

Switzerland and the Italian blacklist

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Until 2023 a further rule made the move to Switzerland particularly difficult. Under Art. 2(2-bis) TUIR, Italian nationals who cancelled their registration and moved to a state listed in the Ministerial Decree of 4 May 1999 as having a privileged tax regime were presumed to remain resident in Italy unless they proved the contrary. Switzerland had been on that list since 1999. Italians who moved to Lugano therefore had to prove that their move was real, with the consequence that the burden of proof in any dispute lay on them. The Ministerial Decree of 20 July 2023, published in the Gazzetta Ufficiale No 175 of 28 July 2023, removed Switzerland from the list with effect from the 2024 tax period. The legal basis was Law No 83 of 13 June 2023, which ratified the new agreement on the taxation of cross-border workers and provided for Switzerland's removal from the list.¹

The removal has three consequences. First, the presumption of continued Italian residence no longer applies to Italian nationals who move to Switzerland, so that the Italian tax authorities must prove the elements of Italian residence. Second, the doubled penalties and extended assessment periods that applied to undeclared assets in listed states no longer apply to new Swiss holdings. Third, the presumption of Art. 12 of Decree-Law No 78 of 2009, under which undeclared assets in listed states were presumed to derive from untaxed income, no longer applies to Swiss assets for the future.² Chapter E.II describes the role these presumptions played in the voluntary disclosure era. For families planning a move to Ticino after 2024 the change is significant. The legal framework now treats Switzerland like any other state with which Italy exchanges information.

Common misconception. Many Italian families believe that registration with the AIRE ends Italian tax residence. Under Art. 2(2) TUIR as amended by D.Lgs. 209/2023, registration is only a rebuttable presumption, and residence also exists if the person has the domicile, the civil-law residence

or physical presence in Italy for the greater part of the year. A family that registers in Lugano while the spouse and children continue to live in Milan remains exposed to the claim that its head is still resident in Italy.

1 Treaty residence and the move in practice

Where both states treat a person as resident under their domestic law, Art. 4(2) of the double taxation convention between Switzerland and Italy of 9 March 1976 resolves the conflict. It looks in turn to the permanent home, the centre of vital interests, the habitual abode and nationality.³ The convention, however, applies only to taxes on income and capital. It does not resolve conflicts of residence for inheritance tax, where each state remains free to apply its own concept. A family whose head dies in Lugano after an incomplete move may therefore face Italian inheritance tax on worldwide assets and a Ticino assessment of the estate as well, without a treaty mechanism to settle the dispute.

The move also has consequences for the assets left in Italy. Italian exit taxation under Art. 166 TUIR applies to businesses and, for natural persons, essentially to business assets of a permanent establishment that are transferred abroad, and Chapter H.II examines its effects on entrepreneurs.⁴ Income from Italian sources remains taxable in Italy after the move, subject to the convention. Dividends from an Italian family company, rents from Italian real estate and Italian pensions are the main examples. Planning should therefore begin with a map of the family's income and assets after the move, showing for each item which state has the right to tax. A calendar of the move should ensure that the family's centre of life changes clearly and at a defined moment, preferably at the beginning of a tax period.

2 Notes

1. Emiliano Marvulli, "Svizzera fuori dalla black list per le persone fisiche: le novità dal 2024", *Informazione Fiscale*, 3 August 2023, <https://www.informazionefiscale.it/svizzera-paesi-black-list-persone-fisiche-novita-2024> (consulted 5 October 2026). ↩
2. Marvulli (above). ↩
3. Convention between the Swiss Confederation and the Italian Republic for the avoidance of double taxation and the regulation of certain other questions relating to taxes on income and capital of 9 March 1976, SR 0.672.945.41, Art. 4(2)(a)–(d), *Droit-bilingue.ch*,

<https://www.droit-bilingue.ch/de-it/0.6/0.67/0.672.945.41-4-7.html>
(consulted 5 October 2026). See Chapter H.III. ↩

4. TUIR, Art. 166(1)(a), text at Brocardi.it, <https://www.brocardi.it/testo-unico-imposte-redditi/titolo-iii/capo-ii/art166.html> (consulted 5 October 2026), as amended by Decreto legislativo 29 novembre 2018, n. 142, Art. 2(1). ↩

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