

Wealth and the absence of a wealth tax in Italy

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Article 22 of the convention covers taxes on capital. Paragraph 1 allocates capital represented by immovable property to the state in which it is situated, paragraph 2 movable property of a permanent establishment to the state of the establishment, and paragraph 3 ships and aircraft operated in international traffic to the state of effective management. All other elements of capital are taxable only in the state of residence.¹ Since Italy levies no general wealth tax, the article operates mainly in favour of Switzerland, which taxes the wealth of its residents and the Swiss real estate of nonresidents. The protocol of 1976 already provided that the convention would apply to an Italian wealth tax if one were introduced.² Whether IVIE and IVAFE are taxes on capital within the meaning of Article 2 and Article 22 has not been decided. If they were, Article 22 paragraph 4 would allocate Swiss bank accounts of Italian residents exclusively to Italy, which is the result of the domestic rules in any case, and Article 22 paragraph 1 would allow both states to tax Swiss real estate, with relief under Article 24.

1 Inheritance and gift tax without a treaty

Switzerland and Italy have never concluded a treaty on inheritance and gift taxes. The convention of 1976 covers only taxes on income and capital. An Italian resident who dies leaving a flat in Lugano and a Swiss bank account is subject to Italian inheritance tax on his worldwide estate, while Ticino levies its inheritance tax on the immovable property situated in the canton. Ticino exempts the spouse, the registered partner and relatives in the direct ascending and descending line, so that the problem arises mainly for siblings, more distant relatives and unrelated heirs.³ Chapter E.V describes the unilateral credit under Article 26 of the Italian Consolidated Act on Inheritance and Gift Tax (TUS) and its limitations. The absence of a treaty also means that the two states may each claim that the deceased was resident in their territory, without any procedure to resolve the conflict. The mutual agreement procedure under Article 26 of the income tax

convention does not extend to inheritance taxes, although a determination of residence under Article 4 for income tax purposes will in practice influence the assessment of the inheritance tax.

2 Notes

1. Convention, Art. 22, text (above). ↩
2. Protocol of 9 March 1976, point 1, text (above) (application of the convention to an Italian wealth tax if introduced). ↩
3. Legge tributaria del Cantone Ticino of 21 June 1994, Art. 154 para. 1 lit. f ("il coniuge, il partner registrato, gli ascendenti e discendenti in linea diretta"), as amended on 12 December 2023, Bollettino ufficiale 26/2024, https://www4.ti.ch/fileadmin/DFE/DC/DOC-TRIBUTARIA/2024/Bollettino_ufficiale_26-_2024.pdf; see Chapter E.V. ↩

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