



A slice of dolce vita

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TAXES ON RESIDENTIAL
PROPERTY IN ITALY

BUYING A RESIDENTIAL property in Italy is subject to four different types of taxes: stamp duty, value-added tax (VAT), mortgage tax (*imposta ipotecaria*) and cadastral tax (*imposta catastale*). VAT and stamp duty are alternatives: if VAT is levied, the stamp duty rate is generally equal to EUR200.

Tax implications vary depending on whether the seller is a VAT entity operative in the construction industry (e.g. construction companies), a private seller or a company other than those aforementioned.

If the seller is a private seller, the property purchase will be subject to:

- a 9 per cent stamp duty rate (with a minimum amount of EUR1,000) to be applied to the cadastral value if the buyer is an individual, or to the purchase price in other cases; and
- a flat rate of EUR50 each for mortgage tax and cadastral tax.

The same rates apply if the seller is a construction company and the sale is realised after five years from the completion of the work.

On the contrary, if the seller is a VAT entity operative in the construction industry and the sale takes place within five years from the completion of the work, the property purchase will be subject to:

- a 10 per cent VAT rate (22 per cent for luxury homes) to be applied on the purchase price stated on the deed of sale; and

- a flat rate of EUR200 each for stamp duty, mortgage tax and cadastral tax.

The same rates and taxable basis apply to land that may be considered as strictly connected (*pertinenza*) to the property.

Based on the above, it may be concluded that, in the case of private sellers, the purchase by an individual is the most tax effective, as only individuals can benefit from the taxable basis for transfer tax based on cadastral value.

TAXES ON PROPERTY OWNERSHIP

A local property tax on lands and buildings, the unique municipal tax (IMU), is due on the cadastral value of the property.¹ The IMU rate varies for each cadastral class and municipality. Generally speaking, tax rates may vary between 0.46 per cent (0.4 per cent in some cases) and 1.06 per cent of the cadastral value, depending on the municipality where the real estate property is located. IMU is not due if the property is the principal dwelling of the individual.²

INCOME TAXES

While Italian tax residents are subject to tax in Italy pursuant to the 'worldwide principle taxation', non-tax residents

➡ KEY POINTS

WHAT IS THE ISSUE?

From an Italian tax perspective, land and buildings are subject to different taxes that affect their income, possession as assets and transfer.

WHAT DOES IT MEAN FOR ME?

Under Italian tax law, taxes on the purchase of residential real estate can be divided into three categories: taxes on the transfer of the property, ownership of the property and income produced.

WHAT CAN I TAKE AWAY?

The aforementioned taxes may be different depending on whether the buyer is an individual, an Italian or foreign limited company, or an Italian non-commercial company (the so-called *società semplice*).

FOCUS ON
EUROPE
ITALY: TAX ON PROPERTY

– both individuals and companies – are required to pay taxes only on income generated in Italy (e.g. rental income from properties located in Italy).

If real estate is owned by an individual for renting purposes, the income is subject to the personal income tax (IRPEF), applying the progressive income tax bracket rates of 23 to 43 per cent.

The taxable basis generally corresponds to the highest amount between: the cadastral income increased by 5 per cent, and 95 per cent of the rental income referring to the relevant tax period (even if not actually collected, with some exceptions).

Pursuant to the OECD *Model Tax Convention*, income derived by a non-Italian tax resident from immovable property situated in Italy is generally taxed in both countries, with the possibility to avoid a double taxation through the application of art.23 of the Convention.

For individuals, the rental income can alternatively be subject, on the lessor's option, to the flat-rate tax scheme (*cedolare secca*) of 21 per cent.

If a non-commercial company owns the property for rental purposes, the taxable amount, as above determined, is subject to the personal income tax that is levied upon the partners.

If the Italian property is held through a limited company (Italian or foreign), the same taxable amount is subject to corporate tax (IRES) of 24 per cent and a 3.9 per cent regional tax on productive activities (IRAP). The dividends distribution from the Italian limited company to the individual who owns the shares is generally subject to taxation both in Italy and in the jurisdiction of residence. However, the application of the single double-tax treaty, if any, would reduce the double taxation.

It should be highlighted that, even in the absence of rental use, Italian real estate properties give rise to a taxable income. Nevertheless, for non-rented residential properties held by an individual, or through an Italian *società semplice*, no personal income tax is due, as the IMU is levied.

On the contrary, for Italian and foreign limited companies,³ IRES and IRAP are applicable on the cadastral value.

Capital gains arising from the sale of Italian properties are taxable in Italy, regardless of the tax residence of the owner. In this regard, the yearly due taxes might be the following: IRES (for Italian and foreign limited companies), IRAP (for Italian and foreign limited companies) or IRPEF (for individuals and partners of Italian non-commercial companies).

Nevertheless, for foreign limited companies, non-commercial companies and individuals, there is no capital gains tax for properties owned for five years or more. Finally, if the owner/seller is an individual and the sale takes place within five years from the date of purchase, capital gains arising upon disposal of real estate properties can be subject to a flat tax of 20 per cent, which can be elected instead of ordinary personal income tax.

In the case of ownership through an Italian company, an alternative is to sell the shares of the company. In this event, the gain may be out of the scope of Italian taxation, based on the provision of art.13 of the applicable double-tax treaty that provides that gains from the alienation of any property shall be taxable only in the contracting state of which the alienator is resident.⁴

INHERITANCE TAX

With reference to inheritance tax (IHT), the distinction should be made as to whether or not the individual holds the real estate property directly or indirectly through a corporate vehicle. This is because of the following, pursuant to Italian tax law:

- If the property was held directly by an individual, the heirs shall file a return and pay mortgage and cadastral tax (3 per cent) together with IHT on the cadastral

value of that property (transfers made in favour of a spouse and linear relatives are subject to 4 per cent tax with a nil-rate band of EUR1 million for each heir).⁵

- If the individual held the shares of an Italian limited company, the heirs shall file a return and pay IHT on the latest available net book value (the net worth) of the company.
- If the individual held the shares of an Italian *società semplice*, the heirs shall file a return and pay IHT on the total value of assets and rights belonging to the company, net of liabilities.
- If the individual was not tax resident in Italy and held the shares of a foreign limited company, no IHT would be applicable to shareholdings.⁶

¹ The requirement for the application of the local property tax is the ownership of real estate such as buildings, building areas and lands for any use, including properties that represent the company's stock-in-trade or are used in the course of business, as well as property rights such as usufruct, use or building lease ² Except if the property is classified under categories A1/A8/A9, for which the ordinary tax rate is equal to 0.4 per cent ³ If an Italian limited company holds only the residential property and does not conduct any other commercial activity, it is considered a non-operating company. Consequently, the taxable income will be determined by applying a flat rate to the immovable property book value (gross of any depreciation). Moreover, the IRES rate suffers an increase equal to 10.5 per cent ⁴ On 7 June 2017, Italy signed the *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS*, which provides (see art.9, para 4) that, for purposes of a Covered Tax Agreement, gains derived by a resident of a contracting jurisdiction from the alienation of shares may be taxed in the other contracting jurisdiction if, at any time during the 365 days preceding the alienation, these shares derived more than 50 per cent of their value directly or indirectly from immovable property (real property) situated in that other contracting jurisdiction. This provision shall apply to a Covered Tax Agreement only where all contracting jurisdictions have made such a notification. Italy has notified this choice, but the applicability of this paragraph to the single tax treaty should be verified on a case-by-case basis. According to this provision, art.13 of many tax treaties stipulated by Italy could be subject to changes ⁵ In the other cases, depending on the relationship of the heir with the deceased, IHT is equal to 6 per cent for siblings and close relatives (up to fourth degree of kinship). Each sibling is entitled to an allowance of EUR100,000; and 8 per cent for any other subject, without allowance ⁶ See art.2, para 2 of Law Decree n. 346/1990. Nevertheless, in this specific case, it should be verified that the company is not presumed to be located in Italy pursuant to art.73 of the Italian *Income Tax Code*



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