

Italian Inheritance and Gift Tax

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1. Foreword

The Italian **inheritance and gift tax** applies, where certain conditions are met, to the transfers of properties and rights as a consequence of death or donation as well as to the creation of liens on certain assets.

The territorial scope of such tax is quite broad (as, for instance, it applies to all the assets wherever located and previously held by the *de cuius* if the latter was resident in Italy) and it can lead to double taxation phenomena which might be solved through the application of specific Double Taxation Conventions, where existent and applicable.

2. Inheritance tax

2.1 Taxable Event and Persons

The **taxable event** of such tax is the transfer of properties and rights as a result of death. The tax is due:

- by the heirs of the deceased person;
- by the legatees, who are only required to pay the amount of tax related to their **bequest**.

The relevant legislation also provides for certain subjective exemptions (e.g. transfers in favour of the State or non-profit organizations) and some objective exemptions, as some assets are not included in the taxable base (e.g. government bonds, some particular kind of real estate assets as well as going concerns and controlling interest in certain companies).

2.2 Taxable Base and Tax Rates

The **inheritance tax** is levied on the net value of the assets transferred to the heir or legatee. There are some specific provisions dictating the rules to determine such net value as reported below:

Inherited asset	Taxable base
Real estate assets	Fair market value. In some cases, an evaluation based on cadastral values applies
Going concerns	Where an inventory exists: assets and liabilities reported therein
Interest in companies	Where balance sheets or inventory values exist: book value Without inventory: fair market value
Listed shares (even in the Alternative Investment Market; see Italian Tax Authorities ruling no. 514/2019)	Fair market value
Receivables	Amount receivable, including interest

The applicable **inheritance tax rates** are determined on the basis of the relationship of kinship or affinity existing between the deceased and the beneficiary of the transfer (heir or legatee).

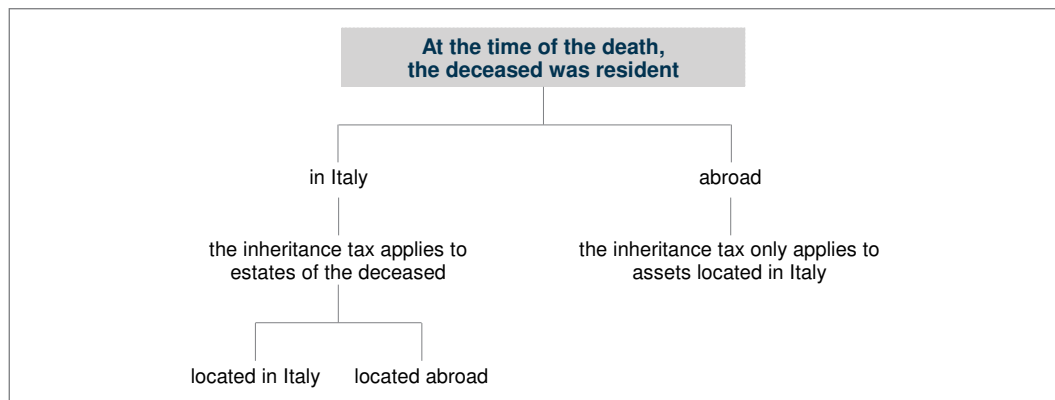
In addition, there are also specific exemption thresholds that apply. In other words, also based on the level of kinship, the relevant tax rates apply only to the goods and rights having an overall value exceeding certain thresholds.

Beneficiary	Exemption threshold (EUR)	Rate
Spouse	1 million	4%
Direct descendants or ascendants	1 million	4%
Brothers or sisters	100,000	6%
Other relatives up to the 4th degree	-	6%
In-law relatives up to the 3rd degree	-	6%
Persons with certain disabilities	1.5 million	6%
Other beneficiaries	-	4%, 6% or 8% depending on the relationship

2.3 Territorial Scope

As a general rule, the inheritance tax is due with respect to all the assets and rights transferred by inheritance, even if they are located abroad.

However, if at the date of the opening of the succession, the deceased was not resident in Italy, then the inheritance tax comes due only with respect to assets located in Italy.



Accordingly, for the purposes of verifying the applicability of Italian inheritance tax, one has to check:

- the residence of the deceased at the time of the opening of the succession;
- if the *de cuius* was not resident in Italy, whether some of the goods or rights composing his/her estate are located in Italy.

Residence

Even if residency is a pivotal concept for inheritance tax purposes, the relevant provisions of law do not contain a definition of residence. Italian civil law defines residence as the place where the person has his habitual abode (Art. 43 of the [Italian Civil Code](#)) but it is not entirely clear if this definition should apply also for inheritance tax purposes.

These criteria (residence and location of the assets) may lead to situations of double taxation, as they might overlap with principles adopted in other foreign countries and the Double Taxation Conventions concluded by Italy often define this concept (see table in § 2.4).

Assets location

If the deceased is not resident in Italy, the inheritance tax only applies with respect to assets located in Italy.

Among others, the following assets are considered to be located in Italy:

- shares or quotas of companies and entities having in Italy their registered office, place of management or main object of their activities;
- bonds issued by the State or by companies based in Italy;
- securities representing goods located in Italy;
- assets listed in public registers.

The following table summarises the main territoriality criteria.

Criteria	Inheritance Tax Relevance
Residence of the deceased	If the deceased was resident in Italy all the assets transferred as a consequence of his/her death, wherever located, are taxable in Italy
	If the deceased did not reside in Italy, only the assets located in Italy are taxable
Location of the assets	Assets located in Italy are taxable whether the deceased was resident in Italy or abroad
	Assets located abroad are taxable in Italy only if the deceased was resident in Italy

Criteria	Inheritance Tax Relevance
Residence of the beneficiary (heir or legatee)	Irrelevant

2.4 Double Taxation

In order to reduce potential cases of **double taxation** arising from the contemporaneous application of different territoriality rules from different jurisdictions, a number of remedies have been set-up.

Double Taxation Conventions

One of the options to try and reduce potential double taxation events deriving from different jurisdictions' inheritance taxes is entering into Double Taxation Conventions.

Contracting States
Denmark
France
United Kingdom
Greece
Israel
United States of America
Sweden

The following table compares the main provisions related to the location of assets subject to inheritance taxation contained in some of the Double Taxation Conventions entered into by Italy.

Asset	Italian Law	Italy-USA Treaty	Italy-United Kingdom Treaty	Italy-France Treaty
Real estate assets	State where the asset is located	State where the asset is located	State where the asset is located	State where the asset is located
Shares and other participations	State where the company has its registered office, place of management of and main object of the activity	State under whose laws the company is set-up or organized	State where the company has been set-up. For partnership, the place where the company is managed	State of residence of the company
State securities	State that has issued the securities	State that has issued the securities	In case of bearer securities, the State in which they are located at the time of death. If the securities are registered, in the State in which they are registered	State that has issued the securities
Receivables	State of residence of the debtor	State of residence of the debtor. If the debtor is a company, State where such company is located	State of residence of the debtor at the time of the death of the deceased	Debtor domicile
Bank accounts	State of residence of the credit	State where credit institution	State where the bank account	State of residence of the

Asset	Italian Law	Italy-USA Treaty	Italy-United Kingdom Treaty	Italy-France Treaty
	institution	is located	was held	credit institution

Tax Credit

The Italian inheritance tax law also provides for a tax deduction with respect to taxes levied abroad on assets located outside of Italy which fall within the scope of the Italian inheritance tax.

Taxes paid abroad are deducted from the Italian inheritance tax due up to the amount of tax paid in connection with the relevant foreign asset(s).

Gift tax applies as a result of the donation of assets and rights or with respect to the creation of liens on such assets and rights.

3. Gift Tax

3.1 Taxable Event and Persons

On top of the donations and creation of liens, the following also falls within the scope of the gift tax:

- the creation of rights over certain assets (e.g. usufruct);
- the waiver of rights connected to certain assets or credits;
- the creation of annuities or pensions in favour of a beneficiary.

3.2 Taxable Base and Tax Rates

The taxable base on the goods and rights donated is computed as follows.

Gifted asset	Taxable base
Real estate assets	Fair market value. In some cases, an evaluation based on cadastral values applies
Going concerns	Where an inventory exists: assets and liabilities reported therein
Interest in companies	Where balance sheets or inventory values exist: book value Without inventory: fair market value
Listed shares (even in the Alternative Investment Market; see Italian Tax Authorities ruling no. 514/2019)	Fair market value
Receivables	Amount receivable, including interest

As already highlighted with respect to the inheritance tax, tax rates are determined on the basis of the relationship of kinship or affinity existing between the donor and the beneficiary of the transfer.

In addition, there are also specific exemption thresholds that apply. In other words, also based on the level of kinship or affinity, the relevant **gift tax rates** apply only to the goods and rights having an overall value exceeding certain thresholds.

Beneficiary	Exemption threshold (EUR)	Rate
Spouse	1 million	4%
Direct descendants or ascendants	1 million	4%
Brothers or sisters	100,000	6%
Other relatives up to the 4 th degree	-	6%
In-law relatives up to the 3 rd degree	-	6%
Persons with certain disabilities	1.5 million	6%
Other beneficiaries	-	4%, 6% or 8% depending on the relationship

3.3 Territorial Scope

The Italian gift tax applies:

- to all the assets transferred by donation, even if located abroad, if the donor was resident in Italy when the donation occurred;
- only to the assets located in Italy, if the donor was resident abroad at the date of the donation.

See table below, from Mauro A. "I criteri di territorialità dell'imposta sulle successioni e donazioni" in Odetto G. "Manuale della fiscalità internazionale", Eutekne, 2020, p. 1556.

Place where the donation occurred	Donor	Beneficiary	Asset donated	Taxation
Italy	Resident in Italy	Resident in Italy	Located in Italy	Ordinary taxation
		Resident in Italy	Located abroad	Ordinary taxation
		Non-resident in Italy	Located in Italy	Ordinary taxation
		Non-resident in Italy	Located abroad	Ordinary taxation
	Non-resident in Italy	Resident in Italy	Located in Italy	Taxation only on the assets located in Italy
		Resident in Italy	Located abroad	Non-taxable
		Non-resident in Italy	Located in Italy	Taxation limited to the assets located in Italy
		Non-resident in Italy	Located abroad	Non-taxable
Abroad	Resident in Italy	Resident in Italy	Located in Italy	Ordinary taxation
		Resident in Italy	Located abroad	Ordinary taxation
		Non-resident in Italy	Located in Italy	Ordinary taxation
		Non-resident in Italy	Located abroad	Ordinary taxation
	Non-resident in Italy	Resident in Italy	Located in Italy	Taxation limited to the assets located in Italy
		Resident in Italy	Located abroad	Non-taxable
		Non-resident in Italy	Located in Italy	Taxation limited to the assets located in Italy
		Non-resident in Italy	Located abroad	Non-taxable

3.4 Double Taxation

The only Double Taxation Convention Italy has entered into which has provisions covering gift taxes is the one with France.

With its [Circular Letter](#) no. 32 of 20 October 2022, the [Italian Tax Authorities](#) clarified that the contribution of assets in [trust](#) does not fall within the scope of either the inheritance nor the gift tax. Such taxes will, on the contrary, apply when the assets contributed into the trust will eventually be transferred to the relevant beneficiaries.

This interpretation of the Italian Tax Authorities represents a revirement and it is in line with the jurisprudence of the [Italian Supreme Court](#) on the topic.

4. Trust

5. Glossary

Bequest

It indicates a specific asset(s) (money, property, right etc.) belonged to a deceased person that such deceased has passed to another person upon his death as inheritance.

Circular letter

Extensive statement of practice through which the Italian Tax Authorities interprets, in general terms, pieces of legislations. Differently from rulings, in the circular letters the Italian Tax Authorities do not usually address specific cases raised by a given taxpayer.

Double taxation

This term refers to those cases where the same income is either taxed twice in the hands of the same taxpayer (juridical double taxation) or twice in the hands of different tax payers (economic double taxation). Double taxation may occur both in a national or international environment.

Gift tax

Tax applied as a consequence of gratuitous transfers. The applicable rates vary depending on the level of kinship of the donor with the beneficiary and the taxable income varies depending on the types of assets which are donated.

Gift tax rates

The Italian gift tax rates are as follows:

- 4% for transfers to spouses, direct descendants or ascendants;
- 6% for transfers to brothers or sisters, other relatives up to the 4th degree and in-law relatives up to the 3rd degree;
- 8% in all the other cases.

Inheritance tax

Tax levied upon death or creation of liens on the estate of the deceased. The applicable rates vary depending on the level of kinship of the deceased with the beneficiary and the taxable income varies depending on the types of assets which are part of the estate.

Inheritance tax rates

The Italian inheritance tax rates are as follows:

- 4% for transfers to spouses, direct descendants or ascendants;
- 6% for transfers to brothers or sisters, other relatives up to the 4th degree and in-law relatives up to the 3rd degree;
- 8% in all the other cases.

Italian Civil Code

Set of rules providing for the framework of Italian civil law. It is composed by six different parts and preceded a set of rules aimed at guiding the interpreter in applying the relevant provisions.

Italian Tax Authorities

Form issued by the Italian Tax Authorities on a yearly basis through which taxpayers have to declare their annual income.

Italian Supreme Court

Tax treaty International Convention concluded between two States for the avoidance of double taxation and double non-taxation in economic transactions involving them.

Taxable event

Event (or deemed event) that triggers taxation under the application of a given tax. Any tax law provides for a definition or a list of the event triggering its application.

Trust

A fiduciary agreement where a person, being the settlor, gives another person(s), called the trustee(s), the right to hold title to and manage property or assets for the benefit of one or more third parties (*i.e.* the beneficiaries).