

Quadro RW, IVAFE and the penalties

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The second question concerns the monitoring obligations. An Italian resident who holds a Swiss account, directly or as beneficial owner of an entity, must declare it in the *quadro RW* of his annual income tax return. The penalty for omission under Article 5 paragraph 2 of Decree-Law No. 167 of 1990 is 3 to 15 per cent of the undeclared amount, doubled to 6 to 30 per cent for assets in black-listed states. A return filed within ninety days of the deadline is subject to a fixed penalty of EUR 258.¹ The Legislative Decree No. 87 of 14 June 2024 on the reform of tax penalties changed the penalty for undeclared income presumed under Article 12 of Decree-Law No. 78 of 2009 for violations committed from 1 September 2024.² In addition the holder owes the tax on the value of foreign financial assets (*imposta sul valore delle attività finanziarie detenute all'estero*, IVAFE). The rate is 2 per mille of the value of financial products, raised to 4 per mille from 2024 for products held in states on the list of 1999. Current and savings accounts are subject to a fixed charge of EUR 34.20 per year.³ Since Switzerland left that list from 1 January 2024, Swiss assets bear the ordinary rate.

The income tax on the undeclared income follows the ordinary rules: Italian substitute taxes of 26 per cent on most financial income, or progressive income tax where the income is not subject to the substitute regime. Where the presumption of Article 12 applies, the tax authority may tax the undeclared capital itself as concealed income of the year in which it is found, a consequence that can be far more serious than the tax on the yield.⁴ The thresholds of the criminal tax offences in Legislative Decree No. 74 of 2000 must be checked for each year, because inaccurate or omitted declarations above those thresholds constitute crimes, which in turn may be predicate offences to selflaundering under Article 648-ter.1 of the Criminal Code.⁵

1 Heirs and inherited accounts

For heirs the Italian rules contain an important protection. Under Article 8 of Legislative Decree No. 472 of 18 December 1997, administrative tax penalties are not transmitted to the heirs. The Agenzia delle Entrate confirmed in circular No. 29/E of 7 August 2015 that heirs cannot be asked to pay the penalties relating to violations of the deceased, although they remain liable for the taxes and interest owed by him.⁶ The heirs' own obligations begin with the succession. They must include the foreign assets in the declaration of succession (*dichiarazione di successione*), which must be filed within one year of the opening of the succession. They must also declare their share of the assets in their own *quadro RW* from the year in which they acquired it.⁷ A complete and timely declaration of succession protects them from penalties relating to the deceased's earlier non-disclosure. Heirs who discover undeclared foreign assets after the deadline can file within twelve months of the discovery if they can show that they were previously unaware of them.⁸

The decisive risk for heirs lies in what they do next. An heir who accepts the inheritance, fails to declare the Swiss assets and continues to hold or move them in a concealing manner exposes himself to penalties of his own. Depending on his role, he may also face criminal exposure: self-laundering if the inherited money derives from tax crimes in which he participated, or laundering under Article 648-bis of the Criminal Code if he did not participate.⁹ From the Swiss side the bank will ask for the certificate of inheritance and, under its anti-money laundering duties, for the tax status of the heirs. A transfer to the heirs' Italian accounts with a complete declaration of succession is the usual and safest route.

2 Notes

1. Migliorini, "Quadro RW" (above); also Massimiliano Campeis, "Eredità all'estero, cosa fare", *We Wealth*, 26 November 2020, <https://www.we-wealth.com/?p=7776>. ↩
2. Migliorini, "Quadro RW" (above), stating that "per le violazioni commesse dal 1° settembre 2024, con il D.Lgs. n. 87/2024, la sanzione applicabile è del 120% dell'imposta dovuta e non versata". Legislative Decree No. 87 of 14 June 2024, "Revisione del sistema sanzionatorio tributario, ai sensi dell'articolo 20 della legge 9 agosto 2023, n. 111", was published in *Gazzetta Ufficiale* No. 150 of 28 June 2024, https://www.gazzettaufficiale.it/gazzetta/serie_generale/caricaDettaglio?dataPubblicazioneGazzetta=2024-06-28&numeroGazzetta=150. ↩

3. Ennio Vial, "La nuova Ivafe paradisiaca nella recente circolare n. 3/E/2024", Euroconference News, 21 February 2024, <https://www.ecnews.it/fiscale/fisco-e-patrimonio/fisco-internazionale/la-nuova-ivafe-paradisiaca-nella-recente-circolare-n-3-e-2024/> (Art. 19 para. 20 DL 201/2011; Law No. 213/2023, Art. 1 para. 91 lit. b; circular No. 3/E of 2024). ↩
4. Migliorini, "Quadro RW" (above), stressing that the presumption applies to the entire value of the assets. Decree-Law No. 66 of 24 April 2014, "Misure urgenti per la competitività e la giustizia sociale", Gazzetta Ufficiale No. 95 of 24 April 2014, https://www.gazzettaufficiale.it/gazzetta/serie_generale/caricaDettaglio?dataPubblicazioneGazzetta=2014-04-24&numeroGazzetta=95. ↩
5. Legislative Decree No. 74/2000, Art. 4 (inaccurate declaration: tax evaded above EUR 100,000 for any single tax and undeclared income above 10 per cent of the income declared or in any case above EUR 2 million) and Art. 5 (omitted declaration: tax evaded above EUR 50,000), in the versions resulting from Art. 39 para. 1 of Decree-Law No. 124 of 26 October 2019, text in Brocardi.it, <https://www.brocardi.it/legge-sui-reati-tributari/titolo-ii/capo-i/art4.html> and <https://www.brocardi.it/legge-sui-reati-tributari/titolo-ii/capo-i/art5.html>. ↩
6. Agenzia delle Entrate, circular No. 29/E of 7 August 2015, https://www.agenziaentrate.gov.it/portale/documents/20143/298505/Circolare+29E+del+7+agosto+2015_circolare+intrasmissibilit%C3%A0+sanzioni+eredi.pdf/20e3556c-8286-29a6-5138-ba69143ea316 ("agli eredi non possa essere richiesto il pagamento delle sanzioni"). ↩
7. Campeis (above). ↩
8. Campeis (above), referring to Art. 31 of the consolidated act on succession and gift tax. The succession and gift tax was recast by Legislative Decree No. 139 of 18 September 2024, "Disposizioni per la razionalizzazione dell'imposta di registro, dell'imposta sulle successioni e donazioni, dell'imposta di bollo e degli altri tributi indiretti diversi dall'IVA", Gazzetta Ufficiale No. 231 of 2 October 2024, https://www.gazzettaufficiale.it/gazzetta/serie_generale/caricaDettaglio?dataPubblicazioneGazzetta=2024-10-02&numeroGazzetta=231. ↩

9. Campeis (above), mentioning penalties and the risk of self-laundering for heirs who fail to declare. ↩

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