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ONLY "NON-RESIDENT SCHUMACKERS" CAN DEDUCT SOCIAL SECURITY CONTRIBUTIONS



The Italian Revenue Agency, in reply to question No 148 of 26/05/2020, clarified that only individuals not resident in Italy qualifying as "non-resident Schumacker" may deduct social security contributions paid voluntarily to INPS, as the institution managing the compulsory pension scheme to which they belong.

In this regard, it is necessary to consider that, under Articles 2 and 3 of the TUIR, individuals not resident in Italy for tax purposes are subject to IRPEF (and, therefore, pay taxes in Italy) only with reference to income sourced on the Italian territory.

For the purposes of determining the tax payable in Italy by non-residents, Article 24(2) of the TUIR provides for an exhaustive list of deductible expenses (i.e. those referred to in Article 10(a), (g), (h), (i) and (l), TUIR).

This exhaustive list does not, however, include the expenses provided for in Article 10(e) of the TUIR, i.e. "social security and welfare contributions paid in compliance with legal provisions, as well as those paid voluntarily to the applicable compulsory pension scheme, including those for the reunification of insurance periods".

It follows that, as a general rule, individuals resident abroad for tax purposes cannot deduct social security contributions paid to INPS from the income to be taxed in Italy, in view of the exhaustive nature of the list of deductible expenses set out in Article 24(2) TUIR referred to above.

The Italian Revenue Agency, however, provides for an exception to the principle set out above.

According to the Italian Revenue Agency, in fact, the social security contributions paid to INPS may in any case be deducted by the individuals referred to in Article 24, paragraph 3-bis, of the TUIR (the so-called "non-residents Schumacker"), i.e. those individuals not resident in Italy who derive income from the Italian territory equal to at least 75% of their total income.

The deduction is possible on condition that such individuals:

- 1) do not enjoy similar tax benefits in their country of residence;
- 2) are resident for tax purposes in countries that ensure an adequate exchange of information with Italy (as identified by Decree of the Ministry of Economy and Finance of 23 March 2017).