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# THE GUIDEBOOKS OF WEALTH.

The guidebooks of Wealth series aims to respond to investors' doubts, questions, and needs regarding the main trends, problems, and opportunities that may arise from managing wealth: private wealth, family wealth, and business wealth.

Thanks to its in-depth knowledge of the world of wealth management - including asset management, investment in the real economy through start-ups, venture capital or private equity, real estate and arts management, tax optimization, and generational handover - and a strong team of specialized journalists, contributors, experts and analysts with established experience in the sector, We Wealth aims to publish one guide per month on the most relevant issues for all potential investors - whether newcomers, managers, entrepreneurs or enthusiasts - seeking professional advice, market updates, and analysis related to the risks and opportunities of the sector under study.

The objective of the guides is to offer a straightforward tool to support conscious and informed investors, enabling them not only to optimize their operations but also to interact in a more prepared manner with the various professionals in the sector.





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# INTRODUCTION.

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For a long time, Italy has represented one of the favorite destinations of citizens from all over the world not only for tourism but also for residence relocation.

This stems from environmental and cultural factors (the “Bel Paese,” the “Dolce Vita” ethos) and, more recently, from a more attractive regulatory system, both for individuals who want to work in Italy and for wealthy individuals who simply want to live there.

Therefore, this guide is aimed primarily at these categories of individuals, leaving out those carrying out commercial activity, for the sake of simplicity.

The various topics will be covered by imagining the time sequence of a hypothetical move to Italy by a foreign individual, starting, for Extra-EU individuals, with the application for a visa and the consequent acquisition of a residence permit, and enrollment in the resident population registry (anagrafe).

We will then summarize the predominant tax regimes which apply to those who become resident in our country with some insights relating to issues that very frequently arise in practice in: the purchase of real estate, the taxation of financial assets and compliance obligations related to foreign assets.

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## INTRODUCTION

In fact, foreigners who have come to Italy often maintain ties with their country of origin, and not only because of investments made in the past of which they have decided to retain possession.

Moreover, some brief guidelines will be dedicated, in this regard, to the trust instrument, commonly utilized by individuals coming from common law countries, who need to be aware of the Italian tax implications arising from the existence of a foreign trust, albeit irrevocable and discretionary.

The guide concludes with an in-depth look at succession and family law aspects, bearing in mind that there are very important differences, beyond tax considerations, that should never be overlooked when deciding to undertake a transfer of residence.



# ITALIAN VISAS: FORMALITIES AND TIMELINE FOR EU AND NON-EU CITIZENS

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## 1. ITALIAN VISAS: FORMALITIES AND TIMELINE FOR EU AND NON-EU CITIZENS

While EU citizens enjoy freedom of movement within the EU, entry into Italy of nationals from non-EU countries is generally subject to the issuance of an entry visa and residence permit. Italy's attractiveness is enhanced by the existence of easier procedures for the entry of HNWI from non-EU countries into Italy, for whom, in the case of the so-called "Investor Visa", there is not even a minimum number of days of stay required.

### **Entry into Italy of EU citizens and their "family members"**

Citizens of European Union Member States have the right to move and reside freely within the territory of the European Union. Therefore, their entry into Italy is subject only to the possession of a valid identity document and is not subject to any formality for stays of less than 90 days. In the event that the stay is longer than that period, it would be necessary to proceed with enrollment in the municipal population registry (Anagrafe) by providing proof that they have sufficient economic resources, are enrolled in the national health service or have a health insurance policy. Directive No. 2004/38/EU extends the right to freedom of movement to the "family members" of EU citizens, whatever their nationality. Those eligible to exercise this right are, among others, the spouse, direct descendants (children, grandchildren) under the age of 21 or dependent, and the partner with whom a registered partnership has been contracted that the host state equates to marriage. In cases where the stay of family members is longer than 90 days, it would be necessary for them to apply for an EU citizen family member residence permit.

## 1. ITALIAN VISAS: FORMALITIES AND TIMELINE FOR EU AND NON-EU CITIZENS

### **The entry into Italy of citizens of Non-EU countries**

The entry into Italy of non-EU citizens is regulated by Italian laws (Legislative Decree 286/1998 - Testo Unico sull'Immigrazione) and EU regulations (EU Regulation No. 2016/399 - "Schengen Borders Code"). In general, the provisions require a non-EU citizen to obtain a visa to enter Italy, regardless of the length of stay. The entry visa must be applied for at the Italian diplomatic or consular offices where the applicant has his or her habitual place of residence. Following its issuance, the foreigner must enter Italy within the period of validity of the visa and formalize the application for a residence permit within 8 days of entry by appearing in person at the competent police department (Questura) in the place of residence in Italy or, depending on the type of residence permit to be applied for, at any post office in the territory, after filling out the relevant postal kit. The visa and the residency permit procedure may take from about five to nine months, depending on the type of visa.

### **Special cases**

Citizens of any of the countries listed in Regulation (EC) No. 539/2001, are exempt from the visa requirement for entry into Italy for stays of less than 90 days. For example, included in the list are: United States, Canada, Brazil, Venezuela.

### **Types of visas and related residence permits**

Citizens of any of the countries listed in Regulation (EC) No. 539/2001, are exempt from the visa requirement for entry into Italy for stays of less than 90 days. For

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example, included in the list are: United States, Canada, Brazil, Venezuela. The most common types of Italian entry visas are as follows:

- work visas (subordinate and self-employed)
- investor visas, and
- visas for elective residence.

The issuance of some visas (especially those for employment and self-employment) is subject to the provisions and procedures laid down in the so-called “Flow Decrees” which are issued periodically to establish the number of entries for work in Italy, or “quotas,” available from time to time. This system, which is tied to the issuance of the “Flow Decree” and the availability of quotas to enter Italy for work, is extremely rigid in that despite the desire to enter Italy for work, the conditions for issuing a visa might not be met.

### **Entry visas for work purposes subject to the provisions of the “Flow Decrees” (employment-self-employment-start-up)**

#### ▪ **Employment visa**

The procedure for this type of visa application is preceded by a request by the Italian employer to the competent immigration office (Sportello Unico per l’Immigrazione) for a certificate of no impediment (nulla osta al lavoro) and its subsequent issuance. The application for the certificate of no impediment must be accompanied by documentation pertaining to the work activity that the foreign worker is going to perform, the company

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## **The entry into Italy of Eu citizens is not subject to any formality for stays of less than 90 days**

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## 1. ITALIAN VISAS: FORMALITIES AND TIMELINE FOR EU AND NON-EU CITIZENS

that is intending to hire the worker, and the worker's housing situation once he or she arrives in Italy. The employer submits a contract proposal in which he or she requests that the worker enter Italy to sign a contract of employment, which will be signed when the procedure has been completed and the worker has entered Italy with a regular visa. If the documentation submitted is in order and there are "quotas" available under the "Flow Decree" in force at that time, the competent immigration office will issue the work authorization in favor of the foreign worker who, by presenting himself at the Italian Consulate in his country of origin, will obtain the relevant entry visa and then the residence permit. The duration of the residence permit may vary from one year (fixed-term employment contract) to two years (permanent employment contract).

### ■ **Self-employment visa**

The self-employment visa must be applied for if entry into Italy is for the purpose of carrying out a professional activity, establishing a company, or investing in Italian existing companies.

According to the procedure, it is necessary to appoint an Italian representative to apply for a no impediment (entry clearance) (nullaosta provvisorio all'ingresso) at the competent police department, after preparing all the necessary documentation.

It is necessary to prove that the applicant meets the professional requirements as well as having housing at disposition and has an income higher than the minimum level required to benefit from free National Health Service assistance.

In the case of entry for self-employment, the duration of

## 1. ITALIAN VISAS: FORMALITIES AND TIMELINE FOR EU AND NON-EU CITIZENS

the residence permit may vary from one to two years.

### ▪ **Italia Startup Visa**

The Italia Startup Visa provides for the issuance of an entry visa to those foreign individuals intending to set up a startup in Italy (or who are hosted by a so-called Italian “certified incubator”) with financial resources of no less than € 50.000. The application procedure, which is entirely telematic, is managed by the Ministry of Economic Development. The visa can also be applied for by those who invest at least € 100.000, and assume a managerial position, in an Italian “innovative” start-up that has been in existence for at least three years. The duration of the residence permit in this instance is for one year.

### **Visa for “highly skilled” self-employed or employed workers**

“Highly skilled” workers, both self-employed and employed, may enter Italy at any time of the year regardless of the “Flow Decrees” procedure, subject, of course, to possession of the relevant entry visa.

This type of visa applies to:

- executives or “highly specialized” personnel of companies with offices or branches in Italy
- executives or “highly specialized” personnel of representative offices of foreign companies having their principal place of business in a member state of the World Trade Organization
- employees of companies based abroad who are temporarily transferred to Italian companies to perform services under contract with another company.

The procedure, depending on the type of work to be performed in Italy, will be activated by the worker abroad or

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## 1. ITALIAN VISAS: FORMALITIES AND TIMELINE FOR EU AND NON-EU CITIZENS

by the employer. The duration of the entry visa is one year and allows the issuance of a residence permit lasting one or two years depending on the type of work contract in Italy.

### “Digital Nomads”

In 2022, Law No. 25/2022 introduced a further possibility for entering Italy. According to the new rule, foreign individuals performing highly qualified work, even on a self-employed basis, through remote work may enter Italy without requesting a no impediment certificate (nulla osta). This provision has now been implemented through the interministerial decree effective as of April 5, 2024. The decree sets out the requirements and procedures for obtaining a visa and residence permit for digital nomads and remote workers. Eligible individuals must demonstrate a minimum annual income, possess health insurance coverage, provide proof of accommodation in Italy, and have at least six months of relevant professional experience. A valid employment or collaboration contract—or a binding offer—is also required in the case of remote employees. The new regime also allows for family reunification, enabling eligible individuals to be accompanied by their immediate family members.

### Investor visa

The 2017 Budget Law introduced into Italian immigration law a new type of visa for non-EU citizens intending to make a major investment or philanthropic donation in strategic assets for the development and competi-

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**The duration of the entry visa is 1 year and allows the issuance of a residence permit lasting 1 or 2 years**

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## 1. ITALIAN VISAS: FORMALITIES AND TIMELINE FOR EU AND NON-EU CITIZENS

veness of the Italian System.

To specify, the visa can be issued for:

- investment in government bonds for at least €2 million
- investment in an Italian company for at least €500.000
- investment in an “innovative” startup, as defined by Legislative Decree No. 179/2012, for at least €250.000

▪ philanthropic donations of at least €1 million in the areas of culture, education, immigration management, scientific research, or conservation of cultural and landscape heritage. The procedure for verifying the existence of the requirements is managed directly by the Ministry of Economic Development and is outside the ambit of the so-called “Flow Decree”. Family members of the investor visa holder, provided the conditions are met, may obtain a visa for family reunion purposes. The duration of the residence permit is two years and is renewable for another three years. Furthermore, Law No. 120/2020 introduced two important incentives specifically aimed at the so-called HNWIs. These are, namely, the possibility of making the above investments through an SPV (Special Purpose Vehicle) and the exemption from the obligation to spend a minimum number of days in Italian territory to maintain immigrant status. The Italian Investor Visa benefits from a fast-track application process, allowing for quicker entry and residence compared to standard visa procedures.

### **Elective residency visa**

The elective residency visa is issued to foreign nationals intending to move to Italy without working. It can be obtained by all individuals who have regular and substantial economic resources and accommodation in Italy.

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## 1. ITALIAN VISAS: FORMALITIES AND TIMELINE FOR EU AND NON-EU CITIZENS

This kind of visa can also be issued to the applicant's spouse and minor or adult dependent children if economic resources are considered appropriate by the Italian Consulate. The elective visa leads to a one-year residence permit generally having a duration of one year and may be renewed for subsequent periods of the same length, provided that the conditions which originally justified its issuance continue to be met.

### **Entry visas and residence permits for family members**

Family entry visas may be issued to the spouse (married or civilly united) and the worker's dependent minor or adult children. The issuance of the visa is subject to the conditions of income and housing. If dependent family members enter at the same time as the worker, they will need to obtain a personal no impediment certificate (nullaosta per familiare al seguito) issued by the competent immigration office. The no impediment certificate will allow them, once in Italy, to obtain the relevant residence permit. The duration of the residence permit is linked to the duration of the residence permit of the family member who requested family reunion.

### **Italian Citizenship Explained: Ancestry, Residency, and New Rules**

Millions of people around the world have Italian ancestry, and many are eligible to apply for Italian citizenship through their family roots. Italy offers several pathways to citizenship, including descent (ius sanguinis), marriage, and legal residence.

As of 2025, important reforms introduced by Decree-

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## 1. ITALIAN VISAS: FORMALITIES AND TIMELINE FOR EU AND NON-EU CITIZENS

e-Law No. 36/2025 have narrowed automatic recognition by descent to individuals within the second generation—typically those with an Italian parent or grandparent. Additionally, individuals must now demonstrate an ongoing connection to Italy at least once every 25 years to maintain their citizenship status. Citizenship by naturalization is also available to foreign nationals after 10 years of legal residence in Italy (4 years for EU citizens, 5 for recognized refugees or stateless persons, and 3 for individuals of Italian descent up to the second degree or those born in Italy). Applicants must meet specific requirements, including proof of sufficient income, a clean criminal record, and Italian language proficiency. The 2025 reforms have also introduced stricter evidentiary rules for court proceedings related to citizenship claims.

# 2.

## **RELOCATION OF THE RESIDENCE TO ITALY**

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## 2. RELOCATION OF THE RESIDENCE TO ITALY

EU citizens intending to stay in Italy for more than three months and non-EU citizens with a regular residence permit must register with the registry of the resident population (Anagrafe). The relocation planning should consider the tax consequences arising from the enrollment with the resident population registry.

### **The residence registration from a civil perspective**

From a civil perspective, enrollment with the registry of the resident population establishes a formal connection with the Italian territory, which may entitle individuals to certain constitutional rights and access to public services, subject to the specific conditions of their residence status. For non-EU citizens, however, registration with the local registry (iscrizione anagrafica) can only take place after obtaining a visa and applying for a residence permit (permesso di soggiorno). From an administrative standpoint, the residence procedure requires the registration of the individual at the Registry office of an Italian municipality (Art. 1, Law No. 1228/1954).

#### **The registration is subject to:**

- the attribution of an Italian tax code, to be requested from the Italian Tax Authorities, and
- the identification of the place of habitual abode.

Both EU citizens, after three months of entry into Italy, and non-EU citizens are subject to this procedure. It is important to note that for non-EU citizens the registration is subject to the prior issuance of a visa and its related residence permit. The visa and residence permit procedure may take from about five to nine months, depending on the visa. On the other hand, in cases where

## 2. RELOCATION OF THE RESIDENCE TO ITALY

entry into Italy has taken place following the issuance of an entry visa for work or family reunion, the registry registration procedure can also be undertaken with only the filing of the receipt of the residence permit application. The residence registration is not immediate as the process commences approximately two months after the date of the request. From that moment the competent municipal authorities have a period of forty-five days to carry out the necessary formalities to verify the actual presence of the applicant in the declared place of abode and the truthfulness of the information provided with the registration request (Art. 4, Law No. 1228/1954). In any case, the formal registration will be backdated with effect from the date of submission of the application. Non-EU citizens are also required to renew the declaration of habitual abode at the competent municipal office within 60 days from the date of renewal of the residence permit.

### **“Residence” and “domicile” under the Italian Civil Code**

As described above, the registered residence (*residenza anagrafica*) is the formal notice of the place where the person has his or her habitual abode. Article 43 of the Italian Civil Code makes a distinction between:

- the “domicile”, representing the place where the individual has established the principal location of his or her affairs and interests, and
- the “residence”, defined as the place where the person has his or her habitual abode.

Often domicile and residence are in the same physical

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## 2. RELOCATION OF THE RESIDENCE TO ITALY

place. However, the personal and economic activity may take place in more than one place: for this reason, the legal definitions merit some further consideration.

### **Domicile**

Under Italian civil law, “domicile” is defined as the place where an individual has established the principal location of his or her affairs and interests which means their personal, social, moral, and economic relationships. Included in this definition, for example, are interests pertaining to married life or flowing to the place where the family or close personal relationships lie. Such is the importance of the concept of business and interests that, even, the physical presence of the person in that place is not required for domicile to be considered to exist there. What is relevant, therefore, is only the subjective element and, that is, the person’s will to establish and maintain in a certain place the principal location of his or her business and interests.

Moreover, for administrative purposes, the choice of domicile does not require any formality and, therefore, there is no necessity to advise the competent municipality.

### **Residence**

“Residence” differs from “domicile” in the sense that its identification requires the combination of two elements, one of which is subjective and the other objective. That is to say, both the person’s habitual physical permanence

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**According to Italian civil law, “Domicile” is the place where an individual has established the principal location of his affairs and interests**

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## 2. RELOCATION OF THE RESIDENCE TO ITALY

in a particular place (the abode) and the intention to live there permanently, as demonstrated by living habits, plus the conduct of normal social relations, are necessary. As mentioned above, the place of habitual abode and, therefore, residence must be reported to the appropriate registry office.

### **Residence for Italian tax purposes**

Under Italian taxation laws, the concept of “residence” takes on an additional and specific connotation. The tax law, in fact, lays down which tax regulations will apply depending on whether or not an individual is resident in Italy for tax purposes (“Italian tax resident”).

In fact, Italian tax resident individuals are taxed on all income wherever it is generated, in application of the “worldwide income principle”. Conversely, individuals who are not resident for tax purposes in Italy (“non-Italian tax resident”) are taxed by the authorities only on Italian-source income (Art. 23 of ITC).

As of 1 January 2024, pursuant to the amended Art. 2, second paragraph of ITC, individuals are deemed to be tax resident in Italy if, for the greater part of the fiscal year (i.e., for more than 183 days or 184 in the event of a leap year), at least one of the following conditions is met:

- they are registered in the registry of the resident population (Anagrafe); or
- they have their “domicile” in Italy; or
- they have the “residence” as defined by the Civil Code in Italy (the habitual abode); or
- they are physically present in Italy.

On the one side, registration with the “Anagrafe” gives rise to a rebuttable presumption of tax residency in Italy.

## 2. RELOCATION OF THE RESIDENCE TO ITALY

This means that tax authorities may presume an individual to be resident for tax purposes based on their enrollment, unless the individual provides sufficient evidence to prove an effective residence abroad.

On the other side, under the new tax rules, “domicile” is defined as the place where the individual’s personal and family relationships principally develop, marking a shift from the previous focus on economic interests.

In this regard, the identification of the place of habitual abode (residence) continues to be based on objectively verifiable elements. By contrast, the determination of an individual’s “domicile”—to be evaluated according to the new tax definition—may raise interpretative challenges. Accordingly, a case-by-case approach will be advisable to properly assess the specific personal and factual circumstances of each individual.

In any case, all the above principles must be applied taking account of the temporal requirement of the rule by verifying if at least one of the above conditions exists for the greater part of the fiscal year. Therefore, a residence registration that occurred between January 1 and July 2 and is maintained continuously during that period satisfies the temporal requirement of the rule, resulting in the acquisition of Italian tax residence for the entire year.

### **“Dual tax residence” cases**

If the transfer of residence takes place during the year, the application of Italian tax rules may lead to “double taxation” or, even, “double non-taxation” situations.

In this regard, it should be noted that most of the Tax Treaties against double taxation entered into by Italy contain particular criteria for resolving cases of double

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## 2. RELOCATION OF THE RESIDENCE TO ITALY

taxation (the so-called “tie breaker rule”). These criteria, in order of priority, are:

- the availability of a permanent home; or, in the case of a permanent home being available in both States,
- the center of vital interest (“domicile”). In the case of a center of vital interest in both States or in the absence of a permanent home, reference can be made to,
- the habitual place of abode. Where these rules do not apply, reference may be made to
- nationality, or
- to the criteria agreed upon by the States in a specific case.

Finally, it should be noted that the OECD Commentary provides for the application of the so-called “tie breaker rule” even in cases where dual residence occurs during a fraction of a year (so-called “split year”). According to the Italian Tax Authorities Guidelines (see Resolution No. 471/E/2008) this criterion applies only when it is expressly provided for by the Convention against double taxation in force between Italy and the foreign State involved. From a practical point of view, the “split year” principle only applies to the Conventions against double taxation in force between Italy and Germany, Switzerland, and Panama.

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**The Tax Treaties against double taxation contain particular criteria for resolving cases of double taxation**

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## 2. RELOCATION OF THE RESIDENCE TO ITALY

Until 31 December 2023, Italian tax residence was determined based on whether an individual, for more than 183 days (or 184, in case of leap year) in a tax year:

- was registered in the Italian civil registry (Anagrafe),
- had their domicile in Italy (i.e., the centre of personal and economic interests), or
- had their residence" as defined by the Civil Code in Italy (the habitual abode).

### **Applicability of the Italian tax residence rules in force until 31 December 2023**

It is important to note that these prior rules remain relevant for determining the eligibility for special tax regimes (e.g., New Residents, Inbound Workers, Retired and Professors & Researchers) as well as in case of tax audits and assessments concerning tax years up to and including 31 December 2023, where tax residence status is under review.

# 3.

## **ITALIAN TAX REGIMES FOR (ULTRA) HIGH-NET-WORTH INDIVIDUALS, WORKERS AND PENSIONERS**

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### 3. ITALIAN TAX REGIMES FOR (ULTRA) HIGH-NET-WORTH INDIVIDUALS, WORKERS AND PENSIONERS

Italy is among the top destinations worldwide chosen by foreigners to transfer their residence. History, culture and quality of life, combine with a favorable tax system. In recent years, Italy has introduced tax incentives which are very competitive and aimed at attracting human capital. Since 2016, Italy has introduced several special tax regimes aimed at attracting the so-called "human capital". These include incentives for (Ultra) High-Net-Worth Individuals, foreign pensioners, inbound workers and preferential schemes specifically designed for professors and researchers. All special tax regimes, however, require that the individual becomes a tax resident in Italy, in accordance with the criteria set out in Article 2, paragraph 2 of ITC. This means meeting at least one of the following conditions for more than 183 days (or 184 in case of leap year) in a calendar year:

- registration with the resident population registry (iscrizione anagrafica), or
- the "residence" as defined by the Civil Code (habitual abode), or
- the principal location of personal and family ties (domicile)
- physical presence.

It is important to note that these regimes apply exclusively to the tax sphere and do not automatically grant the right to reside in Italy. Immigration remains subject to the general legal framework, and foreign nationals must still obtain the appropriate visa and residence permit under applicable immigration law. In this respect, the Investor Visa provides a dedicated route for individuals who commit to specific investments in Italy, such as go-

### 3. ITALIAN TAX REGIMES FOR (ULTRA) HIGH-NET-WORTH INDIVIDUALS, WORKERS AND PENSIONERS

vernment bonds, Italian companies, innovative startups, or philanthropic projects.

#### **Italian New Residents Regime - Art. 24-bis of ITC**

The Italian New Residents Regime can be adopted on an optional basis and is aimed at (Ultra) High-Net-Worth-Individuals who have not been tax resident in Italy for at least 9 out of the 10 years preceding the exercise of the option. For the purposes of the rule, nationality is not relevant, so that even Italian citizens who can show that they have been tax resident abroad during the reference period required by the rule can access the Italian New Residents Regime.

#### **Effects and duration of the Italian New Residents Regime**

Under the Italian New Residents Regime foreign source income is subject to an annual flat tax and foreign assets are exempt from reporting obligations (RW Form) and from the payment of Italian wealth taxes (IVIE and IVAFE). In 2024, the flat tax has been increased – only for new applicants - from € 100.000 to € 200.000 per year. Conversely, Italian-source income will be subject to ordinary taxation, resulting in the application of progressive personal income tax (IRPEF) rates.

An anti-avoidance rule is applicable to capital gains from the sale of so-called “qualified shareholdings” (for example, in the case of unlisted companies, shareholdings exceeding 25 percent of the capital or with voting rights exceeding 20 percent) held in foreign companies. Specifically, capital gain is taxed in Italy, at 26 percent or at the IRPEF rates if the company is based in a low

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### 3. ITALIAN TAX REGIMES FOR (ULTRA) HIGH-NET-WORTH INDIVIDUALS, WORKERS AND PENSIONERS

tax jurisdiction, if the sale takes place in the first 5 years after the exercise of the option. The payment of the flat tax does not entitle the taxpayer to claim a credit for the foreign taxes. It is however possible to exclude income from one or more foreign jurisdictions from the application of the flat tax, with the result that such income will be ordinarily taxed in Italy and eligible for credit for taxes paid abroad. The scheme is valid for a maximum of 15 years and can be exercised only once. Therefore, should the person renounce the benefit, he or she will not be able to access it again.

#### **Extension of the tax benefit to family members**

The option for the Italian New Residents Regime can also be extended, on a voluntarily basis, to the family members (eg., spouse, children, siblings) of the applicant. In this case, an additional amount of € 25.000 for each family member will be due.

#### **The procedure for accessing the Italian New Residents Regime**

The applicant can exercise the option in the tax return referring to the tax period in which the tax residence in Italy was transferred or in the following year's tax return. Alternatively, it is possible to request a tax ruling to obtain the prior opinion of the Italian Tax Authorities. Although not a condition required by the rule, the tax ruling is strongly recommended to avoid the risk of any assessment by the Italian Tax Authorities. It may be useful to submit a request to the Italian Tax Authorities for

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### **Under the Italian New Residents Regime foreign assets are exempt from Italian inheritance and gift taxes**

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### 3. ITALIAN TAX REGIMES FOR (ULTRA) HIGH-NET-WORTH INDIVIDUALS, WORKERS AND PENSIONERS

the disapplication of the anti-abuse rule provided for the sale of “qualified shareholdings” in foreign companies as well as to obtain confirmation of the foreign source of one or more types of income.

#### **Italian inheritance and gift taxes**

Under the Italian New Residents Regime foreign assets are exempt from Italian inheritance and gift taxes.

Italian assets will be subject to the ordinary rules of the Italian inheritance and gift taxes (see ‘Inheritance and gift taxes’ section). However, the above-mentioned exemption applies for tax purposes only and does not derogate from the Italian civil law principles governing inheritance matters. Therefore, the ordinary rules on the succession of forced heirs and their right to the reserved share will continue to apply.

#### **Inbound Workers Regime – Article 5 of Legislative Decree No. 209/2023**

The Inbound Workers Regime is aimed at individuals who are employed or self-employed and have been tax resident abroad for a certain period before moving to Italy. Starting from 2024, the Inbound Workers Regime is available to individuals who were not tax residents in Italy for at least the three tax years prior to their relocation. If the move is within the same corporate group or employer, the requirement increases to six years, and to seven years if the individual was previously employed in Italy by the same group. The individual must possess higher education or specialization, meaning a degree of at least three years or a professional qualification (e.g., engineer, doctor, lawyer, etc.).

As nationality is not relevant, Italian citizens who have



### 3. ITALIAN TAX REGIMES FOR (ULTRA) HIGH-NET-WORTH INDIVIDUALS, WORKERS AND PENSIONERS

been resident abroad during the period required by the rule are also eligible. It is also a requirement that the applicant maintains residence in Italy for a period of at least 4 fiscal years and works predominantly (i.e., for more than 183 days) in Italy during each tax year.

#### **Effects of the Inbound Workers Regime**

For the five-year duration of the regime, income derived from employment or self-employment carried out in Italy will be 50 percent exempt from taxation—or 60 percent exempt if the individual relocates with at least one minor child, or if a child is born or adopted during the benefit period (with the higher exemption applying from the year of birth or adoption), provided the child remains tax resident in Italy. The exemption (either 50 percent or 60 percent) applies to income up to € 600.000 per year. Income other than employment or self-employment income is subject to the ordinary Italian tax rules.

Foreign-source income, on the other hand, is always taxed in Italy under the ordinary regime. Reporting obligations (via the RW Form) apply, and wealth taxes on foreign assets (IVIE and IVAFE) will also be due.

#### **Italian inheritance and gift taxes**

The Inbound Workers Regime does not derogate from the application of Italian inheritance and gift tax, which, therefore, will be due on all assets, situated worldwide (see 'Inheritance and gift taxes' section).

#### **The procedure for accessing the Inbound Workers Regime**

The applicant intending to access the regime must no-

### 3. ITALIAN TAX REGIMES FOR (ULTRA) HIGH-NET-WORTH INDIVIDUALS, WORKERS AND PENSIONERS

tify the employer. The latter will apply the exemption by subjecting the already reduced tax base (50 percent or 60 percent of income) to taxation. Alternatively, the election may be made in the tax return of the applicant.

#### **Remote working**

Individuals who have relocated to work in Italy in remote working mode are also eligible for the Inbound Workers Regime. Thus, the benefit is recognized both in the case of a foreign employer and if the self-employed activity is carried out in favor of foreign clients.

#### **Key points on social security obligations**

Social security contributions are due in Italy even under the Inbound Workers Regime. In the case of an employee working in Italy for a foreign employer, specific procedures must be followed to ensure proper registration with the Italian social security system and compliance with contribution obligations.

#### **Special Regime for Professors & Researchers**

Qualified university professors and research staff who transfer their tax residence to Italy after spending at least two continuous years abroad engaged in research or teaching are eligible for a 90 percent exemption on income derived from their academic activity in Italy.

The benefit typically applies for six years and may be extended if specific conditions are met—such as purchasing a residence in Italy or having dependent children—potentially prolonging the exemption to eight, eleven, or thirteen years. Eligibility requires an Italian or equivalent university degree, documented research or

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### 3. ITALIAN TAX REGIMES FOR (ULTRA) HIGH-NET-WORTH INDIVIDUALS, WORKERS AND PENSIONERS

teaching abroad for a minimum of two years, and actual teaching or research activity in Italy after relocating

The regime is separate from (and according to the guidelines of the Italian Tax Authorities can be cumulated with) the general Inbound Workers Regime.

#### **The Retired Regime - art. 24-ter of ITC**

Individuals who have been resident abroad for the previous 5 years and who transfer their tax residence in Italy to a municipality with a population of no more than 20.000 in southern Italian regions (Abruzzo, Molise, Basilicata, Campania, Puglia, Calabria, Sicily, Sardinia) and who receive pension income from foreign entities, may opt for the application of the scheme. Access to the scheme is also permitted for Italian citizens who can show that they have been tax residents abroad during the relevant period. It is also required that an agreement for administrative cooperation is in force between Italy and the foreign country in which the person concerned has maintained residence.

#### **Effects of the Retired Regime**

As a result of exercising the option, all foreign source income, thus not only pension income, is subject to a 7 percent substitute tax, with no possibility of benefiting from foreign tax credit.

Conversely, Italian-source income will be subject to taxation according to ordinary rules.

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**As a result of exercising the Retired Regime, all foreign source income is subject to a 7% substitute tax**

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### **3. ITALIAN TAX REGIMES FOR (ULTRA) HIGH-NET-WORTH INDIVIDUALS, WORKERS AND PENSIONERS**

The Retired Regime has a maximum duration of 10 tax periods and provides exemption from reporting obligations (RW Form) and payment of wealth taxes on foreign assets (IVIE and IVAFE).

#### **Main differences between the New Residents Regime and the Retired Regime**

Unlike the New Residents Regime, there is no exemption for inheritance and gift taxes on foreign assets, but on the other hand, there is no anti-abuse rule against the sale of qualified shareholdings, which therefore enables the reaping of an immediate benefit from the 7 percent substitute tax.

#### **The procedure for accessing the Retired Regime**

The option must be exercised by the person named in the tax return.

# 4.

## TAXES ON ITALIAN PROPERTIES

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## 4. TAXES ON ITALIAN PROPERTIES

Investments in real estate in Italy are subject to direct and indirect taxation on the purchase, their income and the transfer by gift or succession.

The applicable tax regime mainly depends on the nature of the seller (e.g., an individual as opposed to an entity subject to Italian VAT) and the characteristics of the real estate to be transacted.

### General remarks

This document will refer only to real estate classified as residential property according to its cadastral category (i.e., from A/1 to A/9). Furthermore, as explained below, registration tax will be calculated on the cadastral value which often, even in the most famous Italian municipality, is lower than the market value. Therefore, the cadastral value could result in a reduced effective taxation. Finally, a buyer purchasing a property to be used as a “first home” (prima casa) can benefit from a reduction in the applicable rates of taxation for registration tax (stamp duty) and VAT.

### Taxes on property purchase

Generally speaking, the purchase of a real estate property in Italy is subject to:

- Registration tax (stamp duty)
- VAT
- Mortgage and cadastral taxes

### Registration tax (stamp duty) or VAT

Registration tax (stamp duty) and VAT are alternatives. Therefore, if VAT is payable, the registration tax (stamp duty) due is generally a fixed sum (currently € 200).

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## 4. TAXES ON ITALIAN PROPERTIES

### **How to determine if registration tax (stamp duty) or VAT is due**

Whether or not registration tax (stamp duty) or VAT is payable depends on the nature of the seller. To be specific, if the seller is a VAT entity such as a construction company, and the property is sold within five years from its construction, the purchase will be subject to:

- 10 percent VAT (22 percent for “luxury homes” classified as such by the applicable cadastral category) levied on the purchase price as indicated in the Deed of Sale, and
- the fixed sum of € 200 registration tax (stamp duty), mortgage and cadastral taxes.

Conversely, in the case of a private seller (eg. an individual or individuals) the property purchase will be subject to:

- 9 percent registration tax (stamp duty) levied on the cadastral value if the buyer is an individual
- Mortgage and cadastral taxes payable at the fixed amount of € 50 each.

These same above-mentioned taxes will apply if the seller is a construction company, and the sale is executed after five years from the date of construction

### **Purchase of a property qualifying as a “first home” (prima casa)**

The purchase of a property qualifying as a “first home” benefits from the reduction of the VAT and registration

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## **The purchase of a property qualifying as a “first home” benefits from the reduction of the VAT**

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## 4. TAXES ON ITALIAN PROPERTIES

tax (stamp duty) payable such as:

- 4 percent VAT if the seller is a construction company and the property is sold within five years from its construction, plus registration tax (stamp duty), mortgage and cadastral taxes applied at the fixed amount of € 50 each.
- 2 percent registration tax (stamp duty) if the seller is an individual or a construction company that sells the property after five years from its construction, plus mortgage and cadastral taxes applied at the fixed amount of € 200 each

The above-mentioned tax rates apply under the following conditions:

- the property must not be classified as a luxury home, villa, or as having an artistic value (cadastral categories A/1, A/8, A/9)
- the property must be in the Municipality where the buyer has his residence
- if the purchaser is resident in another municipality, he or she must transfer his residence to the municipality where the property is located within eighteen months from the date of purchase.

Furthermore, a “first home” buyer can deduct from his/her personal income tax 19 percent of the mortgage interest paid up to an overall amount of € 4.000 per year.

### **Taxes on real estate income**

If the property is rented to third parties, rental income is subject to personal income tax (IRPEF ) calculated at progressive tax rates (from 23 percent to 43 percent).

Alternatively, individuals can benefit from the 21 percent

## 4. TAXES ON ITALIAN PROPERTIES

flat-tax (cedolare secca) to be applied at the lessor's option.

### **Property tax**

Italian lands and buildings are subject to Italian municipal tax (IMU) applied on the cadastral value of the property. Tax rates depends on the municipality and the cadastral nature of the property, and they may vary from 0.46 percent to 1.06 percent.

Where the property is the individual's "principal dwelling" IMU would not be payable.

### **Gift and succession taxes**

Gift and succession taxes on real property are subject to the same rates and thresholds.

For example, in the case of a gift or succession in favor of a spouse and direct descendants (parents-children, grandparents-grandchildren), the gift and succession taxes will be calculated on the cadastral value of the property at the rate of 4 percent on the amount exceeding the threshold of € 1 million for each beneficiary (see 'Inheritance and gift taxes' section).

Furthermore, mortgage and cadastral taxes will be payable at the rate of 3 percent without any threshold.

The heirs and the donees may apply for the application of the "first home" tax regime, provided that the conditions exist, thus benefitting from the application of mortgage and cadastral taxes of a fixed sum (€ 200 each).

### **Sale of the property**

In the event of a sale of the property, the capital gain will

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## 4. TAXES ON ITALIAN PROPERTIES

be taxed in Italy at personal income tax rates.

However, it is worth noting that, for individuals, capital gain arising from the sale of a “first home” or other properties held for more than five years, are not taxed.

Therefore, in those cases, the capital gain will be fully exempt from taxation in Italy.

Conversely, if the property is not the “first home” or if it is sold during the first five years from the date of purchase the capital gain would be subject to personal income tax levied at progressive tax rates.

However, it is possible to ask the Italian Notary for the application of a 26 percent substitutive tax provided that the capital gain does not arise from:

- professional activity
- business activity (carried out through a corporate entity, limited partnership, partnership)
- employment activities.  
entity, limited partnership, partnership)
- employment activities.

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**In the event of a sale of the property, the capital gain may be tax-exempt if certain conditions are met**

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# 5.

## **TAXATION OF FINANCIAL ASSETS**

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## 5. TAXATION OF FINANCIAL ASSETS

Income derived from financial assets are generally subject to a substitutive tax applied at the rate of 26 percent. However, the way it is treated for tax purposes and the possibility of setting off capital gains with losses arising from the financial assets depends on the nature of the income as per the Italian tax law.

### **Taxation of income from financial assets**

Taxation of income from financial assets necessitates making a distinction between so-called "other income" and "capital income".

### **Other income (Redditi diversi)**

The "other income" category includes capital gains and capital losses, which can be offset against each other and are calculated taking into account the inherent costs. The net result is subject to substitute tax of 26 percent and any loss can be carried forward over the next 4 years and offset against future gains.

Starting from the 2023 fiscal year, the taxation of capital gains from crypto assets in the category of "other income" with a rate of 26 percent has been introduced. Until 2024, there was a tax exemption of € 2.000, which will be eliminated starting from the 2025 tax year. Furthermore, the substitute tax will be applied at a rate of 33 percent on capital gains and other income realized from January 1, 2026.

### **Capital income (Redditi di capitale)**

Included in this income category are, among others:

- dividends
- coupons on corporate and government bonds

## 5. TAXATION OF FINANCIAL ASSETS

- interest on loans
- income distributed by investment funds or derived from insurance policies.

Capital income is subject to a substitute tax of 26 percent (or 12.50 percent in the case of government bonds) but unlike other income, there is no concept of loss, nor is there the option of offsetting.

### Special cases

Individuals investing in mutual fund shares (OICRs, FIAs, ETFs, etc etc) should bear in mind some exceptions:

- capital gains are treated as capital income and therefore cannot be offset against any capital losses;
- if the fund is established outside the EU, or if the managing entity is not a supervised entity, no substitute tax applies, but marginal IRPEF (23 percent to 43 percent) plus municipal and regional surcharges.

### Double taxation treaties and credit for tax paid abroad

Income subject to the 26 percent substitute tax cannot benefit from the credit for taxes paid abroad. However, for dividends and interest it is possible to apply the tax treaties against double taxation and claim the more favorable conventional withholding taxes applied by the source State.

### Entry tax

It is worth noting that individuals relocating to Italy are not subject to any entry tax in Italy.

Therefore, according to the Italian Tax Authorities Guidelines, any capital gain will be determined on the basis

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## 5. TAXATION OF FINANCIAL ASSETS

of the historic cost of the asset or, alternatively, at the higher value if the foreign State applied an exit tax on the asset at the moment of the transfer.

### **Exit tax**

In the case of transfer from Italy to abroad individuals are not subject to exit tax.

# 6.

## **TAX COMPLIANCE OF FOREIGN ASSETS AND THE ROLE OF THE ITALIAN FIDUCIARY COMPANIES**

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## 6. TAX COMPLIANCE OF FOREIGN ASSETS AND THE ROLE OF THE ITALIAN FIDUCIARY COMPANIES

Foreign nationals who move to Italy often retain ownership of financial and real estate assets abroad.

One of the most frequent mistakes is to think that since these assets continue to be subject to taxation in the home state, it is not necessary to declare them in Italy as well. Unless the individual has opted for the Italian New Residents Regime (Art. 24-bis of ITC) or for the Retired Regime (Art. 24-ter of ITC), foreign assets are subject to monitoring obligations and taxes. Failure or incomplete filing of the RW Form is subject to penalties applied on a proportional basis from 3 percent to 15 percent or from 6 percent to 30 percent, depending on whether the State where the assets are held is a “White list” or “Black list” country.

### **The RW Form and Wealth taxes on foreign assets**

Italian tax resident individuals must file the so-called RW Form reporting the value of all the assets held abroad and pays wealth taxes (IVIE, IVAFE and tax on the value of crypto-assets) calculated on the basis of the percentage of ownership and the number of days.

### **Foreign real estate assets**

Foreign real estate properties are subject to IVIE generally levied at the tax rate of 1,06 percent. It is calculated on:

- the cadastral value (for real estate properties in EU Countries)
- the purchase price (extra-EU Countries) as reported in the purchase contract
- the market value as of 31 December of each fiscal year, if the purchase contract is not available.

In the case of double taxation, the taxpayer should be

## 6. TAX COMPLIANCE OF FOREIGN ASSETS AND THE ROLE OF THE ITALIAN FIDUCIARY COMPANIES

entitled to deduct – directly in the Italian tax return – a foreign tax credit for wealth taxes paid abroad on the same properties. It is worth noting that after Brexit, the cadastral value criterion will no longer apply to properties in the UK and the IVIE will be due on the purchase cost (if available) or on the market value.

### Foreign financial assets

Financial assets held abroad are subject to IVAFE levied at a 0.20 percent tax rate. It is calculated on the market value of the investment (i.e., investment funds, shares, life insurance, bonds) held outside of Italy at the end of each calendar year. Starting from 2024, IVAFE will be applied with a rate of 0.4 percent for financial assets (except cryptocurrencies) held in countries defined as having “privileged tax regimes”, identified by the decree of the Minister of Economy and Finance of 4 May 1999 and subsequent amendments. In the case of double taxation, the taxpayer should be entitled to deduct – directly in the Italian tax return – a foreign tax credit for wealth taxes paid abroad on the same assets. Foreign bank accounts are subject to IVAFE applied as a fixed sum of € 34.20 on each bank account (even if belonging to the same financial intermediary), regardless of the value of the account itself. However, the flat amount is due only when the annual average value of the account is higher than € 5.000 throughout the fiscal year concerned.

### Crypto-assets

Crypto-assets are subject to stamp duty or, alternatively, to a tax on the value of crypto-assets that follows the IVAFE regulations with a rate of 0.2 percent. In the case of double taxation, the taxpayer should be entitled to deduct

## 6. TAX COMPLIANCE OF FOREIGN ASSETS AND THE ROLE OF THE ITALIAN FIDUCIARY COMPANIES

– directly in the Italian tax return – a foreign tax credit for wealth taxes paid abroad on the same assets.

### **Failure or incomplete filing of the RW Form**

Failure or incomplete filing of the RW Form is subject to penalties applied on a proportional basis from 3 percent to 15 percent or 6 percent to 30 percent, depending on whether the State where the assets are held is a “White list” or “Black list” country.

### **Italian fiduciary companies**

Foreign assets may also be assigned to or just administered by a fiduciary company resident in Italy. In this case, the given assets and rights do not form part of the patrimony of the company, but they always remain in the dominion of the mandatory agent. Therefore, the individual, although remaining to all intents and purposes the owner of the assets, can register assets in the fiduciary company’s name for reasons of confidentiality. Furthermore, Italian fiduciaries companies act as a withholding agent levying wealth taxes (and also substitute taxes) on behalf of the client who is also exempted from filling in the RW form. It is worth noting that there are many activities that can be carried out through a fiduciary mandate: administration of assets and values, cooperation to the incorporation of companies, capital increases of authorized share capital, debenture loans, and shareholders’ loans, corporate agreements or agreements between companies, compliance, representation at shareholders’ meetings, fiscal consolidation for administered portfolios at various bank and financial intermediaries, confidentiality preservation, etc.



# TRUSTS IN ITALY

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## 7. TRUSTS IN ITALY

Italy was one of the first countries to ratify the Hague Convention on the Law Applicable to Trusts and on their Recognition. Although trusts are not governed by a domestic trust law, the Italian legal system recognizes and enforces foreign law trusts under the Convention. Today, Italy continues to affirm its status as a trust-friendly jurisdiction, with increasing use of trusts in estate planning, asset protection, and charitable purposes.

### **Recognition of trusts in Italy**

Insofar as the Hague Convention (“on the Law applicable to Trusts and their recognition”) has been ratified by the Italian Parliament, Italy was among the first Countries (of Civil Law tradition) to welcome the trust instrument into its legal system.

According to the wording of the Convention the essential features (necessary for a trust to be binding and then enforced) can be summarized as:

- The assets are placed by the Settlor under the control of a Trustee
- The Trustee has the power and the duty to manage, to use or to dispose of the trust assets for the benefit of one or more beneficiaries or for the purpose the trust has been formed.

Moreover, the Hague Convention establishes that the reservation of any power or right by the Settlor does not mean that the trust is void (art 2, par 3). This latter specification comes from the judicial and practical experience of the common law countries.

### **Governing law**

Despite the fact that Italy welcomed the trust into its legal system, no particular rules have since been issued.

## 7. TRUSTS IN ITALY

This means a trust formed in Italy must nevertheless be governed by a foreign law. This governing law can either be chosen by the Settlor (Art6) or the Convention provides indications of different connecting factors (Art 7) to be used in the case of the lack of a proper choice. It often happens in general practice that a trust has most of its elements strictly connected to Italy (Settlor, Trustee, Beneficiaries, trust fund assets and estate...) and only the governing law is the foreign element of this legal structure; this is what the trust professionals call "trust interno". As long as the Settlor follows the Convention requirements, the trust so formed presents at least these peculiar features and produces these effects:

- The asset within the trust fund shall constitute a separate fund and is not part of the Trustee's estate
- The assets are held in the name of the Trustee (or of another person on behalf of the Trustee)
- The Trustee has the power and the duty to manage, to use or to dispose of the assets pursuant to the specific terms of the trust and the duties laid down in the governing law. Lastly, it is worth mentioning that a Settlor is absolutely required to transfer the assets to the Trust fund in order for the trust to be effective. This last comment has a particular influence on the way the trust is treated for tax purposes. Since its implementation the Hague Convention and the trust have been extensively used in professional practice towards the protection of assets for future generations or to assist in situations of diminishing awareness, just to mention two areas in the lives of the private person. This use in legal practice has certainly driven the wide-open recognition of trust deeds even those drawn up in foreign countries and whose "actors" aren't "settled" in Italy. Apparently, all

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## 7. TRUSTS IN ITALY

the boundaries seem to have been broken down but it is important to recall that the inheritance rights of legitimate heirs or creditors' claims, or the family patrimonial regime still remain a steadfast rock in the Italian legal system.

### **Italian tax regime applicable to trusts**

Tax rules applicable to trusts were introduced in 2017, with the Italian Finance Act and they consider trusts to be "legal entities" subject to corporation tax. However, the application of the Italian tax provisions depends on whether a trust is tax resident in Italy or not and whether or not it carries out commercial activities. It is worth noting that Italian rules do not have regard to the residence of the Trustee but the place of residence of the trust as if it had a legal personality. In this sense trusts are considered tax resident if they have in Italy, for the majority of the tax year, therefore for at least 183 or 184 days, alternatively either their registered office, or their place of effective management, or their ordinary management.

### **Residence test**

In addition, Italian tax law sets forth an anti-avoidance provision which applies to trusts established in off-shore jurisdictions even if the trust has a close connection with the Italian territory. Therefore, a trust established in a country which is not included in the list of Countries that permit an exchange of information with Italy it may be deemed to be Italian tax resident if it has been set up

- by an Italian tax resident Settlor

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## **Italian tax law sets forth an anti-avoidance provision which applies to trusts established in off-shore**

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## 7. TRUSTS IN ITALY

- for the benefit of one or more Italian tax resident beneficiaries or involving the transfer of Italian real estate properties.

### **The taxation of trusts**

For Italian tax purposes, trusts can be categorized as transparent trusts (trust trasparente) and opaque trusts (trust opaco) depending on whether or not there are identified beneficiaries.

### **Opaque trusts (trust opachi)**

A trust opaco is a trust without identified beneficiaries. For instance, a trust is opaco where the trustee has a discretionary power to distribute income and capital to beneficiaries. The trust income is taxed at trust level as follows: 26 percent substitute tax on financial income (except for dividends which are subject to corporate income tax of 24 percent and government bonds which are subject to a 12.5 percent substitutive tax), 24 percent corporate income tax for other income, generally.

### **Transparent trusts (trust trasparenti)**

Italian Tax Authorities clarified that, in order to qualify as a transparent trust, identified beneficiaries must be entitled to receive the trust income and the Trustee has no power to decide upon the amount, the timing or who the beneficiaries are, of the distribution. Income is determined at the trust level and subject to personal income tax in the hands of the beneficiaries.

### **Tax on distributions**

The tax regime which applies to beneficiaries will be subject to careful analysis. According to the amendmen-

## 7. TRUSTS IN ITALY

ts introduced by Legislative Decree No. 124/2019, income paid to Italian tax resident beneficiaries by trusts and similar institutions established in States deemed as “low tax jurisdictions”, qualifies as income taxed in the hands of the beneficiaries. As clarified by the Italian Tax Authorities (Circular n. 34/E of 2022) a jurisdiction will be considered a “low tax jurisdiction” in cases where the nominal level of taxation applicable to trust income is less than 50 percent of the applicable Italian rate. This could lead to even EU/EEA Countries being considered to be “low tax jurisdictions” if the trust established in any of them is not subject to any taxation.

### **Reporting obligations (RW Form)**

In the case of a foreign Trust, Italian tax resident beneficiaries must declare the value of the trust in the RW Form each year. Conversely, IVAFE is not due. According to the position taken by the Italian Tax Authorities in the draft of the Circular issued in 2021, even the beneficiaries of foreign opaque trusts are subject to the Italian reporting obligation (RW Form). This applies for example, where the beneficiaries of a trust are identified or can be easily identified, in the trust deed and any other relevant documentation. Conversely, second-degree beneficiaries will not be subject to reporting obligations unless they have already received a distribution from the trust. Failure to file or an incomplete filing of the RW Form is subject to penalties applied on a proportional basis from 3% to 15%, or 6% to 30%, depending on whether the State where the assets are held is a “White-list” or “Black-list” country.

### **Inheritance and gift taxes**

Article 1 of Legislative Decree n. 346/1990, as reformulated

## 7. TRUSTS IN ITALY

by Legislative Decree n. 139/2024, effective from fiscal year 2025, expressly includes transfers deriving from trusts in the objective scope of application of the inheritance and gift tax.

In particular, it is provided that:

- if at the time of the transfer to the trust the settlor was resident in Italy, the tax is due in relation to all the assets and rights transferred to the beneficiaries, even if they are located abroad;
- if the settlor was not resident in Italy, the tax is due limited to the assets and rights existing in Italy transferred to the beneficiaries. With the innovations introduced by Legislative Decree n. 139/2024, it is established that the gift tax applies to transfers deriving from trusts not “in themselves”, but only where they determine a gratuitous enrichment of the beneficiaries. This implies that in principle, the gift tax applies to the trust only at the time of transfer to the beneficiaries (“outgoing taxation”), applying the rates calculated on the basis of the relationship between the settlor and the beneficiary in force at the time of the transfer. However, the rule also admits the possibility that the «settlor of the trust (...) can opt for the payment of the tax on the occasion of each transfer of assets and rights or the opening of the succession». This provision allows the taxable moment to be voluntarily anticipated, applying the gift tax to the trust at the time of its endowment, determining the tax based on the “future beneficiary”, but applying the rates and exemptions (known) calculated at the time of the transfer.

# 8.

## **PATRIMONIAL REGIMES FOR SPOUSES AND REGISTERED PARTNERS IN A CROSS-BORDER ENVIRONMENT**

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## 8. PATRIMONIAL REGIMES FOR SPOUSES AND REGISTERED PARTNERS IN A CROSS-BORDER ENVIRONMENT

Freedom of movement of people within the EU member States has certainly led to new ways of organising life for couples. This means, to some extent, a change in the legal and judicial environment for patrimonial arrangements in the case of marriage, civil partnership, or a common estate for family purposes. Every member State, both those in the common law and civil law traditions, have their own private international law rules which aid in discovering what law applies in the event of cross border patrimonial issues in different fields. Italy, for instance, defers to Law 218/1995: Articles 29 and 30 state that the patrimonial regime between spouses (and civil registered partners) is governed by the common national law of the two. As a residual criterion the partners can choose the law of the State where the couple has settled, or where their common life is basically being conducted. This set of rules certainly provides assistance in solving cross border problems; nonetheless a clash of legal issues may often arise. These regulations are, namely, EU Regulation No. 1103 and No. 1104 of 2016. They have been drafted as twin regulations and their wording is focused on avoiding misunderstandings at a literal level among States. The Regulations then deal with the private-international law aspects of the property regimes of couples and registered partners, including applicable law, jurisdiction, recognition and enforcement of foreign decisions and Deeds. According to the "Whereas" of the Regulations: "The objectives

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**The partners can choose the law of the State where the couple has settled, or where their life is being conducted**

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## 8. PATRIMONIAL REGIMES FOR SPOUSES AND REGISTERED PARTNERS IN A CROSS-BORDER ENVIRONMENT

of this Regulation [are], namely the free movement of persons within the Union, the opportunity for spouses/partners to arrange their property relationships in respect to one another and third parties during their life as a couple and when liquidating their property, and to provide greater predictability and legal certainty". That is why new regulations have been adopted within the EU to harmonize the basic principles referred to above.

**Scope:** The patrimonial relationship between spouses and partners during a marriage/a registered partnership and in the event of its dissolution/annulment.

**Applicable Law:** in both regulations the main criteria to be adopted is the Law of the habitual residence of the couple or members of the future couple (Art 22). This means that both spouses or partners can choose the law of the State where they have already fixed their habitual residence or, alternatively, where they are intending to move and settle down. Both regulations require this choice to be expressed in writing, dated and signed by both parties.

**The choice of law** ("profession iuris") provisions embodied in the regulations are of universal application (Art 20) so that the law designated or chosen shall be applied whether or not it is the law of an EU Member State.

**Alternative criteria:** Where the spouses or the partners do not choose a governing law both regulations provide for different criteria to be followed (Art 26 EU Reg. 1103 for married couples): the law of the State a) of the common habitual residence; b) of the common nationality; c) with which there are the closest connections. (Art 26 UE Reg 1104 for registered partners) a) the law of the State in which the partnership was created or registered; then the common habitual residence of the partners.

## 8. PATRIMONIAL REGIMES FOR SPOUSES AND REGISTERED PARTNERS IN A CROSS-BORDER ENVIRONMENT

**Jurisdiction:** Indeed, the Regulation sets out not only the conflict of laws rules, which override those contained in Art 30 of Law No. 218/1995, but also the rules on jurisdiction and the recognition of foreign decisions.

The only limitations set out relate to the personal estate and properties of the husband or wife in the case of a married couple and of the members of registered partnership, those placed outside of the patrimonial regime, are usually as result of a family succession.

Example 1: if a married couple is resident in France, they both have German nationality and they have a home in Spain where they spend long periods of time in smart working. According to EU Regulations n. 1103:

- They can choose the law of the common habitual residence (or the habitual residence of one of them), France in the present case (Art 22)

or

- in the absence of a choice (Art 26), either the law of the State of the common habitual residence, the law of the State of their common nationality (Germany), or the law of the State with which the couple has the closest connection (maybe Spain?) shall apply.

Example 2: one of the partners, of a registered partnership, is habitually resident in Austria. The other partner is intending to become resident of Austria but is currently a US national. The partnership was registered in Italy, where the partners have a house at the seaside, and they spend their holidays. As far as EU Regulation No. 1104 is concerned:

- They can choose the law of the State where both partners or one of them is habitually resident (Austria or USA); Italian law as the partnership has been registered in Italy (Art 22).

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## 8. PATRIMONIAL REGIMES FOR SPOUSES AND REGISTERED PARTNERS IN A CROSS-BORDER ENVIRONMENT

or

- in the absence of a choice (Art 26), the law of the State where the registered partnership was formed (Italy) will be applied and by way of exception, the law of the State of the common habitual residence.

It is worthy of note that, besides resolving the conflict of laws issues, both EU regulations enhance the possibility for couples to plan their property arrangements during the relationship and regulate the effects in the event of a dissolution or annulment.

# 9.

## **THE EU REGULATION NO. 650/2012 ON CROSS- BORDER SUCCESSION AND PLANNING. WHAT ARE WE TALKING ABOUT?**

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## 9. THE EU REGULATION N. 650/2012 ON CROSS-BORDER SUCCESSION AND PLANNING. WHAT ARE WE TALKING ABOUT?

Talking about succession is a bit of a spine-chilling topic. Succession planning might seem even worse than that. Recent cases have demonstrated that successful succession planning usually facilitates the handover and prevents the family wealth from being misused and often dissipated or lost.

Why has this EU Regulation been introduced?

- To harmonize legal concepts
- Trying to make the cross-border inheritance process easier for the family and for the heirs in general and
- To boost succession planning as a new tool of wealth transmission.

First of all, the long-enduring development of the initial idea (of common principles in the inheritance process) conflicts with the inevitable differences between the private international law rules of each of the member States. This led to what is commonly referred to as a “juridical compromise”. We can easily trace its footprints in the enormous initial part of the “83 Whereas”. The different approaches to inheritance issues have obliged the EU Law maker to look at different concepts and regulate them in order that they can be applied directly within the individual jurisdictions of each of the member States. This leads to the second crucial point: an EU Regulation, unlike other international legal instruments, is directly enforceable in each member State jurisdiction and that means that all the regulations form part of Italian law to the same extent as any other provisions on the subject;

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**Successful planning facilitates the handover of family’s wealth**

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## 9. THE EU REGULATION N. 650/2012 ON CROSS-BORDER SUCCESSION AND PLANNING. WHAT ARE WE TALKING ABOUT?

and such is the case in each member States.

This is quite important in that it relates to the substantial part of the EU Regulation, that is to say the new instrument embodied in the form of the EU Succession Certificate. This is the innovative part of the Regulation which enables the capacity of heirs to be recognized before the Authorities of the Member States and, generally, before the Authority of any State which is entitled to deal with inheritance matters (eg. Revenue Agencies, Estate Registries etc). This is, in fact, the innovative part of the UE Regulation: the creation and direct enforceability of a legal instrument – the Certificate – which definitely has a new impact on cross-border succession relationships. The final new concept exposed by the EU Regulation is the right to plan succession; the succession planning extensively used in the Anglo-US world, has become a closer concept also to Civil Law countries like Italy.

### **What are the relevant issues?**

The Scope of the Regulation is to deal with the estates of a deceased person (Art 1). That seems quite easy to understand but on a deeper level it brings about a lot of related problems and issues, eg. the status and the capacity of a natural person, the property regimes for spouses and partners, the fiscal consequences of inheritance rights, just to mention a few, whose definition and regime are called for in other documents.

### **What are the main criteria for a succession to be effectively dealt with as a whole?**

- Art 21 of the EU Reg establishes that: unless otherwise provided the law applicable to the succession as a whole is the law of the State of the habitual residence of

## 9. THE EU REGULATION N. 650/2012 ON CROSS-BORDER SUCCESSION AND PLANNING. WHAT ARE WE TALKING ABOUT?

the deceased. This general rule applies to the succession of any person deceased within the jurisdiction of the EU, both in cases where there is a will or in the case of intestacy.

- Art 22 of the EU Regulation lays down the Choice of Law rule (better known as *professio iuris*). It states that a person (the future deceased) may choose the law of her/his actual nationality (or future nationality in the case of an incoming change/addition) as the law governing the succession of their estate as a whole.

### How may this choice of law be effected?

- According to Art 22 (paragraph 2) the choice shall be made expressly in a declaration. That means that a person should clearly state that choice in her/his will or, at least, it should be demonstrated by the terms of the will (eg. "I choose the Law of France to govern my succession" or "The law of the State where I was born and of which I am a national will govern the processing of my inheritance when I pass away")
- The person can choose the law of a member State (EU member States bound by the Regulation) or potentially the law of any State in the world. This is what is known as the Universal Application of the EU Regulation (Art 20). This principle assists in handling the succession as a whole and has its own particular consequences in regard to jurisdiction as well (See Art 34 concerning the *renvoi* in private international law).

### What happens then?

Analysing the Will is of utmost importance. It's necessary to find out what the legacy consists of.

In the Will the deceased person should have written

## 9. THE EU REGULATION N. 650/2012 ON CROSS-BORDER SUCCESSION AND PLANNING. WHAT ARE WE TALKING ABOUT?

his/her last wishes concerning how the transmission of the estate should be dealt with. Following on that, and bearing in mind the EU Regulation rules, the heirs (or those family members with some entitlement to the deceased's estate) can scout for which governing law is to be applied. Afterwards, the heirs should be cautious about evaluating the fiscal impact of the succession in the place where the assets are located. The EU Regulation, in fact, does not deal with fiscal matters and each State (whether an EU member or not) has its own provisions and, usually, the State is bound by double tax treaties or agreements which focus on that.

From a practical point of view the EU Regulation also provides for the Recognition, Enforceability and Enforcement of decisions (Art 39) on succession matters. This part of the regulation is extremely important, also for professionals, because it clearly states that the recognition of the inheritance rights of heirs can be a question of fact as soon as the inheritance process begins.

Examples:

- Mr M is an Austrian citizen whose habitual residence is in the USA (Colorado State). He is married to a US Citizen. He owns a property in Italy and other properties in Austria where a part of his family still lives. Given this situation he decides to make a will.

- ✓ He could make an Austrian will in which he could elect Colorado State Law to apply to his whole estate;

- ✓ He could make an Austrian will in which the choice is directed to the Austrian law (his nationality). That choice of law applies to the entire estate wherever it is located (Austria, Italy and the US);

- Ms W is an Italian citizen whose domicile is in the UK. She has some immovable properties in Italy, a flat

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## 9. THE EU REGULATION N. 650/2012 ON CROSS-BORDER SUCCESSION AND PLANNING. WHAT ARE WE TALKING ABOUT?

in Liverpool and some movable assets in a UK bank. She's planning her succession in order to be sure her children will be protected and will inherit at least her family properties in Italy.

✓ She can make a will in which she chooses the Italian law to govern her estate. When she passes away her children find out that the UK is not bound by EU Regulations; that means the succession is not considered as a whole. Insofar as the Italian properties are concerned the children will be considered as legitimate heirs. In regard to the flat in Liverpool or the movable assets in the UK bank they will be dealt with in accordance with the UK laws of succession (and related taxation).

✓ In the event that she makes a will in which she chooses the law of her habitual residence (or she refers to UK "domicile") she probably achieves the same solution: The UK jurisdiction distinguishes movable assets (law of domicile) and properties and immovable assets (lex rei sitae – the law of the place where the assets are located).

10.

**RECOGNITION IN ITALY  
OF PROTECTIVE LEGAL  
INSTRUMENTS FOR  
INCAPACITATED PERSONS:**

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## 10. RECOGNITION IN ITALY OF PROTECTIVE LEGAL INSTRUMENTS FOR INCAPACITATED PERSONS:

### **Recognition Challenges in Italy:**

Italy has not yet ratified the 2000 Hague Convention on the International Protection of Adults, which would otherwise facilitate cross-border recognition of such instruments. As a result, Italian notaries and courts are not bound to recognize foreign LPAs, even if they meet formal and substantive requirements.

### **So what is the applicable Italian Legal Framework:**

This is primarily governed by Law No. 218/1995 on Private International Law, which states (Art 60) that a power of attorney executed abroad is considered valid in Italy if it complies with the law of the place where it was executed or the law governing the underlying relationship. That means that recognition is possible under the principle of mutual recognition, provided the document satisfies the requirements of form and substance under Italian law. According to the nature and the legal characteristics of a common law LPA, this latter enables a person (the "donor") to formally appoint one or more attorneys to manage the general property and financial affairs, or to handle Health and welfare matters. One of the most relevant difference to be spotted relies on the fact that the LPA remains valid even after the donor loses legal capacity, unlike Italian powers of attorney. In fact under Italian civil law, powers of attorney ceases to be effective once the principal becomes incapacitated.

Giving the fact that no existing jurisprudence directly addresses the recognition of an LPA for real estate transactions in Italy we could draw an hypothetical

## 10. RECOGNITION IN ITALY OF PROTECTIVE LEGAL INSTRUMENTS FOR INCAPACITATED PERSONS:

example in case an LPA should be enforced to sell or purchase a real estate:

- a British citizen residing in the UK, currently affected by senile dementia and living in a care facility. He's the sole owner of a holiday home in Italy. Prior to losing mental capacity, he appointed his children as attorneys through a Lasting Power of Attorney (Property and Financial Affairs), executed under UK law. The attorneys, who are also UK citizens and residents, seek to sell the Italian property to fund his ongoing care expenses.
  - In the absence of Italy's ratification of the Hague Convention and formal EU regulation, the recognition of LPAs remains uncertain, nevertheless the attorneys could present the LPA (legalized with an Apostille and translated into Italian) to the Italian notary for the purchase deed.
- ✓ While no formal recognition procedure is available, the notary could accept the LPA as supporting documentation and, perhaps, execute the sale via an authenticated private agreement, signed by the attorneys in their representative capacity.

### **Conclusion:**

Practical, ad hoc solutions—such as notarized private agreements with supporting documentation—can offer a workable, though not standardized, approach. Legislative reforms at both EU and national level are essential to ensure legal certainty, reduce costs, and facilitate cross-border protection of vulnerable adults.

# 11.

## INHERITANCE AND GIFT TAXES

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## 11. INHERITANCE AND GIFT TAXES

Unless they have opted for the application of the Italian New-Dom Regime, foreign citizens who have moved to Italy and have acquired tax residence are subject to Italian inheritance and gift taxes. Italian tax law applies regardless of the law that has been chosen to regulate the succession from a civil point of view.

### **Italian inheritance and gift taxes**

Italian Inheritance and gift tax is levied on worldwide assets if the deceased or donor had his or her habitual abode in Italy at the date of demise or gift, otherwise it only applies to assets situated in Italy.

### **Applicable tax rates and thresholds**

Transfers upon death and gifts are subject to inheritance and gift tax at the following rates and with the following exemption thresholds:

- 4 percent if the transfer is made to spouses and direct descendants or ancestors; here, the transfer is subject to tax on amounts exceeding €1 million (this exempted sum applies to each beneficiary)
- 6 percent if the transfer is made to brothers and sisters; here, the transfer is subject to tax on amounts exceeding €100,000 (this exempted sum applies to each beneficiary)
- 6 percent if the transfer is made to other relatives up to the fourth degree, to persons related by direct affinity as well as to persons related by collateral affinity up to the third degree
- 8 percent in all other cases.

### **Applicable tax rates and thresholds**

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## 11. INHERITANCE AND GIFT TAXES

The rules for the calculation of the taxable base may be extremely favorable.

For instance, the value of Italian real estate is, in principle, equal to its fair market value, but the tax office cannot dispute the value declared if it is at least equal to the value resulting from the cadastral registers, which is generally much lower than the fair market value.

Exemptions from inheritance and gift tax may apply to assets of cultural value, and even government bonds are free from inheritance tax.

The transfer of businesses and participations in companies and partnerships to spouses or descendants are exempt from inheritance and gift taxes.

Furthermore, payments made under an insurance policy are exempted from inheritance and gift tax. Foreign insurance policies need to be carefully analyzed in order to determine whether they comply with Italian law requirements for exemption.

Finally, as far as joint assets (i.e. a bank account) are concerned, inheritance tax will be payable only on the quota owned by the deceased individual.

### **Estate and gift tax treaties**

Individuals who are subject to Italian inheritance and gift tax on their worldwide assets can benefit from the Italian inheritance, estate, and gift tax treaties, which may preclude the levy of burdensome taxes in other jurisdictions.

Treaties for the avoidance of double taxation on inheritance and estate tax are in force with Denmark, France, Greece, Israel, Sweden, the United Kingdom and the United States.

The treaty with France also covers gift tax.

For instance, a foreign national may transfer his or her

## 11. INHERITANCE AND GIFT TAXES

habitual abode to Italy and become immediately exposed to Italian inheritance tax on his or her worldwide estate, but, as a consequence, he or she may become treaty protected from foreign inheritance tax depending on the provisions of the treaty in force.

For the application of the treaty where a deceased person was domiciled at the time of his death needs to be determined in accordance with the law in force in that territory. In this regard, a deceased person could be deemed to be domiciled in the territory of more than one State, for example.

In this case, it is necessary to look at the provisions of the applicable tax treaty and the rules aimed at resolving cases in which both States have the power to tax.

For example, under Art 2 of the treaty in force between Italy and the UK, this case would be resolved in accordance with the following rules:

- an individual shall be deemed to be domiciled in the territory of the States in which he had a permanent home available to him at the time of his death
- if he or she had a permanent home available to him in the territory of each of the States he shall be deemed to be domiciled in the territory of the State with which his personal and economic relations were closest (center of vital interests)
- if the State in whose territory the individual had his center of vital interests cannot be determined, or if he or she had not a permanent home available to him in the territory of either State, the individual shall be deemed to be domiciled in the territory of the State in which he or she had an habitual abode
- if the individual had an habitual abode in the territory

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## 11. INHERITANCE AND GIFT TAXES

of each of the States, or in the territory of neither, he shall be deemed to be domiciled in that of which he was a national

- if the individual was a national of both territories or of neither of them, the taxation authorities of the States shall regulate the taxation by a mutual agreement.

### **Credit for foreign inheritance tax**

In general, Italian tax laws recognize a credit for succession taxes paid abroad. It is possible to deduct the inheritance taxes paid in a foreign State on the same assets up to the amount of the Italian inheritance tax.

### **Trust**

With regard to the application of inheritance and gift tax to trusts, please refer to the 'Trusts in Italy' section.

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