

A checklist

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For the practitioner. Before advising on a legacy Italian position in Lugano:

- Identify the beneficial owner and his tax residence for every year since 2009, and check whether an Italian citizen who moved to Switzerland before 2024 was subject to the presumption of residence under Art. 2 para. 2-bis TUIR.
- Establish whether the assets were declared under the *scudo* (2001–2003 or 2009– 2010), the voluntary disclosure (2015) or the voluntary disclosure bis (2017), and obtain the documents: confidential declaration, fiduciary mandate, application and the Agenzia's final assessment.
- Determine the open tax years under Art. 43 DPR 600/1973 and, for years up to 2023, the doubled periods under Art. 12 DL 78/2009.
- Quantify the *quadro RW* penalties (3–15 per cent, or 6–30 per cent for black-list years), the IVAFE and the tax on income, and examine the *ravvedimento operoso*.
- Assess the criminal exposure under Legislative Decree No. 74/2000 and Art. 648-ter.1 of the Criminal Code, and in Switzerland under Art. 305bis para. 1bis SCC for income of years since 2016.
- Check whether the account fell within a group request (closure after an exit letter between 23 February 2015 and 31 December 2016) or appeared in the automatic exchange since 2017, and whether the client has received a compliance letter.
- For heirs: file a complete declaration of succession, declare the assets in the heirs' *quadro RW* from the year of acquisition and transfer the assets transparently.

1 The role of the Swiss adviser

A Swiss adviser cannot regularize an Italian tax position. The procedures are Italian, the penalties are Italian and the decisions about disclosure belong to the client and his Italian tax adviser. The Swiss adviser's contribution lies in establishing the facts held in Switzerland: the account history, the dates of opening, closure and transfers, the identity of the beneficial owners of structures, the dates of exit letters and the content of the bank's files. These facts determine which Italian years are open,

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whether a group request may have reached the client and whether the bank has filed or will file a report. A Swiss lawyer must also consider his own position. A lawyer acting as a financial intermediary, for example as an organ of a domiciliary company holding the assets, is subject to the Anti-Money Laundering Act and its reporting duty. A lawyer acting only as counsel is protected by professional secrecy under Article 321 of the Criminal Code.¹ The distinction must be drawn at the outset of the mandate, before any information is received.

2 Notes

1. AMLA (above), Art. 2 para. 3 (persons who on a professional basis accept, hold on deposit or help to invest or transfer assets belonging to others), <https://www.droit-bilingue.ch/de-en/9/95/955.0-2-5.html>, and Art. 9 para. 2 ("Lawyers and notaries are not subject to the duty to report insofar as they are bound in their activities by professional secrecy in terms of Article 321 SCC"); SCC, Art. 321 (breach of professional confidentiality), <https://www.droit-bilingue.ch/de-en/3/31/311.0-321-389.html>. ↩

For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

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