

Indirect taxes and the reform of 2024

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The inheritance and gift tax treatment of trusts was for years one of the most contested areas of Italian tax law. The tax administration originally took the view that the transfer of assets into a trust was taxable at the moment of contribution, at the rates applicable between settlor and beneficiaries or, failing identifiable beneficiaries, at the highest rate. After a period of conflicting decisions, the Court of Cassation settled on the view that the contribution to a trust does not in itself produce a taxable enrichment. The tax is due only when the beneficiaries actually receive the assets. Circular No 34/E of 2022 adopted this approach of taxation on exit (*tassazione in uscita*): "la dotazione di beni e diritti in trust non integra di per sé un trasferimento imponibile".¹

Legislative Decree No 139 of 2024 codified the rule in the new Art. 4-bis TUS. By default, the tax is levied when the assets are transferred to the beneficiaries, at the rates and with the allowances applicable at that time on the basis of the relationship between the settlor and the beneficiary. The settlor may opt instead for taxation on entry, at the time of the contribution, with the consequence that later distributions are no longer taxable. If the beneficiaries cannot be identified at the time of the optional early payment, the highest rate applies without allowances. No refund is due if the tax later proves to have been too high.² For a parent who settles a trust for the benefit of children, the option for entry taxation can be attractive. The allowance of EUR 1 million per child and the rate of 4 per cent are then fixed at the moment of contribution, so that later growth of the trust fund escapes the tax.

The Italian reporting obligations complete the picture. Italian resident beneficiaries of foreign opaque trusts who qualify as beneficial owners (*titolari effettivi*) under antimoney laundering law must report their interests in the trust and the foreign financial assets attributable to them in section RW of the tax return. The tax on foreign financial assets (IVAFE)

may also apply.³ Chapter G.IV explains these obligations in the wider context of Italian monitoring rules.

1 Trusts in Swiss law and the end of the Swiss trust project

A Swiss law of trusts does not exist and will not exist in the foreseeable future. In 2018 Parliament adopted motion 18.3383, which asked the Federal Council to introduce a trust into Swiss law. The Federal Council opened a consultation on a draft in January 2022 but concluded that the consultation showed no sufficient political consensus, particularly on the proposed tax rules, and on 15 September 2023 decided not to proceed. In its report 23.065 it asked Parliament to write off the motion. The Council of States agreed in December 2023 and the National Council in February 2024, by 125 votes to 61.⁴ Swiss trustees therefore continue to administer trusts governed by English, Jersey, Guernsey, Cayman, Liechtenstein or other foreign laws.

What has changed is the regulation of the trustees themselves. Since the Financial Institutions Act (FinIA, SR 954.1) entered into force on 1 January 2020, professional trustees require an authorization from the Swiss Financial Market Supervisory Authority (FINMA) and are supervised on an ongoing basis by a supervisory organization. Existing trustees had until the end of 2022 to obtain the authorization. A trustee acts on a professional basis if, for example, the gross revenue from the activity exceeds CHF 50,000 a year, if it has more than twenty client relationships or if it has unlimited power of disposal over assets of others exceeding CHF 5 million at any time.⁵ Chapter E.III describes the effect of these rules on the Lugano market for trustees and fiduciaries. In tax matters the Swiss Tax Conference's Circular No 30 of 22 August 2007 governs the treatment of trusts in Switzerland. As a rule, the assets and income of an irrevocable discretionary trust are attributed neither to the trustee nor to a settlor who has died or who lived abroad at the time of settlement. A revocable trust is attributed to the settlor.⁶

Common misconception. It is sometimes said that a trust with a Swiss trustee is invisible to the Italian tax authorities. Since the introduction of the automatic exchange of information, Swiss trustees and the banks holding trust assets report settlors, beneficiaries receiving distributions and other controlling persons resident in Italy. Italian resident beneficial owners must declare their interests in section RW. A trust offers no confidentiality towards the tax authorities. Its value lies in governance, continuity and asset protection within the limits of the law.

2 Notes

1. Circolare n. 34/E (above); Gavi (above). ↩
2. Valentina Guarise, "Successione e trust: cosa cambia con la riforma", We Wealth, 14 November 2024, <https://www.we-wealth.com/news/successione-trust-tassazione> (consulted 5 October 2026), on Art. 4-bis D.Lgs. 346/1990 as inserted by D.Lgs. 18 settembre 2024, n. 139. D.Lgs. 346/1990, Art. 4-bis, at Bosetti & Gatti (above), on the link to "arricchimenti gratuiti dei beneficiari". ↩
3. Gavi (above), on RW reporting by beneficiaries as titolari effettivi and on IVAFE. ↩
4. Année politique suisse, dossier "Einführung des Trusts in die schweizerische Rechtsordnung", <https://anneepolitique.swiss/dossiers/1054-dossier-einfuehrung-des-trusts-in-die-schweizerische-rechtsordnung.pdf> (consulted 5 October 2026); Goldblum, "Stiftung oder Trust", September 2026, <https://goldblum.ch/de/wissensdatenbank/stiftung-oder-trust/> (consulted 5 October 2026), on the decision of 15 September 2023. ↩
5. Praxis Group, "Five years of FINMA supervision: what it means for Swiss trustees and their clients", 12 March 2026, <https://www.praxisgroup.com/news-insights/insights/five-years-of-finma-supervision-what-it-means-for-swiss-trustees-and-their-clients/> (consulted 5 October 2026). Federal Act on Financial Institutions of 15 June 2018 (FinIA), SR 954.1, Art. 2(1)(b), <https://www.droit-bilingue.ch/de-en/9/95/954.1-2-5.html>, Art. 17, <https://www.droit-bilingue.ch/de-en/9/95/954.1-17-20.html>, and Art. 74(2) (report within six months, authorization application within three years), <https://www.droit-bilingue.ch/de-en/9/95/954.1-74-77.html>; Financial Institutions Ordinance (FinIO), SR 954.11, Art. 19 (commercial basis), <https://www.droit-bilingue.ch/de-en/9/95/954.11-19-22.html> (all consulted 5 October 2026). ↩
6. Schweizerische Steuerkonferenz, Kreisschreiben Nr. 30 "Besteuerung von Trusts", 22 August 2007. ↩

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