

Three legal orders around one family

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In practice three bodies of law determine the outcome of a cross-border Italian succession. The first is Italian substantive law. It comprises the Civil Code (*Codice civile*) of 1942 with its rules on the reserved share (*legittima*), the prohibition of agreements on future successions and the family pact (*patto di famiglia*), together with the Consolidated Act on Inheritance and Gift Tax of 1990. The second is the private international law of the European Union. Its main instrument is Regulation (EU) No 650/2012 on succession, which Italian courts and notaries apply to all deaths since 17 August 2015, alongside the Hague Convention of 1 July 1985 on the law applicable to trusts. The third is Swiss law. The Swiss Civil Code (SCC, SR 210) contains a revised law of succession in force since 1 January 2023, and the Federal Act on Private International Law (PILA, SR 291) a revised succession chapter in force since 1 January 2025. To these must be added the federal and cantonal tax laws and, for Ticino, the cantonal Tax Act (*Legge tributaria*, LT) of 21 June 1994 with its inheritance and gift tax.¹

The relationship between these bodies of law is not regulated by any bilateral treaty on succession. Switzerland and Italy have concluded a double taxation convention on income and capital, discussed in Chapter H.III. They have no treaty on inheritance and gift taxes, so that double taxation of an estate must be avoided or reduced by the unilateral rules of each state.² Nor is there a bilateral convention on the law applicable to succession. Switzerland is a third state for the purposes of the European Succession Regulation. Coordination between Swiss and Italian rules therefore depends on the content of each system's conflict rules, on their renvoi provisions and on the willingness of the authorities of each state to recognize the decisions and certificates of the other.

Essentials. An Italian family with links to Ticino typically faces Italian forced heirship (Art. 536 ff. *Codice civile*), the Italian inheritance and gift tax (D.Lgs. 346/1990), the European Succession Regulation (Regulation

(EU) No 650/2012), the Swiss Civil Code and the revised PILA (Art. 86 ff.), the Ticino inheritance and gift tax and the Italian and Swiss rules on tax residence. There is no Swiss- Italian treaty on inheritance taxes. Planning must therefore address each legal order separately and then test whether the results are consistent.

1 The adviser's task

The professional who advises such a family in Lugano is rarely in a position to give advice on all these matters alone. Swiss lawyers are not admitted to practise as Italian lawyers, Italian notaries do not draft Swiss wills, and advice on Italian inheritance tax requires an Italian *commercialista* or tax lawyer. What Lugano offers is a concentration of practitioners who understand both systems, who read Italian sources in the original and who know the counterparts in Milan, Como and Varese. The relationship manager, the trustee and the fiduciary often coordinate a team that includes an Italian notary, an Italian tax adviser, a Swiss lawyer and, where a trust or foundation is involved, a foreign trustee or foundation council. Chapter J.III examines the linguistic side of this work, which matters more than it might appear, since Swiss Italian legal terminology and the terminology of the Italian Republic diverge in many details that affect the drafting of wills and contracts.

The remainder of this chapter follows the sequence in which an adviser typically approaches a family. It begins with the succession law that will apply and the reserved shares it imposes, turns to the inheritance tax, the conflict rules and the holding structures, and ends with the question of residence, which can change the answer to all the others.

2 Notes

1. Swiss Civil Code of 10 December 1907 (SCC), SR 210; Federal Act on Private International Law of 18 December 1987 (PILA), SR 291; Legge tributaria del Cantone Ticino del 21 giugno 1994 (LT), cited by date in the Regolamento della legge tributaria of 18 October 1994, Lexfind, <https://lexfind.ch/tolv/119184/it> (consulted 5 October 2026). ↩

2. SUPSI, Centro competenze tributarie, conference programme "Successioni e donazioni tra Italia e Svizzera", 13 January 2020, https://www.supsi.ch/documents/d/deass/20200113_successioni-e-donazioni (consulted 5 October 2026): Italy and Switzerland "non sono legati da un trattato contro le doppie imposizioni in materia successoria". ↩

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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