

Italy - Information on residency for tax purposes

Section I – Criteria for Individuals to be considered a tax resident

For what concerns the general principles of individual tax residence in Italy, the following articles of domestic law apply.

According to Article 2 (2) of the Italian income tax code, an individual is considered resident in Italy for tax purposes if at least one of the following conditions are met for a period of time that is greater than half of the tax period:

1. registration of the individual in the Municipal population registers. The fact that the individual is entered into the Register for a certain period of time is a sufficient condition for her/him to be classified as a resident in Italy for tax purposes;
2. presence of a domicile in Italy related to the individual according to the Civil code definition. According to Article 43 (1) of the Civil code, the term domicile means the individual's principle place of business or interests. The presence of a domicile in Italy is regardless of the effective presence of the individual;
3. residence of the individual in Italy according to the Civil code definition; According to Article 43 (2) of the Civil code, the term residence means a location where the individual has her/his habitual abode.

Where there is a Double Taxation Convention, Paragraph 2 of Article 4 of the involved Convention applies.

According to Article 2 (2-*bis*) of the Italian income tax code, an Italian citizen is presumed to be a tax resident of Italy if she/he cancels herself/himself from the Municipal population register and moves her/his residence to a Territory/State considered as tax privileged according to the Italian legislation. The presumption is won if the taxpayer demonstrates (there is an inversion of the burden of proof) that the residence in such Territory/State is effective. The list of Territories/States considered tax privileged is actually in the Ministerial Decree 4 May 1999.

Relevant Tax Provisions and Practice (the documents are in Italian)

- Article 2 (2 and 2-*bis*) of the DPR 22 December 1986, n. 917 (Tax code);
- Circolare ministeriale 2 dicembre 1997, n. 304 (Ministerial explanations)

Section II – Criteria for Entities to be considered a tax resident

For what concerns the general principles of corporate taxation in Italy, Article 73 of the DPR 22 December 1986, n. 917 (Tax Code) applies.

According to Article 73 (3) of the Italian income tax code, companies and entities are considered resident in Italy for tax purposes if at least one of the following conditions are met for a period of time that is greater than half of the tax period:

1. Place of incorporation;
2. Place of administration of the entity;
3. Place where the main and substantial activity is carried on.

Furthermore, collective investment institutions incorporated in Italy, even if exempted, are always considered to be resident.

The following are some of the presumptions of residence contained in Article 73.

Trusts and similar entities/arrangements are presumed to be resident in Italy if they are incorporated in a non-whitelisted State or Territory and if at least one of the beneficiaries and one of the trustees are resident in Italy. Trusts incorporated in non-whitelisted States and Territories are also presumed to be resident in Italy when a resident person makes a contribution of property rights to the trust.

Where there is the existence of a Double Taxation Convention, Paragraph 3 of Article 4 of the involved Convention applies.

Relevant Tax Provisions and Practice (the documents are in Italian)

- Article 73 of the DPR 22 December 1986, n. 917 (Tax code);

Section III – Entity types that are as a rule not considered tax residents

For the purposes of reporting under the terms of the Common Reporting Standard a reportable entity also includes entities that are typically tax transparent. For reporting purposes, an entity will be held to be ‘tax resident’ there even if the law of that country or jurisdiction does not treat the entity as a taxable person.

Section IV – Contact point for further information

<http://www.agenziaentrate.gov.it/wps/content/Nsilib/Nsi/Contatta/Assistenza+fiscale/>