in countries with mutual administrative agreements with Italy are exempt from tax monitoring obligations for assets and properties held abroad, as well as exempt from Italian wealth taxes on the same assets (i.e., IVIE tax on foreign real estate and IVAFE on foreign financial assets).

Deloitte's view

Similar to the tax regime the Italian government introduced for high net worth individuals, the new tax regime for inbound pensioners is indicative of the Italian government's intention to improve the tax appeal of the country to individuals moving their tax residency to Italy. In this sense, it definitively represents a good opportunity in terms of tax planning.

The main goal of the new tax regime is to attract foreign capital to Italy, with specific incentives for pensioners to settle into the small municipalities in southern Italy and invest in their economic systems. To support this purpose, the new tax regime allows flat taxation on any kind of foreign-sourced income, rather than on pension income only.

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United States:
US and French Authorities reach agreement on creditability of French CSG and CRDS taxes

Background

The United States generally allows a taxpayer to claim a foreign tax credit for foreign income and social taxes paid or accrued during the tax year. However, the foreign tax credit is denied for social taxes covered under a totalization agreement between the US and the foreign country. There has been an outstanding question regarding two specific taxes that are assessed in France and connected with their social security program.

Update

Until now, the IRS has taken the position that French *Contribution Sociale Généralisée* (CSG) and *Contribution au Remboursement de la Dette Sociale* (CRDS) taxes are covered by the totalization agreement between the United States and France and therefore no foreign tax credit is allowed for these taxes. This is currently being litigated in the case of *Eshel vs. Commissioner*. The US Tax Court (142 TC 197 (2014)) concluded that these taxes were considered social security and therefore not creditable, but the US Court of Appeals for the District of Columbia Circuit (831 F. 3d 512, (D.C. Cir., 2016)) reversed and remanded the case back to the US Tax Court for reconsideration.

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In a June 13, 2019 submission to the US Tax Court, the IRS reported that the US State Department has agreed with the French government that CSG and CRDS are not covered by the totalization agreement and therefore taxpayers are not precluded from claiming a foreign tax credit for these taxes.

Deloitte's view

US taxpayers that are subject to CSG and CRDS taxes should discuss this development with their tax advisors.

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