
Italy

International Estate Planning Guide

Individual Tax and Private Client Committee

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I. Wills and disability planning documents

A. Will formalities

A testator may transfer his or her property and rights by drafting a will. Through testamentary provisions, the testator can attribute a share or the totality of his or her assets or can attribute the status of legatee. The following testators cannot dispose by will: (1) individuals that have not reached the age of majority (18 years old); (2) individuals interdicted because of mental infirmity; (3) individuals that, even though not interdicted, are shown to have been for any reason, even transitory, incapable of understanding or intending when they drafted the will. Pursuant to Italian law, there are three ways to make a valid will:

1. Holographic will (*testamento olografo*): this is a document personally handwritten by the person making the will (testator), dated and signed. There is no need for witnesses and there is no attestation clause. It can be a very simple letter or document. This document can be written in any language. The holographic will is presumed valid unless the contrary is proved through a special judicial procedure (*querela di falso*).
2. Formal will (*testamento pubblico*): this is a document drafted by a notary public upon the instructions of the testator, read out by the notary public to ensure that it complies with the wishes of the testator and signed by the testator in the presence of two witnesses. The will is then lodged with the notary public; this is a fairly formal document. While it provides assurance that the will shall not be lost/disregarded, it involves a cost (notarial fees), and its contents are immediately disclosed to third parties (witnesses), who may not keep it confidential.
3. Secret will (*testamento segreto*): this is not frequently used. It is a will drafted/written by the testator or by a third party and placed in a sealed envelope, which is then delivered to a notary public. The contents of the will shall remain secret until after the death of the testator when the sealed envelope will be opened.

Italian law also provides the validity of certain special wills that can be drafted by the testator when it is not possible to make an ordinary will: (1) wills drafted in case of contagious disease, public calamity or accident; (2) wills drafted on-board a ship or aircraft; and (3) military wills. The formalities provided for these kinds of will are softened. A will can be revoked by the testator at any time. The revocation can be formal or implied, total or partial. Formal revocation, both total and partial, can be caused by the drafting of a new will or by a deed drafted by a notary public in the presence of two witnesses, in which the testator states that he or she revokes the prior will. Implied revocation can be caused by the following events: (1) the destruction of the will, unless it is proved that the will was destroyed by a person other than the testator or that the testator did not have the purpose to revoke it; (2) the inconsistency of certain dispositions enclosed in the new will with a previous will (in case the previous is not explicitly revoked); (3) the removal of the secret will from the notarial custody; (4) the destruction, sale or donation of all or part of property enclosed in the will. The right to draft a will is not unrestricted. The power of the deceased to choose his or her heirs cannot impair the rights of a number of immediate relatives to inherit: these heirs shall receive a share of the deceased's estate despite the will. If the will has abridged this share, the value of property transferred by will is reduced until the legal limit is respected. It is worth noting that a testamentary disposition that violates a reserved

share is valid until challenged by a person entitled. The spouse, children and deceased's ascendants are recognised as having the right to inherit a reserved share of the estate. The table below depicts the reserved shares and the available share provided by Italian law in several relevant cases:

<i>Heir</i>	<i>Reserved share</i>	<i>Available share</i>
Spouse (no children or ascendants)	1/2 to the spouse	1/2 to others
Spouse and one child	1/3 to the spouse 1/3 to the child	1/3 to others
Spouse and two or more children	1/4 to the spouse 2/4 to the children	1/4 to others
Only a child (no spouse)	1/2 to the child	1/2 to others
Only two or more children (no spouse)	2/3 to the children	1/3 to others
Only legitimate ascendants	1/3 to the ascendants	2/3 to others
Spouse and legitimate ascendants (no children)	2/4 to the spouse 1/4 to the ascendants	1/4 to others

In order to determine the reserved shares and the available share, it is necessary to take into account not only the value of the estate at the moment of the death, but also the value of the gift made by the deceased during his or her life. After the value of the estate has been determined, the reserved share and the available share shall be calculated in light of the number and relationships of the heirs.

B. *Enforceability of foreign wills*

Article 46 of Law No 218 of 31 May 1995 provides that succession on death will be governed by the national law of the person whose inheritance is involved at the moment of his or her death. Under Italian law, within the limits allowed by the law on reference, the following principles can be enunciated:

- the application of the deceased's national law; and
- the universality of the succession.

Law No 218 of 31 May 1995 introduced the possibility of making a *professio iuris*, on the basis of which the person whose inheritance is involved may make an express statement in testamentary form, subjecting his or her entire succession to the law of the state in which he or she resides. Such a declaration will have no effect if, at the moment of death, the declarant no longer lives in such a state. In the case of the succession of an Italian individual, such a choice will not prejudice the rights that the law provides for legitimate heirs resident in Italy at the time of the death of the person whose inheritance is involved. The division of the estate on succession will be governed by the law applicable to the

succession; however, the recipients may agree on the application of the law of the place for the opening of the succession or the law of the location of one or more of the assets included in the succession. On 4 July 2012, the European Parliament and the Council of European Union adopted Regulation (EU) 650/2012 concerning 'applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession'. According to a new principle introduced by the aforementioned regulation, the law governing succession is the law of the state where the deceased has habitual residence; by way of derogation, it is, however, possible for the testator to make a *professio iuris* by means of which the testator declares that the entire succession is regulated by his or her national law (at the time of the *professio iuris* or at the time of the death) instead of the law of habitual residence. The regulation also provides the issuance of the European Certificate of Succession in order to give legal evidence of the status and relevant rights belonging to an heir or the powers belonging to the administrator of the estate or the executor of a will, with no need of further documentation. The regulation came into force on 17 August 2015 (with the exception of certain provisions already in force from 5 July 2012 and 16 November 2014).

C. *Succession agreements*

Succession agreements are forbidden and void, including all agreements transferring or renouncing rights upon the death of a living person. An exception is provided for 'family contracts', so-called '*patti di famiglia*'. The *patto di famiglia* was introduced in 2006 in order to regulate the intergenerational transfers of a business activity. By means of the *patto di famiglia*, owners of a business or of shares in a company can assign all, or part, of their business, or shares, to one or more descendants (ie, sons/daughters and nephews/nieces). The entrepreneur can thus plan the intergenerational transfers of the enterprise in order to guard his or her future functionality. The assignment is gratuitous. The *patto di famiglia* is a consensual contract with immediate effect. The contract must have the form of a public deed in front of a notary public and all the persons who have an inheritance right recognised by law (ie, forced heirs) are requested to participate in the signing. If they do not waive their right, the assignees of the business have to reward them with an amount corresponding to their reserved legal share of inheritance.

D. *Will substitutes*

On the basis of the principle of the universality of succession, all the assets directly owned by the deceased at the time of his or her death shall be considered as part of the estate. Italy does not provide any domestic laws relating to the establishment of trusts. The incorporation of a trust under Italian law is therefore not possible, and the law of another jurisdiction providing for trusts would need to be chosen.

Trusts are recognised in Italy pursuant to Law No 364 of 16 October 1989 that ratified the Hague Convention of 1 July 1985 on 'the law applicable to trusts and to their recognition'. Under Italian law, it is possible to split the bare ownership from the usufruct through a gift or a sale. Indirect tax burden can be reduced by transferring bare ownership with retention of usufruct. At the moment of the death of the usufruct holder, bare ownership will automatically consolidate with the usufruct. Such a consolidation will be free of any Italian tax.

Life insurance policies can also be used to reduce the amount of inheritance tax due. Insurance is a contract whereby the insurer, against the payment of a premium, binds him or herself to compensate the insured, within the limits agreed upon, for damage caused to the insured by an accident, or to pay a principal sum or an annuity upon the occurrence of

an event contingent upon human life. Life insurance can be entered into on one's own life or the life of a third party. The designation of the beneficiary can be made in the insurance agreement, by a subsequent written declaration to the insurer or under a will. Life insurance signed in favour of a third party is valid.

The Italian Civil Code provides that, upon the death of the insured person, the beneficiaries do not receive the underlying capital as a consequence of a *mortis causa* transfer because they have a direct entitlement to the underlying capital; no inheritance tax is due upon such a transfer by the beneficiary.

E. *Powers of attorney, directives and similar disability documents*

One may give power of attorney to any person to administer his or her assets. Such power is revocable at any time. Any person who suffers from an infirmity, physical or mental disease and therefore cannot look after his or her own interests, even if in part or temporarily, may be assisted by a provisional guardian appointed by the judge of the place where he or she is domiciled or resident. The person subject to provisional custody preserves the power to act for all matters that do not require the exclusive representation or compulsory assistance of the supporting administrator. In the case where the individual is in a condition of habitual mental infirmity that makes the individual incapable of looking after his or her interests, the individual shall be interdicted when this is necessary to provide for adequate protection.

The claim for the opening of the disability proceeding, as well as for the opening of the interdiction proceeding, may be filed by the same individual having the status to be declared or by another person, such as the spouse, persons related by blood within the fourth degree or by affinity within the second degree, the guardian or curator or the public prosecutor. The judgment declaring interdiction or disability shall be immediately noted in a special register. Both the proceedings have effect from the date of publication of the judgment.

II. Estate administration

A. *Overview of administrative procedures*

Succession on death is provided by the second book of the Civil Code. The main principle is that an inheritance is not acquired without acceptance, which may be express, implied or presumed. The right to accept an inheritance will elapse after ten years (Civil Code, Article 480). Renunciation must be made by means of a declaration received by a notary public or by the chancellor of the court of the district where the succession administration has been opened. Under Italian law, unlike the position in other legal systems:

- renunciation is permitted until the time limit for accepting the inheritance has expired;
- the share of inheritance has no connection with the common ownership regime between spouses;
- succession agreements are forbidden (Civil Code, Article 458); and
- there is no certificate of inheritance (see above regarding the Regulation (EU) 650/2012 concerning succession).

An heir is a successor with universal title and he or she is considered to receive both assets and debts. The legatee, on the other hand, taking the legacy without the requirement of acceptance, save for the possibility of renunciation (Civil Code, Article 649), gives rise to succession with specific title to a specific right (there are distinctions, however, that are not of interest in this context). The legacy will thus not give rise to debts greater than the value of the property forming its subject matter.

B. *Intestate succession and forced heirship*

When a person dies without a will, his or her property is transferred to his or her legal heirs pursuant to the laws of intestate succession. In the intestate succession (*successione legittima*), the estate passes to the spouse and to descendants, ascendants, siblings, other relatives and then the state (Civil Code, Articles 565 et seq). Intestate succession operates when the deceased has not drafted a valid will or has drafted a void will.

Devolution upon intestate succession takes place automatically. No attestation by a government authority or court is required. The persons to whom an estate devolves upon legitimate succession are:

- the spouse;
- children (including natural children and adopted children);
- ascendants;
- collateral relatives and other relatives up to the sixth degree; and
- the state.

The table below depicts a summary of the main cases of devolution in the case of intestate succession:

<i>Heirs</i>	<i>Intestate estate share</i>
Spouse in the absence of other heirs	1/1 to the spouse
Spouse and one child	1/2 to the spouse 1/2 to the child
Spouse and two or more children	1/3 to the spouse 2/3 to the children
Spouse and ascendants or siblings	2/3 to the spouse 1/3 to ascendants or brothers and sisters (in any case, 1/4 to the ascendants, if any)

In brief, first, the surviving spouse and the descendants of the deceased shall be regarded as heirs. In the absence of any descendants and in concurrence with the spouse, the legitimate ascendants and the siblings of the deceased will take part in the succession. In their absence thereof, the closest relatives up to the sixth degree will take part in the succession.

It is worth noting that a separated spouse has the same right to inherit as a cohabiting spouse, provided that the cause of the separation was not attributed by the court to his or her own responsibility. The divorced spouse has no right to inherit, but he or she, after the death of the spouse who was required to make maintenance payments, may ask the court for periodical payment from the estate.

C. *The estate*

The estate consists of the whole assets, rights and obligations that are transferred through testamentary or intestate succession. Succession begins at the moment of the death and in

the last place of domicile of the deceased. The estate is acquired by the heir with acceptance. Acceptance can be pure and simple or conditional, that is, with the benefit of inventory (*accettazione col beneficio d'inventario*). Acceptance can also be express or implied. Express acceptance entails that the heir declares to accept his or her share of the estate by a formal deed or private deed. Instead, implied acceptance occurs when the heirs perform a transaction that necessarily entails consent to acceptance and which no one other than an heir would have the right to perform. Acceptance is unilateral and cannot be subject to terms or conditions. The right to accept the estate expires after ten years starting from the date of the death. Acceptance with the benefit of inventory is made by a declaration, certified or made before the competent civil court. The declaration is followed by the drafting of an inventory listing all the assets and liabilities pertaining to the estate. By means of acceptance with the benefit of inventory, the assets and liabilities of the deceased are kept distinct from the assets and liabilities pertaining to the heir. The heir is liable for the payment of the debts and testamentary expenses up to the net value of the assets he or she has inherited.

D. *The collation (collazione) and reduction of testamentary dispositions*

Children (and their descendants) and the spouse who are in concurrence in the succession shall share with the co-heirs all the assets and rights they received from the deceased by gift. In order to calculate the reserved share of the estate, it is necessary to take into account not only the assets transferred after the death of the deceased but also the gifts made while the deceased was alive: gifts made during the testator's lifetime are considered to be an advance receipt in respect of inheritance (principle of the so-called '*collazione*'). If testamentary dispositions or gifts exceed the share that the deceased could dispose of (*quota disponibile*) considering the aforementioned reserved shares, each forced heir can claim for the reduction. A claim for the reduction has to be filed within ten years from the devolution of the estate.

E. *Testamentary executor*

The testamentary executor shall ensure that the provisions of the deceased's last will are carried out exactly. Thus, he or she shall manage the inheritance, taking possession of the property included in the estate. The executor shall administer as a fair *pater familias* and can perform all necessary acts of management. When it is necessary to transfer any property forming part of the inheritance, he or she shall request consent from the court, which shall assent after hearing the heirs.

F. *Marital property*

As mentioned above, Italian law reserves a share of the estate to the spouse. The amount of the shares depends on the presence of other forced heirs. Half the patrimony is reserved in favour of the spouse. However, in the case of concurrence with children, one-third is reserved to the child and another one-third to the spouse. When there is more than one child, half the patrimony is aggregately reserved for them and one-fourth of the patrimony of the deceased belongs to the spouse. When the deceased does not leave children, but leaves ascendants and a spouse, half the patrimony is reserved to the latter and one-fourth to the ascendants. The spouse is in any case granted the right to live in the house used as the family home and the right to use the furnishings with which it is fitted, if owned by the deceased or in common ownership. Such rights encumber the available portion of the estate, calculated as the amount of the share of which the deceased could dispose, deducting the debts and adding any relevant property transferred by gift. The spouse's right of inheriting is recognised if he or she is married to the deceased at the time of succession. The right is not recognised if a decision of the invalidation of the marriage has occurred, as

well as in the case of decree of divorce. In the case of divorce, it is necessary to distinguish between two different situations. In the case the spouse has not been charged with separation by a final judgment, he or she has the same succession rights as a non-separated spouse. On the other hand, a spouse charged by a final judgment, has a right only to an annuity if, at the time of opening the succession, maintenance has been paid by the deceased spouse. The allowance is measured by the inheritance assets and by the quality and number of the legitimate heirs and, in any case, is not greater than the maintenance received from the deceased.

Property can be held by the spouses in two different ways: (1) the common ownership of property; and (2) the separation of property. In the absence of a different agreement, common ownership of property is the legal patrimonial system of the family. However, spouses can choose a different property system. Included in common ownership are purchases made by the two spouses together or separately during the marriage, excluding those relating to certain individual property; the fruits of property owned individually by each spouse; and the proceeds of the separate activities if they have not been consumed at the time of dissolution of common ownership; as well as businesses operated by both spouses and established after the marriage. Property owned before the marriage by the sole spouse, property acquired after the marriage as a result of a gift or succession, and any property of strictly personal use of each spouse shall not be included in the common ownership. The administration of property in common ownership belongs to each spouse severally. Under the separation of property regime, the spouses agree that each of them holds the ownership of the property acquired during the marriage and each spouse has the enjoyment and administration of the property of which he or she has exclusive ownership. A spouse who enjoys the property of the other spouse is subject to all obligations of a usufructuary.

III. Trusts, foundations and other planning structures

A. *Trusts*

In order to prevent the fragmentation of complex estates, Italian law provides several institutions capable of segregating – albeit at different levels – assets. In general, a person may incorporate a patrimonial fund or family enterprise, or draft a deed establishing the restriction of use over specific assets or may settle a trust. Each spouse, or both, can settle a patrimonial fund (*fondo patrimoniale*), allocating certain properties, such as immovable property or movable properties inscribed by public registers or negotiable instruments, in order to achieve the family's needs. The constitution shall be made through a formal deed or even by a will.

A patrimonial fund can also be settled by a third party: in this case the spouses have to accept the settlement of the patrimonial fund. Ownership of the property constituting the patrimonial fund belongs to both spouses, unless otherwise provided in the act of settlement. The income arising from the property must be used for the family's needs. The administration of the property is regulated by the rules relating to the administration of common ownership. Unless expressly provided in the act of settlement, the property in the patrimonial fund cannot be sold, except with the consent of both spouses, and if there are minor children, the court's approval is compulsory. The patrimonial fund terminates when the cancellation or termination of civil effects of marriage occurs. If there are minor children, the fund cannot be terminated until the last child reaches the age of majority.

A family enterprise is a partnership made of certain members of a family. Any family member who carries on working services in the family enterprise on a continuing basis has the right to maintenance consistent with the financial condition of the family, and to

participate in the profits of the family enterprise. Under such a scenario, decisions concerning the destination of profits and contributions, as well as those pertaining to the extraordinary course of business, the business and the termination of the enterprise, are taken by the majority of the family members who participate in the enterprise. In the case of a partition among heirs or a transfer of the business, the participants have the right of pre-emption on the business.

The creation of liens, through a formal deed establishing a restriction of use, can be imposed on immovable property and other property enrolled in public registers. The creation of liens aims to realise one or more interests worthy of protection, generally relating to people with disabilities. The constrained assets and their fruits can only be used in favour of the beneficiary and may be subject to execution only with respect to debts incurred for that scope. Such destination constraints shall be provided in a formal deed, and its duration cannot exceed 90 years or, at most, the entire individual beneficiary's lifetime.

The 'trust' has been recognised in Italy pursuant to Law No 364 of 16 October 1989 that ratified the Hague Convention of 1 July 1985, having as object 'the law applicable to trusts and to their recognition'. As there is no domestic legislation relating to trusts, they can only be established in Italy in accordance with the Hague Convention and subject to a foreign governing law. In particular, pursuant to Article 2 of the Hague Convention, the term 'trust' refers to the legal relationship created – *inter vivos* or on death – by a person, the settlor, when assets (movable or immovable property) have been placed under the control of a trustee for the benefit of a beneficiary or for a specified purpose. The trustee has the power and duty, in respect of which he or she is responsible, to manage, employ or dispose of the assets in accordance with the terms of the trust and the special duties imposed upon him or her by law. The Hague Convention also establishes that the title to the trust assets that are under the control of the trustee stands in the name of the trustee or the name of another person on behalf of the trustee, and that the trust assets constitute a separate fund and are not a part of the trustee's own estate. Eventually, another person, named guardian, can be appointed to control and supervise the trustee's actions. The settlor transfers not only the assets to the trustee but also the correlate property right on them. However, the assets stay separate from the trustee's patrimony so that the trustee's creditors cannot impair the trust assets. The trustee's powers and duties are ruled according to the law chosen by the settlor. The trustee is entitled to the transferred rights, but he or she could have some restrictions in the exercise of his or her powers of administration, appointed by the settlor in the act of constitution. If the settlor provided for a protector, the trustee's administration activity will be under control of the guardian.

A trust may have different scopes. It can be set up in order to regulate the generational transfer between the descendants of the original owner; in favour of a disabled person, in order to satisfy his or her medical and economical needs through the income generated by the trust assets. A trust can also be settled by a will.

B. *Associations and foundations*

Associations and foundations can be incorporated for a wide variety of purposes and interests, such as solidarity, welfare, cultural, medical, recreational, social and sporting. Associations and foundations must be incorporated through a formal deed and foundations may also be set up through a will. Under Presidential Decree No 361 of 10 February 2000, associations and foundations acquire a legal personality no longer by means of a government decree but by their registration in the register of legal persons. Both associations and foundations are subject to governmental control. The Civil Code also

provides for the settlement of unrecognised associations and committees, without legal personality.

A thorough reform of the so-called 'third sector', of which non-profit associations and foundations are part, was provided by Legislative Decree No 117 dated 3 July 2017, which introduced a comprehensive legal and tax regime applicable to these kinds of entities.

The aforementioned legislative decree defined the meaning of 'non-lucrative' and 'general interest', identified the activities that third-sector organisations can perform and established the rules that third-sector organisations must comply with to be recognised as part of the sector ('third-sector entity').

In general terms, under the new tax regime, non-profit associations and foundations that qualify as 'third sector entities' can benefit from a significant number of exemptions for both direct and indirect tax purposes. In addition, the tax exemption thresholds provided for donations carried out by individuals and corporations in favour of these kinds of entities has been widely increased.

The entry in force of the main provisions set forth by the Legislative Decree No 117 is subject to the European Commission's authorisation, which as at the time of writing has not yet been released.

IV. Taxation

A. Personal income tax

Pursuant to Italian law, an individual is considered resident in Italy for tax purposes if he or she is registered in the Civil Registry of the resident population or is resident or domiciled in Italy for the greater part of the tax year (ie, more than 183 days of a calendar year). Italian resident individuals are subject to individual income tax (*imposta sul reddito delle persone fisiche* or IRPEF). IRPEF is a progressive tax that applies to the aggregate taxable income of the taxpayer. In particular, five income brackets are provided, each of which has a corresponding tax rate that varies from a minimum of 23 per cent to a maximum of 43 per cent. Local surcharges up approximately three per cent may also apply depending on the taxpayer's region and municipality. A system of tax allowances is provided, depending on the category of income received by the taxpayer. Allowances providing a 19 per cent deduction from taxes of certain personal expenses are granted, along with other allowances providing up to 85 per cent deduction from taxes for expenses within certain thresholds (ie, certain anti-seismic renovations of buildings) or up to 30 per cent deduction from taxes for investments within certain thresholds (ie, investments in innovative startups).

IRPEF is levied on personal income included in any of the following categories: (1) income from immovable property (*redditi fondiari*); (2) income from capital (*redditi di capitale*); (3) income from employment (*redditi di lavoro dipendente*); (4) income from self-employment (*redditi di lavoro autonomo*); (5) business income (*redditi di impresa*); and (6) miscellaneous income, including capital gains (*redditi diversi*).

1. ITALIAN 'RES NON-DOM' REGIME

The budget law for 2017 introduced a favourable and optional Italian 'res non-dom' regime for individuals wishing to move their tax residence to Italy, which entered into force on 1 January 2017. Such a regime represents a more convenient regime than the ordinary one. It provides for a privileged taxation, derogating from the ordinary IRPEF regime related to the determination of Italian resident individuals' worldwide income. Upon option, the 'res non-dom' regime provides for a yearly €100,000 substitute tax on any foreign source income received by new Italian residents. An additional yearly €25,000 substitute tax is due

for each family member benefitting from the same regime. New residents may choose to exclude one or more foreign states from the scope of application of the regime (so-called 'cherry picking'). In such a case, any income arising from an excluded state will be taxed pursuant to the ordinary IRPEF regime. The 'res non-dom' regime is granted for a maximum of 15 tax years. The Italian tax authorities released the implementing rules providing guidance to apply for the regime at hand. In particular, the implementing rules clarified that individuals can apply for the 'res non-dom' regime upon: (1) submission of an income tax return related to the tax period of the transfer of tax residence to Italy (ie, the first tax period of eligibility); or (2) submission of an income tax return related to the tax period following the one in which the tax residence has been moved to Italy (ie, the second tax period of eligibility). The Italian tax authorities also released the Circular Letter No 17/E of 2017 on several interpretive issues concerning the 'res non-dom' regime. In particular, with respect to interposed entities, it is noted that, on the one hand, if non-Italian resident companies held by the new Italian residents are considered as interposed and then disregarded for Italian tax purposes, the Italian source income arising from the underlying assets of the company would not be covered by the substitute tax. On the other hand, if the non-Italian resident's disregarded foreign companies receive foreign source income, this would in any case be covered by the substitute tax. The same rules would apply to foreign trusts that are deemed to be interposed pursuant to the guidance set forth by the Italian tax authorities.

In addition, pursuant to the Italian tax law, a foreign company is deemed to be Italian resident if its central management and control is in Italy for the majority of the tax period. The Italian tax authorities clarified that such a rule does not apply with respect to foreign companies managed by new resident individuals benefitting from the 'res non-dom' regime, provided that the majority of the board of directors is not composed of Italian resident individuals not benefitting from the same regime.

The Italian tax authorities stated that the Italian controlled foreign companies (CFC) rules do not apply to shareholdings in non-Italian resident companies held by the new Italian resident individuals under the 'res non-dom' regime, provided that the foreign company is resident for tax purposes in a state covered by the substitute tax (ie, cherry-picking option has not been exercised with respect to such a state). Italian CFC rules shall continue to apply to cases where the foreign entity is held through an Italian company; in such a latter case, the Italian CFC rules in fact apply at the level of the Italian entity. Capital gains arising from the disposal of foreign 'qualified' shareholdings are not covered by the substitute tax of the 'res non-dom' regime, if they occurred during the first five tax periods of the application of the regime and the ordinary rules shall therefore apply. For Italian income tax purposes, a shareholding is considered as 'qualified' when the shares represent, in total: (1) a percentage of voting rights in the company's ordinary shareholders' meeting higher than two per cent for listed shares or 20 per cent for unlisted shares; or (2) participation in the share capital higher than five per cent for listed shares or 25 per cent for unlisted shares. Applicants can file a preliminary ruling request before the Italian tax authorities aimed at asking for confirmation:

- on the applicant's eligibility for the 'res non-dom' regime;
- on the tax qualification (as interposed or validly existent for Italian tax purposes) of companies participated in, directly and indirectly, by the applicant; and
- that a given item of income that will be received by the applicant (eg, employment income, directorship fee and pension) is foreign sourced and then covered by the €100,000 substitute tax.

A ruling request can be submitted even before acquiring the Italian residence and is not prejudicial where the individual decides not to move to Italy at a later stage. The Italian tax

authorities must reply within 120 days after the submission. Such a deadline can be postponed by a further 60 days if the Italian tax authority asks for further information/documentation (the additional 60-day period runs from the reply to the Italian tax authority's requests).

2. TAX REGIME FOR FOREIGN PENSIONERS MOVING TO ITALY

The budget law for 2019 provided for a new favourable tax regime for individuals holding foreign pensions and moving their tax residence to Southern Italy, entered into force on 1 January 2019. The regime is applicable upon option when an individual, irrespective of his or her age and citizenship: (1) receives a foreign pension paid by a foreign entity; (2) moves his or her tax residence in an Italian municipality having a population not exceeding 20,000 inhabitants and located in one of Italian Southern Regions of Sicily, Calabria, Sardinia, Campania, Basilicata, Abruzzo, Molise and Puglia (or in other municipalities having a population not exceeding 3,000 inhabitants and listed in Law Decree No 189 of 17 October 2016); and (3) has not been resident for tax purposes in Italy for at least five tax periods prior to the period in which the option becomes effective. The regime derogates from the ordinary IRPEF regime and provides for the application of a flat tax at a seven per cent rate on any foreign source income. Any domestic income will be ordinarily taxed. The applicant could choose to exclude one or more income-source countries from the scope of the application of the regime, on a cherry-picking basis. In such a case, any income arising from an excluded state will be taxed pursuant to the ordinary IRPEF regime. In the case of an option for the regime, the domestic tax credit for taxes paid abroad does not apply (except for the states which, according to the cherry-picking criteria, have been excluded from the scope of application of the regime). In this respect, it is worth mentioning that under the current provisions set forth by double tax treaties, in many cases, private pensions paid by institutions or social security bodies in foreign countries to Italian tax residents are taxed only in Italy. Accordingly, the inability of the taxpayer who has opted for the regime to claim for the domestic tax credit for taxes paid abroad will be irrelevant in many cases. The option for the regime has a ten-year validity, is exercised on the income tax return related to the tax period in which the tax residence is transferred to Italy and is revocable, but if revoked, cannot be restored. Finally, the regime cannot be extended to the family members of the relocating individual.

3. ITALIAN INPATRIATE TAX REGIME

The Italian inpatriate tax regime provides for a partial exemption from IRPEF for Italian source employment income, self-employment income and business income. In particular, non-Italian tax resident individuals who transfer their tax residence to Italy pursuant to the Italian domestic rules (ie, they enrol in the registry of the Italian resident population and they have their domicile or residence in Italy for most of a given tax period) shall be subject to IRPEF, for five tax periods, on a portion equal to 30 per cent of their employment income, quasi-employment income, self-employment income and business income. Further reduction of the taxable basis and extensions of the duration of the regime are provided by Italian tax law to the extent that certain conditions are met (eg, purchase of an Italian situs residential property, and presence of children or transfer of residence to certain regions of Southern Italy).

The inpatriate regime would apply if the following conditions are met:

- the individual has not been resident in Italy in the two tax periods preceding the transfer and undertake not to transfer their tax residence abroad before the expiry of two years after the relocation to Italy; in case an outbound transfer occurs within this

two-year period, the tax benefits would be clawed-back, and penalties and interest would apply; and

- the activity is performed in Italy for a period exceeding 183 days (184 in leap years) during the calendar year.

Sportspeople benefitting from the inpatriate regime would be subject to IRPEF on the 50 per cent their salary (rather than on the 30 per cent) and are also subject to a 0.5 per cent surcharge.

Finally, it should be noted that the inpatriate regime and the Italian 'res non-dom' regime cannot be combined in a given tax period.

4. INCOME FROM IMMOVABLE PROPERTY

As a general rule, income deriving from immovable property that is not rented out is determined based on the ordinary average income for cadastral purposes. The ordinary average cadastral income (*rendita catastale*) is set forth by the competent local office for each registered property, taking into account a variety of factors, such as the area where the property is located, its intended destination and the actual features of the property. Also, with respect to land, the relevant income is determined on the basis of the ordinary average income for cadastral purposes. In this case, however, cadastral income is composed of two different items of income: the so-called '*reddito dominicale*' and the so-called '*reddito agrario*'. However, for residential properties that are not rented out, the local property tax (*imposta municipale unica* or IMU) – technically a wealth tax – also absorbs the personal income tax due. For agricultural land that is not rented out, the aforementioned rule applies only partially. Indeed, in such a case, IMU absorbs only the portion of the cadastral income referred to as *reddito dominicale*, while the item of income referred to as *reddito agrario* shall be still subject to personal income tax. Alternatively, where the property is rented out, the relevant income is determined as the higher of the ordinary average cadastral income and the actual rental income adjusted by a flat reduction of up to five per cent. In such a case, the income derived by the individual from the real estate property shall be included in its overall taxable income and subject to IRPEF at ordinary progressive tax rates ranging from 23 per cent to 43 per cent. In the case that the individual is not resident in Italy, he or she will generally have to file an income tax return in Italy in order to report the relevant income from immovable property (as well as other Italian source income, if any). *De minimis* exemptions are provided. Capital gains realised by individuals (either Italian or non-Italian resident), upon disposal of residential properties and agricultural land, are not subject to tax in Italy, provided that the property has been held for at least five years prior to the disposal. If the aforementioned condition is not satisfied, the capital gain (equal to the difference between the sale price and the purchase price, increased of any expenses related thereto, as the notarial fees) shall be included in the ordinary taxable income and subject to tax at progressive rates, as indicated above. However, as an alternative, the seller may elect for the application of a 20 per cent substitute tax; this election has to be made within the relevant formal deed of transfer.

5. INCOME FROM CAPITAL AND CAPITAL GAINS

As a general rule, income from capital, if received by private individuals not engaged in entrepreneurial activity, is subject to a substitutive tax or to a withholding tax as a final payment levied at the rate of 26 per cent. Regarding dividends, Italian resident individuals shall be subject to a withholding tax equal to 26 per cent on the full amount of the dividend in the case of a non-qualifying shareholding and for dividends deriving from qualifying shareholding relating to profits accrued starting from 1 January 2018. Dividends deriving from qualifying shareholding related to profits accrued before 1 January 2018 and

distributed by 31 December 2022 shall be taxed at progressive rates as follows: the 49.72 per cent of the amount received for profits accrued starting from 2008 up until 31 December 2016 and the 58.14 per cent for profits accrued during 2017 will be taxed at progressive rates. Capital gains deriving from the transfer of shares or securities give rise to the category of miscellaneous income (*redditi diversi*). For Italian resident individuals, capital gains on the transfer of shares shall be subject in Italy to a 26 per cent substitute tax. Regarding capital gains arising from transfer of securities other than shares, Italian individuals are subject to a 26 per cent substitute tax. With specific regard to the calculation of the capital gain, the taxable basis is represented by the difference between the consideration paid by the purchaser and the acquisition cost; note that the budget law for 2021 extended an optional step-up regime providing for the payment of an 11 per cent substitutive tax on the total value of non-listed shareholding determined by an expert appraisal.

The tax compliance is regulated under three different regimes. Under the tax return regime (*regime della dichiarazione*), which is the standard regime for taxation of capital and miscellaneous income realised by Italian resident individuals not engaged in entrepreneurial activity, the substitute tax on capital gains will be chargeable, on a cumulative basis, on all capital gains, net of any incurred capital loss. These individuals must report overall capital gains realised in any tax year, net of any relevant incurred capital loss, in the annual tax return to be filed with the Italian tax authorities for such a year and pay the substitute tax on such gains together with any balance on income tax due for such a year. Capital losses in excess of capital gains may be carried forward against capital gains realised in any of the four succeeding tax years.

As an alternative to the tax return regime, Italian resident individuals not in connection with entrepreneurial activity may elect to pay the substitute tax separately on capital gains realised on each transfer of shares pursuant to the so-called '*risparmio amministrato*' regime (*regime del risparmio amministrato*). Such a separate taxation of capital gains is allowed subject to: (1) the shares being deposited with authorised banks, *società di intermediazione mobiliare* (SIM) or certain authorised financial intermediaries; and (2) an express election for the *risparmio amministrato* regime being made promptly in writing by the relevant shareholder. The financial intermediary, on the basis of the information provided by the taxpayer, accounts for the substitute tax in respect of capital gains realised on each operation, net of any previously incurred capital loss, and is required to pay the relevant amount to the Italian tax authorities on behalf of the taxpayer, deducting a corresponding amount from proceeds to be credited to the shareholder. Under the *risparmio amministrato* regime, where a share transfer results in capital loss, such a loss may be deducted from capital gains subsequently realised in the same tax year or in the following tax years up to the fourth year. Under the *risparmio amministrato* regime, the shareholder is not required to declare capital gains in his or her tax return.

As a third alternative regime, any capital gains realised by Italian resident individuals holding financial activities not in connection with entrepreneurial activity who have elected for the Asset Management Option (*'risparmio gestito'*) will be included in the computation of the annual increase in value of the managed assets accrued, even if not realised, at year-end, subject to the asset management tax to be applied on behalf of the taxpayer by the managing authorised intermediary. Under the Asset Management Option, any depreciation of the managed assets accrued at year-end may be carried forward against any increase in value of the managed assets accrued in any of the four succeeding tax years. Under the Asset Management Option, the taxpayer is not required to report capital gains realised in his or her tax return.

6. TAXATION ON TRUSTS DISTRIBUTION

The tax residence of trusts is determined according to the general principles set forth for other entities subject to corporate income tax. In particular, entities are considered to be resident in Italy when, for the greater part of a taxable year, either their legal seat, or place of management or main purpose is in the Italian territory. Non-resident trusts are taxable on any Italian source income only. The law provisions of the Finance Act for 2007 also introduced a set of presumptions under which certain trusts shall be regarded as resident of Italy for income tax purposes, provided certain conditions are met. These presumptions can be rebutted subject to evidence that the trust's effective place of management and main purpose were not located in Italy for more than 183 days in a given taxable year. Further, the law provisions set out a distinction between opaque trusts (ie, discretionary trusts) and transparent trusts (ie, trusts whose beneficiaries are identified). According to the tax authorities' interpretation, a beneficiary shall be regarded as identified when he or she is not only named among the trust's beneficiaries but also has an actual and enforceable right to claim the payment of his or her share of the trust's income. Income realised by an opaque trust is subject to corporate income tax in the hands of the trust itself. On the contrary, a transparent trust is regarded as a flow-through entity for corporate income tax purposes, as its income is taxable in the hand of the beneficiaries on an accrual basis – regardless of any actual distribution – in the same proportion as indicated in the trust deed or in other subsequent deeds or, in the lack of any such provisions, in equal parts. In this case, the Italian resident beneficiaries will have to include their respective share of the trust income in their own Italian tax return, to be subject to personal income tax at progressive rates (up to 43 per cent, plus local surcharges). Regarding income taxation of the beneficiaries, any distributions made by an opaque trust is not subject to income tax in the hands of the beneficiaries.

According to Article 13 of Decree No 124 of 27 October 2019, income distributions made by opaque trusts established in 'low-tax jurisdictions' qualify as income from capital subject to IRPEF up to 43 per cent rate (plus local surcharges) in the hands of the Italian tax resident beneficiaries. The trust is considered as located in a low-tax jurisdiction if the tax rate applicable in such jurisdiction is lower than 50 per cent of the tax rate that would have applied if the entity had been resident of Italy. Furthermore, according to a presumption set forth by the new rule, distributions made by non-Italian tax resident opaque trusts to Italian resident beneficiaries must be regarded as income distributions, unless there is adequate evidence that the amounts distributed represent capital. In principle, new rules apply to distributions made as from 1 January 2020; however, the explanatory notes to the income tax return related to tax period 2019 also apply the new rules to income distributions made during tax period 2019.

Finally, it is worth noting that the Circular Letters No 43/E of 2009 and No 61/E of 2010, issued by the Italian tax authorities, listed some cases in which a trust should be considered an interposed entity for tax purposes: (1) a trust which settlor (or beneficiary) can terminate at any moment; (2) a trust in respect of which the settlor has the discretion to appoint himself as beneficiary; (3) a trust in respect of which the settlor or the beneficiary have such powers that the trustee cannot freely exercise its powers without the consent of the same settlor or beneficiary; and (4) a trust which settlor has the right to modify the beneficiaries. In case a trust is regarded as interposed for income tax purposes, the assets of the trust fund are considered as directly held by the ultimate owner (the settlor and/or beneficiaries as the case may be) and the income is directly attributed to such ultimate owner and taxed accordingly. Any distribution made by the disregarded trust to the settlor and/or beneficiaries should not be relevant for income tax purposes.

B. *Inheritance and gift tax*

1. OVERVIEW

Inheritance tax and gift tax are provided by Presidential Decree No 346 of 31 October 1990. Regarding inheritance tax, the taxable event is the *mortis causa* transfer to the heir(s) or to the legatee. Transfers upon death but not *mortis causa* are not subject to inheritance tax (eg, the consolidation of the bare ownership with the usufruct is not subject to inheritance and gift tax). For gift tax purposes, the taxable event is represented by the gift *inter vivos* and the creation of liens on assets for a specific purpose. Both the taxes aim to affect the net increase of patrimony resulting after the succession on death or gift dispositions.

For the sake of completeness, it is worth pointing out that, according to the interpretation generally put forward by the Italian tax authorities, any trust deed providing for the transfer of assets to the trust is subject to the inheritance and gift tax upon the initial transfer (from the settlor to the trustee). Such an interpretation has been rejected by several judgments issued by the Italian Supreme Court, according to which inheritance tax would apply only to the final transfer of the assets in favour of the beneficiaries. Finally, in a recent reply to a ruling request, the Italian tax authorities seemed to acknowledge the consolidated view of the Supreme Court (taxation upon the subsequent distribution of assets to the beneficiaries, rather than upon the initial settlement of assets in trust). The application of the relevant rates is made on the basis of the relationship existing between the settlor and the beneficiaries.

2. DOMICILE AND RESIDENCY

Inheritance and gift tax, previously abolished in 2001, was reinstated in 2006 in the Italian tax system. Italian law provides for a worldwide system for inheritance and gift tax purposes. Regarding the territorial scope of application, the following rules would apply: (1) if the deceased (or donor) was resident in Italy at the time of death (or when the gift was made), inheritance and gift tax would apply on all assets, wherever located; (2) on the contrary, where the deceased (or donor) was not resident in Italy at the time of death (or when the gift was made), inheritance and gift tax would only apply on Italian situs assets. The rules governing the territorial scope of the inheritance and gift tax are based on the residence of the deceased (or donor) at the time of death (or when the gift was made). In the case of a non-resident deceased/donor, only the assets located in Italy are subject to inheritance and gift tax. No relevance is attributed to nationality/citizenship and to the domicile of the deceased/donor. For the purposes of the application of inheritance and gift tax, the term 'resident' is not specifically defined. Thus, the qualification of the term 'resident' has to be identified on the basis of Article 43 of the Civil Code, which sets forth that the residence is the place where a person has his or her habitual abode. The habitual abode is verified through the connection with a specific immovable property and the intent to habitually reside there. It should be noted that only a few double tax treaties for the avoidance of double taxation with respect to taxes on inheritances and gifts are in force (those concluded with France, the United Kingdom, Greece, Denmark, Israel, Sweden and the United States).

Under domestic provisions, foreign tax payable in another state in relation to assets located in that state can be deducted from the Italian inheritance and gift tax up to its amount, as computed in proportion to the value of the relevant property. Italian law provides an unchallengeable presumption, based on which certain assets are deemed to be located in Italy. In particular, the following assets are considered located in Italy for inheritance and gift tax purposes:

- assets enrolled in the public registers in Italy (eg, cars);

- shares and quotas of Italian resident companies if their registered office (or legal seat), place of effective management or main business purpose is in Italy;
- bonds and other securities, other than shares, issued by the Italian Government or by Italian resident companies if their registered office (or legal seat), place of effective management or main business purpose is in Italy;
- securities representing goods, which are located in Italy;
- receivables and cheques if the debtor/issuer is resident in Italy;
- receivables linked to goods located in Italy; and
- goods in transit with the final destination within Italy.

3. RATES OF INHERITANCE AND GIFT TAX

The tax rates of inheritance and gift tax do not depend solely on the amount received by each beneficiary/donee, but also on the proximity of the relationship between the deceased/donor and the beneficiary/donee. Under the provisions currently in force, transfers of assets and rights as a result of death, donation or other gratuitous transfers are subject to inheritance and gift tax as follows:

- transfers in favour of spouses and direct descendants or direct ancestors are subject to tax at the rate of four per cent, on the value exceeding €1m;
- transfers in favour of siblings are subject to tax at the rate of six per cent, on the value exceeding €100,000;
- transfers in favour of relatives up to the fourth degree or relatives-in-law up to the third degree are subject to tax at the rate of six per cent; and
- any other transfer is subject to tax at the rate of eight per cent.

If the transfer is made in favour of persons with disabilities, the tax applies on the value exceeding €1.5m. The allowance applies to each beneficiary (eg, in the case of a property worth €3m that is inherited by the spouse and a child in equal parts, each beneficiary would have a share of €1.5m. Such an amount can be reduced by the €1m personal allowance; therefore, each beneficiary would have a taxable inheritance of €0.5m, on which the four per cent tax would be payable).

Notwithstanding the above, certain special exemptions are set forth by law. Inheritance and gift tax are strictly related. In order to avoid a duplication of the benefit of the allowances, the exempt amount is eroded by the previous gifts that effectively benefitted from the exemption. It is worth noting that cadastral and mortgage taxes would be levied on any transfer of Italian-situs real estate, either *inter vivos* or *mortis causa*, at an aggregate rate of three per cent. Cadastral and mortgage taxes apply on the same tax base provided for inheritance and gift tax purposes. Such taxes apply to the transfers of immovable properties located in Italy, regardless of whether such transfers are exempt for inheritance and gift tax purposes.

4. EXEMPTIONS

Exemptions from inheritance and gift tax are provided for *mortis causa* transfers of certain assets. Assets of cultural value that have been recognised as such by an Italian competent authority (ie, Ministero dei Beni Culturali) prior to the death of the individual are exempt from inheritance tax. A 50 per cent exemption applies to Italian immovable property of cultural value recognised as such after the disposing individual deceased. Public debts securities (issued by the Italian Government and by EU/European Economic Area (EEA) countries) and insurance policies are also exempt for inheritance tax purposes only. Transfers in favour of the state, regions, provinces and municipal districts are exempt. Transfers in favour of government bodies, foundations, *organizzazione non lucrativa di utilità sociale*

(ONLUS) or legal associations that have assistance, study, scientific research, education or similar public utilities, are exempt too. An exemption applies to transfer of a business or of a participation in companies or partnerships in favour of the spouse or descendants (ie, sons/daughters and nephews/nieces), provided that they carry out an effective business activity for at least five years. This exemption applies only if the recipient receives a controlling stake or achieves control of the company taking into account other participations owned before the transfer. Transfers of interest in commercial partnerships are exempt for inheritance and gift tax purposes also in case the considered heir/donee does not acquire or attain control over the partnership. The latter exemptions should apply also in the case of transfer of participations in non-resident partnerships. The Italian tax authorities have clarified that the exemption applies: (1) to the transfer of a controlling shareholding in joint ownership to the descendants; and (2) to transfer of a controlling shareholding in favour of a trust, whose beneficiaries are descendants or the spouse of the settlor. For direct tax purposes, the *mortis causa* transfer of a participation does not trigger the taxation of the latent capital gains in the hands of the heir; moreover, the tax base of the participation transferred is stepped up to the value declared for inheritance tax purposes. An exemption from inheritance and gift tax was provided starting from 2017 for assets contributed to a trust in favour of people with severe disabilities along with mortgage and cadastral taxes applied at a flat fixed amount to the same contributions. An exemption is also provided under the Italian 'res non-dom' regime, according to which inheritance and gift tax shall exclusively apply to assets and rights located in Italy during the period of validity of the option made for such a regime by the deceased or donor.

5. VALUE OF THE ASSETS

The methods of valuation of the assets depend on the category of assets transferred. As a general rule, the taxable basis for inheritance and gift tax purposes is the fair market value of the transferred assets at the moment of death or gift. Regarding immovable property, the taxable base is the fair market value; this being said, the Italian tax authorities cannot assess the value declared if it is at least equal to the 'cadastral value' (*valore catastale*) of the assets. The cadastral value is a 'standard' value, to be determined by multiplying the ordinary average income (*rendita catastale*) set by the competent local office for each registered property for a specific coefficient. The reference to the cadastral value as the taxable amount may result in significant tax savings, given that it is normally lower than the market value. The value of unlisted participations corresponds to the proportional quota of the company's net equity, as resulting from the last financial statements approved without computing the value of government debt securities or any other exempt asset held by the considered entity. Increases occurred until the date of succession must be taken into account. The value of the listed participations is equal to their average market price in the 90-day period prior to the succession's opening or the gift. The value of an enterprise transferred by succession is equal to the value of its comprehensive assets reduced by the business's losses and excluding the goodwill.

6. TAXATION OF THE TRANSFER OF ASSETS TO TRUSTS

According to the interpretation generally put forward by the Italian tax authorities, any trust deed providing for the transfer of assets to the trust (*atto dispositivo*) is to be regarded as a gratuitous transfer, being therefore subject to inheritance and gift tax at proportional rates. In particular, 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. In any case, pursuant to the Italian tax authorities' interpretation, the eight per cent rate shall be levied when: (1) the beneficiaries of the trust are persons other than those benefiting from the reduced rates; or (2) the trust

has no beneficiaries (ie, purpose trust); or (3) the beneficiaries cannot be identified (eg, in the case of discretionary trusts). Any subsequent transfer of the trust's assets to the beneficiaries does not trigger the application of inheritance and gift tax. It is worth noting that such an interpretation has been rejected by several judgments issued by the Italian Supreme Court, according to which the ownership of assets in favour of a trustee on a trust settlement shall be regarded as having a mere 'temporary nature', while the effective transfer of the ownership should occur solely at a later stage – that is, when such assets are transferred to the beneficiaries; therefore, inheritance tax would apply not to the initial transfer of assets from the settlor to the trustee, but rather to the final transfer from the trustee to the beneficiaries. Therefore, under these considerations endorsed by the Supreme Court, mortgage and cadastral taxes, when triggered by a contribution of assets to a trust, shall be all applied at fixed flat rates. Note that the interpretation endorsed by the Italian Supreme Court, according to which the transfer of assets on trust settlement does not consist of an effective transfer of ownership, may also be considered as a confirmation regarding the fact that contribution of assets on trust settlement does not necessarily entail a 'restriction on use' (*vincolo di destinazione*) and could therefore be out of the scope of inheritance and gift tax. As mentioned, in a recent guidance, Italian tax authorities seemed to acknowledge the Supreme Court's view.

C. LOCAL PROPERTY TAX

No general 'net worth tax' is levied in Italy. However, any person owning a real estate asset located in Italy (either a building or a land) is subject to the local property tax (ie, the aforementioned IMU), regardless of its status and residence. IMU applies on the 'cadastral value' (*valore catastale*) of the property. The cadastral value is a standard value to be determined by multiplying the ordinary average income (*rendita catastale*) set by the competent local office for each registered property by a specific coefficient (eg, 160 for residential properties and 135 for agricultural land not used in the frame of a farming activity). As stated above, the cadastral value of a given property is usually much lower than its actual market value. IMU applies at the base rate of 0.86 per cent. Depending on the municipality where the property is located, the base rate can be increased or decreased by a percentage up to 0.3 per cent. IMU is payable yearly in two instalments, due in June and December of each year. For residential properties that are not rented out, IMU also absorbs the personal income tax due in relation to those properties. The same rule also applies, with certain limitations, to agricultural land which are not rented out. IMU is only partially deductible with reference to commercial buildings for the purposes of income from self-employment (*redditi di lavoro autonomo*) and business income (*redditi di impresa*), being otherwise not deductible in any other case for income tax purposes.

D. STAMP DUTY

Pursuant to Article 19 of Decree No 201 of 6 December 2011, a proportional stamp duty applies on an annual basis to the periodic reporting communications sent by financial intermediaries to their clients for the securities deposited therewith. Stamp duty applies at a rate of 0.2 per cent and cannot exceed €14,000 for taxpayers other than individuals. This stamp duty is determined on the basis of the market value or, if no market value is available, the nominal value or redemption amount of any financial product or financial instruments. The periodic reporting communications are considered to be sent by the financial intermediary at least once a year, even for instruments for which are not mandatory. In the case of reporting periods of less than 12 months, stamp duty is payable pro rata. Pursuant to the implementing decree issued by the Italian Ministry of Economy on 24 May 2012, stamp duty applies to any investor who is a client of an entity that exercises in any form a banking, financial or insurance activity within the Italian territory.

E. TAX ON FINANCIAL ASSETS HELD ABROAD

Starting from 2012, Article 19 of Decree No 201 of 6 December 2011 introduced a tax on the value of financial assets held abroad by Italian resident individuals (*imposta sul valore delle attività all'estero* or IVAFE). The taxable value is represented by the value of the financial assets. The value is calculated on the basis of the market value, recorded at the end of each calendar year in the place where the assets are held, also using the documentation of the foreign bank or financial institution or, failing that, according to the nominal value of the financial asset. The tax rate for the financial activity held abroad is equal to 0.2 per cent. Taxpayers are entitled to an Italian tax credit equivalent to the amount of wealth taxes paid in the state where the financial assets are held (up to an amount equal to the Italian wealth tax due). An exemption from IVAFE is provided under the Italian 'res non-dom' regime for the entire validity of such regime in the hands of the considered individual.

F. TAX ON IMMOVABLE PROPERTY HELD ABROAD

Italian resident individuals owning immovable property (eg, land, buildings and apartments) located abroad are subject to tax on such immovable property (*imposta sugli investimenti immobiliari all'estero* or IVIE). The taxable base is the value as declared in the purchase agreement or the fair market value set in the country in which the property is located. The tax rate is equal to 0.76 per cent. In respect of immovable property located in an EU country, the tax base is the cadastral value used in the relevant foreign country as the taxable base for the purposes of any property or transfer taxes. In the absence of the cadastral value, the tax base is represented by the cost of the property declared in the transfer documentation, or by the market value of the immovable property. Foreign real estate taxes are creditable against this tax. An exemption from IVIE is provided under the Italian 'res non-dom' regime for the entire validity of such regime in the hands of the considered individual.

G. TAX MONITORING RULES ON FOREIGN ASSETS

Any individual, being resident in Italy for income tax purposes, shall duly report any financial investments and assets held abroad in the tax return. Taxpayers are bound to report the foreign operations and activity also when they may be considered the 'beneficial owner' (*beneficiario effettivo*) of those foreign activity and operations. The Italian tax authorities have clarified the meaning of the term 'beneficial owner' for the purposes of this specific reporting obligation by referring to the definition of 'beneficial owner' set forth by the Italian anti-money laundering laws. In particular, the reporting obligation applies in cases where the foreign operations and activity, although formally owned by a company or other legal entity (eg, foundations or trusts), are instead referable to individuals who – under a look-through perspective – are the 'effective beneficiaries' of the assets. The penalties are set at a minimum of three per cent up to a maximum of 30 per cent of the value of the assets unreported in the tax return. An exemption from this reporting obligation is provided under the Italian 'res non-dom' regime for the entire validity of such regime in the hands of the considered individual.