

We are pleased to provide you with the new issue of our legal information newsletter.

Topical legal questions are discussed and those related to issues that you might encounter.

We hope that you will find it of interest. We would welcome any comment you might have.

OVERVIEW ABOUT THE STATUTORY REGULATIONS ON THE INHERITANCE AND GIFT TAXES IN ITALY

Introduction – When a person decides to transfer the ownership of a property to a family member by way of a will or a gift, the former bears the immediate notarial costs of the instrument, while the latter pays any tax related to the act of inheriting a property.

Inheritance tax varies and we will see how it is calculated in Italy, how it works, how much is paid on inherited assets. Through this article, we will look at allowances, what percentage is inheritance tax, the mortgage and cadastral taxes and how the cost is calculated.

How does inheritance tax work in Italy? - Inheritance tax is levied on persons who inherit estate and/or assets from a deceased person. It is payable to the State.

It is based on the inheritance tax declaration filed by heirs to the Inland Revenue Office. Inheritance tax rates adopted by the Italian law are fairly limited, thanks to allowances.

What is the inheritance tax rate in Italy? Italian inheritance tax – which is a patrimonial tax – is calculated at three different rates (4%, 6% and 8%). The rate payable depends on the

degree of kinship between the decedent and the beneficiary.

Taxable persons and events - Under current legislation (DLgs 346/1990), transfers of any valuable assets as a result of death or donation (or other transfers for no consideration) and the creation of liens on such assets for a specific purpose, are subject to inheritance or gift tax at rates which depend on the proximity of relationship between the deceased/donor and the beneficiary/donee, and the value of the inheritance or gift.

The taxable event is death, in the case of inheritance tax, and the formal deed of donation, in the case of gift tax. The tax is payable by the beneficiary and the donee.

Taxable base - Resident individuals (deceased/donor) are taxed on a worldwide basis, i.e. with respect to all property and rights transferred wherever located.

The residence or nationality of the heir/donee is not relevant.

Non-resident individuals (deceased/donor) are taxed on a territorial basis, i.e. with respect to property and rights transferred located in Italy.

The residence or nationality of the heir/donee is also not relevant, although – as to donations – it could gain some relevance pursuant to articles 55 and 56-bis of the Legislative Decree nr. 46/1990.

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Certain types of property and rights are excluded from the taxable base, including bonds and similar securities issued by, or guaranteed by, the Italian state, and works of art.

After the amendments brought by article 8 of Act nr. 161/2014, bonds and similar securities issued by EEA countries are also excluded from the taxable base.

The methods of valuation of property transferred are:

- for movable and immovable property fully owned by the deceased or the donor, the market value at the moment of death or donation;
- for property on which other persons have a usufruct, use or habitation right, the market value less the value of the right;
- for ships and aircraft, the market value, taking into account their state of use;
- for listed shares and securities, the value according to the average list prices of the quarter preceding the death or donation, plus interest accrued thereafter;
- for non-listed shares and securities, the equity resulting from the last approved balance sheet. (The tax administration claims that goodwill must also be included, and many tax litigations are arising from this interpretation.); and
- for interest-bearing receivables, the principal plus the accrued interest.

Personal reliefs - Liabilities, such as debts of the deceased, funeral and medical expenses, are deductible if proved by officially dated documents.

Rates - The tax rates do not depend solely on the amount received by each beneficiary or donee, but also on the proximity of the relationship between the deceased/donor and the beneficiary/donee.

In particular:

- transfers in favour of the spouse and of direct descendants or ascendants are subject to an inheritance and gift tax applied at a rate of 4% on the value of the inheritance or the gift exceeding EUR 1 million (per beneficiary); an allowance equal to EUR 1.5 million (per beneficiary) is granted in cases where the transfer is in favour of a handicapped person;
- transfers in favour of brothers or the sisters are subject to an inheritance and gift tax applied at a rate of 6% on the value of the inheritance or the gift exceeding EUR 100,000 (per beneficiary); an allowance equal to EUR 1.5 million (per beneficiary) is granted in cases where the transfer is in favour of a handicapped person;
- transfers in favour of all other relatives up to the fourth degree or relatives-in-law up to the third degree, are subject to an inheritance and gift tax applied at a rate of 6% on the entire value of the inheritance or the gift; an allowance equal to EUR 1.5 million (per beneficiary) is however granted in cases where the transfer is in favour of a handicapped person; and
- any other transfer is subject to an inheritance and gift tax applied at a rate of 8% on the entire value of the inheritance or the gift; an allowance equal to EUR 1.5 million (per beneficiary) is however granted in cases where the transfer is in favour of a handicapped person.



Pursuant to the provisions of L 112/2016, special exemption rules apply to transfers to trust or fiduciary schemes in favour of persons with severe disabilities.

Taxation of asset transfer to trusts – Based on the opinion of the domestic tax authorities, any trust deed providing for the transfer of assets to the trust shall be regarded as a gratuitous transfer, being therefore subject to inheritance and gift tax at proportional rates.

The application of the tax at proportional rates should be made on the basis of the relationship existing between the settlor and the identified beneficiaries of the trust (if any) at the time of the relevant transfer to the trust.

According to the domestic tax authorities, the 8% rate shall be levied when (i) the beneficiaries of the trust are persons other than those benefiting from the reduced rates, or (ii) the trust has no beneficiaries (i.e., purpose trust), or (iii) the beneficiaries cannot be identified (for instance, in case of discretionary trusts).

Any subsequent transfer of the trust assets to the beneficiaries does not trigger the application of inheritance and gift tax.

Double taxation relief - Under domestic legislation, foreign inheritance tax payable in another state in relation to property located in that state are deductible from the Italian tax up to its amount, as computed in proportion to the value of the relevant property.

No foreign tax credit is expressly provided for in relation to gift tax.

Italy has concluded a few treaties for the avoidance of double taxation of inheritances and gift taxes.

Inheritance and gift tax treaties - Italy has concluded inheritance and gift tax treaties (as possibly amended by protocols) with the following countries:

Country	Scope	Date of signature	Entry into force	Effective date
Denmark	I	10.03.66	09.07.68	09.07.68
France	I/g	20.12.90	01.04.95	01.04.95
Greece	I	13.02.64	01.01.76	01.01.76
Israel	I	22.04.68	08.08.73	01.01.62
Sweden	I	20.12.56	03.06.58	03.06.58
United Kingdom	I	15.02.66	09.02.68	09.02.68
United States	I	30.03.55	26.10.56	26.10.56

Conclusions - A tax on inheritance and donations was reintroduced in October 2006 after a five-year period during which this tax was abolished. Italian inheritance and gift tax is applicable to all Italian residents and also to non-residents who have properties in Italy.

When you're a resident in Italy you have to pay inheritance tax on the worldwide assets of the deceased.

Non-residents have to pay inheritance tax as well, but only on the deceased's assets in Italy.

Italian inheritance and "gifts" are synonymous, meaning that all of the same allowances and tax rates apply to inherited property as well as gifted or bequeathed items.

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