Tax Aspects of Buying Renting and Selling Real Estate in Italy

This guide briefly sets out the main Italian tax issues arising to the purchase, use and sale of real estate in Italy. It applies to individuals buying property for their own use where that property will not be used in the course of any business activity (apart from a private letting business). **Different rules apply for transactions which fall within the scope of a business activity.**



1 Taxation at Purchase – Indirect Taxes

1.1 Introduction

The impact of taxation at purchase varies whether the seller is a company or a private individual, and whether the buyer elects the property as his/her Main Residence (see below for definition). A typical transaction will see a preliminary deposit/advance payment being made at the time the offer is made, a contract for the sale and purchase, and the completion of the purchase by way of notarial deed.

1.2 Main Residence (*Prima Casa*) Election

If residential property, falling within certain, non-luxury categories, is purchased from a **private** individual (i.e. an individual who is not registered for VAT and using the property for business purposes) and the buyer elects the property as his/her Main Residence, the following taxes are due:

- Registration Tax *(Imposta di registro)* 2% of the cadastral (land registry value)
- Mortgage Tax (Imposta ipotecaria) € 200
- Land Registry Tax *(Imposta catastale)* € 50

The purchase is not subject to VAT. The mortgage tax is payable even if you are not paying with a secured loan.

At Taxing.It we can obtain an extract from the Land Registry, and calculate the tax on your purchase in advance. We can advise on the best strategy to mitigate the tax and whether you qualify for "First Home" relief.

Click here to send a mail for more information.

1.3 Purchase of Residential Property which will not be used as a Main Residence.

If the residential property purchased cannot be elected as Main Residence, the same taxes apply, but in different amounts:

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- Registration Tax 9% of the cadastral value
- Mortgage Tax € 50
- Land Registry Tax € 50

This purchase is also not subject to VAT.

1.4 Cadastral Value

The cadastral value is an amount derived from the value of the property as shown at the Land Registry. Typically (but not always) this value is lower than the market value of the property. The Main Residence relief will only apply to one residential dwelling house and can extend to one garage or other outbuilding providing, it is closely attached. If you are purchasing a farm or property with some land, that land may be registered at the Land Registry separately and a different rate of tax may apply. For agricultural land the rate of registration tax is 15% but this is due on the Land Registry value which will be lower that the value for residential property.

1.5 Property Purchased From A Company or VAT Registered Business

If the residential property will be elected as Main Residence, the taxes due are as follows:

- VAT 4%
- Registration Tax € 200
- Mortgage Tax € 200
- Land Registry Tax € 50

Extra VAT is due if the residential property purchased cannot be elected as main residency, the same taxes apply, but in different amounts:

- VAT 10% (22% for luxury properties)
- Registration Tax € 200
- Mortgage Tax € 200
- Land Registry Tax € 50

It is possible that the business selling the property will treat the sale as VAT exempt. In this case the tax payable is the same as a purchase from an individual.

1.6 Definition of Main Residence

In order to benefit from the Main Residence tax regime, each purchaser must apply or have applied to be registered as resident with the local Municipality (Comune). You have 18 months from the date of the deed of transfer to get registered, so you can pay the lower amount of tax in the deed and then "top up" later (with a surcharge) if you do not get registered within that timescale. Heavy penalties apply if you claim the lower rate and do not top-up later, if you do not apply to be registered.

Under the current interpretation of the rules, the property just needs to be your Main Residence in Italy – it does not matter if you possess another home abroad. However the property needs to be occupied as your main residence and the Municipality will likely check that the property is habitable and that you have really transferred your

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residence there, before registering you in the register of resident population (*Anagrafe*).

Being registered as residence brings a number of benefits apart from the reduced tax on purchase – reduced utility costs, the ability to purchase a motor vehicle registered in Italy etc.

However note that being registered as resident with the Municipality for more than 183 days in any tax (calendar) year is one of the conditions to become resident for tax purposes. If you are tax resident in Italy, unless you benefit for a special regime (such as that applicable to non-doms) you will be liable to tax on your world-wide income and gains. You need to consider carefully if the saving of tax on the purchase is not offset by additional tax on your income.

If a house is purchased with the reduced rate of registration tax, the additional tax, to top up to further taxes and penalties apply).

All property registered at the Land Registry is assigned a category. The Main Residence relief only applies to certain non-luxury category of residential property.

1.7 Timing of Payments

Registration tax and stamp duty are normally payable on completion – the notary is liable to make payment of the tax to the Tax Office and has a couple of weeks to do so, but will generally ask that he or she is put in funds at completion. No tax is payable on exchange of contracts unless it is decided that the contract should be drawn up as a public deed (often advisable to avoid the risk of the seller changing their minds or reneging on warranties made in a preliminary contract).

1.8 Stamp Duty

Stamp duty is also payable in an amount of Euro 16 for every four pages of the deed. The notary will calculate the tax and add it to his or her invoice.

1.9 The Notary Public

In Italy any residential property can be transferred only via a deed drawn up by a notary. Thus the buyer will have to pay the notary fees that vary depending on the notary chosen, value and complexity of the purchase. You should ask for a quote in advance. The notary is responsible for checking that the property is sellable, i.e. that the seller has full legal title and that there are no, undisclosed third parties with rights to the property (e.g. mortgage lenders, heirs with a claim under Italy's statutory succession laws). To avoid sales of urban real estate which have not been registered at the Land Registry the deed of transfer must contain a declaration whereby the seller warrants that the current position of the property complies with what is registered at the Land Registry. Non-residential properties (up to €

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100,000) can be sold through an attorney or accountant (Avvocato or a Dottore Commercialista.)

Although it depends of the purchase, it is worth getting a full report on the property from a qualified professional such as a surveyor (*geometro*) or architect (architetto). The notary is unlikely to do a physical inspection of the property. Also you should never buy a property on the basis of anyone's assertion (written or otherwise that planning and building consents will be forthcoming). It is much better to make the purchase, or completion, conditional of the issuance of the relevant consents.

At Taxing.It we can support you with an estimate of the property tax payable on purchase and discuss with the notary in advance to ensure that the notary is comfortable with the calculation. If you leave the question of registration tax until the day of signing, there will be little room for maneuver and you might pay too much.
Click here for more information.

The notary is also likely to take a fairly prudential view of the taxes paid – i.e. If there are any grey areas, e.g. where the price is to be apportioned between parcels subject to tax at different rates (rural buildings agricultural land) or whether any appurtenances form part of the principal private residence or are separate.

1.10 Tax Credit on Purchase of a new "Main Residence"

If you sell your first home (one of which the reduced rate of tax applied), at any time within a year of sale, purchase another home, you get credit for the tax you paid on the first purchase against the tax on the second purchase. This is to ensure that you don't pay tax twice on the purchase of a first home. Conditions apply.

1.11 Re-capture of Reduced Registration Tax

The benefit of the reduced rate of purchase tax is lost if you sell your first home within five years of purchase AND do not buy another Main Residence in the EU in the year following the sale.

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2 Taxation On Possession

2.1 Local Property Taxes

The taxes due on occupancy of a property are mainly:

- IMU
- TASI
- TARI

IMU is payable on any property (residential or not) twice a year. Main residences residential property are exempt from the tax. However outbuildings and other property not covered by the Main Residence exemption will be subject to the tax.

TASI is paid on general services performed by the local Municipality (*Comune*), and Municipalities can decide to exempt it.

At Taxing.It we can support you with you annual property tax compliance. We can calculate the tax due and prepare the forms that you will need to take to the bank (or complete on your online banking). We can advise if you have unpaid taxes and help to resolve the position with your local authority.
Click here for more information.

Finally, TARI is the tax due on the trash/refuse collection.

IMU and TASI must be self-assessed, while TARI is calculated by the Comune and sent to your address via mail.

2.2 Income Tax

There is no income tax on property purchased and occupied as a Main Residence. There is an IRPEF liability on second homes calculated by applying a coefficient to the Land Registry (Catasto) value. If the liability is below the minimum threshold for reporting there is no need to pay the tax. However if the amount is above the threshold a tax return needs to be filed and foreign own risk significant penalties for failing to file a return as well as failure to pay the tax, if they do not do so.

2.3 Taxation Of Rental Income

Taxes on rental are (apart from short term lets through a registered intermediary) self-assessed in the annual return to be filed before 30 September (31 October for 2017 and 2018) of the following tax year.

Residential property allow two taxation options:

- Normal income tax (IRPEF) regime
- Gross Rent basis (*Cedolare secca)*

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For individuals who are not carrying on a letting business, the IRPEF regime taxes rent received based on the normal brackets, allowing a 5% deduction (i.e. if your rental income in 2016 was € 17,000, you pay income tax (IRPEF) on Euro 11,400). No deduction is allowed for expenses, interest or depreciation of the property, regardless of whether it is let furnished or unfurnished.

The letting agreement general and is subject to a registration tax of 2% of the gross rent on initial registration and each annual anniversary after that. Stamp Duty is also payable – 16 euro per each 4 pages of the agreement. Special rules apply to short-term and holiday lets.

As an alternative to the normal income tax regime outlined above the landlord can opt for the Gross Rents basis. The option needs to be exercised by indication such in rental agreement itself. This regime allows a flat tax at the rate of 21% of gross rental income (reduced to 10% in some areas for certain kinds of protected tenancies (*canone concordato*) (i.e. if your rental income in 2017 was € 12,000, your substitute tax at 21% applies on Euro 12,000 i.e. Euro 2,520) Opting for this regime means that no registration tax is payable. For short term lettings a 2017 law provides that the intermediary or internet platform must withhold this tax when paying you the rent received from customers.

3 Capital Gains

As a general rule if you sell a house that you have occupied as your Main Residence no tax is due. This means that you declared in the purchase deed that you were going to occupy at such and then registered as resident with your Comune at that address within the 18 month time limit) there is no **Italian** tax on the capital gain. You (or your family) also need to have actually utilized the premises for the greater part of the part of the period between purchase and sale as your Main Residence. Registration at the Comune in itself is not sufficient to prove that the property was utilized as the main residence.

If you are tax resident outside Italy you may be liable to tax under that country's rules (e.g. both U.S. and UK tax gains on foreign properties, albeit with their own systems of reliefs and exemptions).

If you sell a "second" home after five years there is no Italian tax on the gains.

In summary you will be only liable tax on disposal of real estate if you sell it for consideration (i.e. for money or money's worth) if you:-

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- Sell a second home or buildings/land that you purchased along with your Main Residence that do not qualify as Main Residence, e.g. agricultural the house or outbuildings not considered appurtenances less than five years from the date of purchase;
- Sell property within five years of purchase (or entry into possession if the property was newly constructed) that was not occupied for the greater part of the period between purchase and sale, by the person selling it or his family members as their Main Residence;
- Sell land that has been given planning permission for development;
- Sell property was used in VAT registered business, e.g. a hotel or bed and breakfast business
- If you are trading (or deemed to be) running a property trading business.

Legislation and Regulations
Articles 67 and 68 of the Italian Tax Code

Any taxable gain (sale value, less purchase cost plus any "analytically documented inherent expenditure" is taxed at normal income tax rates. There is an option to pay substitute tax at the rate of 20% of the gain which will typically be beneficial. Special rules apply to property acquired by way of gift or inheritance. If you opt for this the notary will pay the tax on your behalf. Also in this case you do not need to disclose the gain in your annual tax return and you are exempt by law from the special tax audit and assessment rules which apply to gains included in a tax return.

Examples of expenses generally considered "inherent" are:-

- Notary and legal fees at the time of purchase (not it seems on sale – but purchaser usually pays notary fees);
- Indirect purchase taxes paid at the time of purchase (registration tax, mortgage tax and cadastral tax, or VAT);
- Costs of capital improvements incurred after purchase construction and before sale (e.g. "extraordinary maintenance", renovation). Ordinary maintenance costs are not deductible.
- Costs of organizing bids from construction companies/builders and contractual work;
- Design, building and consultancy fees;
- Costs of planning consent.

3.1 IRPEF deduction for restructuring costs

If the seller has previously carried out building renovation works and has claimed the tax deduction available for such expenses the remaining benefit can be transferred to the purchaser. The IRPEF deduction permit you to set off the cost of qualifying expenditure generally in 10 annual installments.

In the case of a transfer of property by deed between living persons of the property, any remaining annual instalments shares of tax deduction, not yet used at the time of transfer, are automatically transferred to the purchaser.

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The parties however may agree to avoid the buyer taking over the benefit by explicitly reserving the benefit in a clause in the sale deed. In the absence of any agreement between the parties, the residual deduction is automatically transferred to the purchaser.

3.2 Codice Fiscale

If you decide to proceed with your purchase of property in Italy, you will need a fiscal code number. You can get one direct from a Tax Office or we can arrange on your behalf.

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3.3 Appendix: Summary of registration tax on Purchase of Real Estate

Purchase without "Main Residence" Relief				
Seller	VAT	Registration Tax	Ipotecaria Tax	Land Registry Tax
Individual	No VAT	9%	Euro 50	Euro 50
Company – VAT exempt	No VAT	9%	Euro 50	Euro 50
Company – subject to VAT	10/22%	Euro 200	Euro 200	Euro 50

Purchase with "Main Residence" Relief				
Seller	VAT	Registration Tax	Ipotecaria Tax	Land Registry Tax
Individual	No VAT	2%	Euro 50	Euro 50
Company – VAT exempt	No VAT	9%	Euro 50	Euro 50
Company – subject to VAT	4%	Euro 200	Euro 200	Euro 50

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