

Foreign Assets

Tax Compliance & Reporting for Italian residents

Colin Jamieson

Milan, 26 June 2017



1. Who has to make disclosure
2. What needs to be disclosed
3. Identification of assets and financial products
4. IVIE & IVAFE - the "wealth taxes"
5. Payment rules and deadlines
6. Costs of non-disclosure
7. Penalties
8. Voluntary disclosure bis
9. International Treaty Considerations
10. New Budget Law 2017

CODICE FISCALE

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

QUADRO RW

Investimenti all'estero e/o attività estere
 di natura finanziaria - monitoraggio
 IVE / IVAFE

Mod. N.

--	--

	Codice titolo possesso	Vedere istruzioni	Codice individuaz. bene	Codice Stato estero	Quota di possesso	Criterio determin. valore	Valore iniziale	Valore finale			
	1	2	3	4	5	6	7	8			
							,00	,00			
	Valore massimo c/c paesi non collaborativi		Giorni (IVAFA)		IVAFA		Mesi (IVE)				
	9	,00	10	11	,00	12	13	,00			
RW1	Credito d'imposta		IVAFA dovuta		Detrazioni		IVE dovuta		Vedere istruzioni	Quota partecipazione	Solo monitoraggio
	14	,00	15	,00	16	,00	17	,00	18	19	20
	Codice fiscale società o altra entità giuridica in caso di titolare effettivo			Codice fiscale altri coinvestitori							
	21			22			23			24	<input type="checkbox"/>
RW2	1	2	3	4	5	6	7	8			
							,00	,00			
	9	,00	10	11	,00	12	,00	13	,00		
	14	,00	15	,00	16	,00	17	,00	18	19	20

Taxpayers resident in Italy who own

- investments abroad;
- foreign assets of a financial nature;
- other “real rights” irrespective of how the assets were acquired;

Exemption (from disclosure but not necessarily **IVIE** and **IVAFE**) for

- Assets purchased or held through Italian financial institutions;
- Employees of the Italian state and certain international organizations working abroad;
- Frontier workers (as regards assets in the country in which they are working.)
- From 2017 onward non luxury real estate owned and occupied as principal residence

For **tax** purposes an individual will be considered to be an Italian resident for tax purposes, **subject to the terms of a double tax treaty**, if, for the greater part of the tax year (183 days or more) the individual:

- is registered in the Office of Records of the Resident Population (*Anagrafe*); or
- has their center of business or economic interests in Italy;
- has their permanent abode in Italy.

Continuity not required?

Foreign Assets of a Financial nature (examples)

- Shares in companies;
- Securities/government and corporate bonds;
- Financial contracts with non residents, derivatives, unit trust and other investment vehicles;
- Foreign currencies;
- Precious metals;
- Contracts giving the right to purchase shares or similar rights;
- Interests in pension funds excluding state pensions;
- Life insurance policies (unless through an Italian intermediary);
- Contents of bank safe deposit boxes;
- Shares, securities and other rights under employee stock option/purchase plan (once vested);

Investments

- Real estate
- Interests in real estate:-
 - nudo proprieta
 - usufrutto
 - timeshare
 - Inherited property

Assolutezza –Immediatezza - Tipicità

- Precious objects and works of art;
- Boats and other movable property.

- Effective owner – beneficial owner
- Indirect ownership – e.g. via a conduit/agent (including an Italian company)
- Italian real estate held through nominees/trusts

1 Signee on account
2 Effective Owner

Asset Code

Country Code

% Ownership

1	2	3	4	5	6	7	8
Codice titolo possesso	Vedere istruzioni	Codice individuaz. bene	Codice Stato estero	Quota di possesso	Criterio determin. valore	Valore iniziale	Valore finale
						Opening	and Closing Values
9	10	11	12	13			
Valore massimo c/p paesi non collaborativi	Giorni (IVAFAE)	IVAFAE	Mesi (IME)	IME			
14	15	16	17	18	19	20	
Credito d'imposta	IVAFAE dovuta	Detrazioni	IME dovuta	Vedere istruzioni	Quota partecipazione	Solo monitoraggio	
				<input type="checkbox"/>		<input type="checkbox"/>	
Codice fiscale società o altra entità giuridica in caso di titolare effettivo			Codice fiscale altri cointestatari				

Code for Ownership

- 1 Ownership
- 2 Usufruct
- 3 Bare Property
- 4 Other (e.g. other real right, trust)

Code For Computing Value

- 1 Market Value
- 2 Nominal Value
- 3 Reimbursement Value
- 4 Purchase Cost
- 5 Catastal/Land Registry Value
- 6 Inheritance/Other deed value

Asset Code

Codice titolo possesso	Vedere istruzioni	Codice individuaz. bene	Codice Stato estero	Quota di possesso	Criterio determin. valore	Valore iniziale	Valore finale
1	2	3	4	5	6	7	8

Opening and Closing Values

TABELLA CODICI INVESTIMENTI ALL'ESTERO E ATTIVITÀ ESTERE DI NATURA FINANZIARIA

CONTI CORRENTI E DEPOSITI ESTERI.....1..	POLIZZE DI ASSICURAZIONE SULLA VITA E DI CAPITALIZZAZIONE8	ALTRE ATTIVITÀ ESTERE DI NATURA FINANZIARIA.....14
PARTECIPAZIONI AL CAPITALE O AL PATRIMONIO DI SOCIETÀ NON RESIDENTI.....2	CONTRATTI DERIVATI E ALTRI RAPPORTI FINANZIARI CONCLUSI AL DI FUORI DEL TERRITORIO DELLO STATO...9	BENI IMMOBILI.....15
OBBLIGAZIONI ESTERE E TITOLI SIMILARI.....3	METALLI PREZIOSI ALLO STATO GREZZO O MONETATO DETENUTI ALL'ESTERO10	BENI MOBILI REGISTRATI (es. yacht e auto di lusso).....16
TITOLI NON RAPPRESENTATIVI DI MERCE E CERTIFICATI DI MASSA EMESSI DA NON RESIDENTI.....4	PARTECIPAZIONI PATRIMONIO DI TRUST, FONDAZIONI O ALTRE ENTITÀ GIURIDICHE DIVERSE DALLE SOCIETÀ ...11	OPERE D'ARTE E GIOIELLI.....17
VALUTE ESTERE DA DEPOSITI E CONTI CORRENTI.....5	FORME DI PREVIDENZA GESTITE DA SOGGETTI ESTERI....12	ALTRI BENI PATRIMONIALI18
TITOLI PUBBLICI ITALIANI EMESSI ALL'ESTERO.....6	ALTRI STRUMENTI FINANZIARI ANCHE DI NATURA NON PARTECIPATIVA.....13	IMMOBILE ESTERO ADIBITO AD ABITAZIONE PRINCIPALE ...19
CONTRATTI DI NATURA FINANZIARIA STIPULATI CON CONTROPARTI NON RESIDENTI.....7		CONTO DEPOSITO TITOLI ALL'ESTERO.....20

Code For Computing Value

- 1 Market Value 2 Nominal Value
 3 Reimbursement Value 4 Purchase Cost
 5 Catastal/Land Registry Value 6 Inheritance/Other deed value

Codice titolo possesso	Vedere istruzioni	Codice individuaz. bene	Codice Stato estero	Quota di possesso	Critero determin. valore	Valore iniziale	Valore finale
1	2	3	4	5	6	7	8
						Opening	and Closing Values
						,00	,00
Valore massimo c/c paesi non collaborativi	Giorni (IVAFE)		IVAFE		Mesi (IME)		IME
9	10	11	12	13			
,00		,00		,00			,00
Credito d'imposta	IVAFE dovuta	Detrazioni	IME dovuta	Vedere istruzioni	Quota partecipazione	Solo monitoraggio	
14	15	16	17	18	19	20	
,00	,00	,00	,00	<input type="checkbox"/>		<input type="checkbox"/>	
Codice fiscale società o altra entità giuridica in caso di titolare effettivo				Codice fiscale altri cointestatari			

Financial Products

- For quoted shares- market value
- For non quoted financial products:
 - nominal value; or if none,
 - the refund value; or if none
 - original cost of acquisition

Real estate

- For EU/EEA assets – land registry value
- Outside EU/EEA
 - Purchase cost; or if none,
 - Market value

Maximum Value of bank/savings account throughout the year for “non-co-operative countries”

1	Codice titolo possesso	2	Vedere istruzioni	3	Codice individuaz. bene	4	Codice Stato estero	5	Quota di possesso	6	Criterio determin. valore	7	Valore iniziale	8	Valore finale
													,00		,00
	Valore massimo c/c paesi non collaborativi		Giorni (IVAFE)		IVAFE		Mesi (IVIE)		IVIE						
9		10	IVAFE days	11	IVAFE (gross)	12	IVIE months	13	IVIE (gross)						,00
14	Credito d'imposta	15	IVAFE dovuta	16	Detrazioni	17	IVIE dovuta	18	Vedere istruzioni	19	Quota partecipazione	20	Solo monitoraggio		
	,00		,00		,00		,00		<input type="checkbox"/>				<input type="checkbox"/>		
	Codice fiscale società o altra entità giuridica in caso di titolare effettivo					Codice fiscale altri cointestatari									

The two taxes are closely linked to, but rules are increasingly divergent from the **Form RW** in the Italian tax return.

- Bank accounts – disclosure limit in RW is > Euro 15,000, IVIE is > Euro 5,000
- IVAFE applies only on financial **products**, not on all financial **assets** so potentially no tax on
 - private company shares
 - precious metals
 - safe deposit boxes
 - foreign currency
 - insurance policies
- IVIE and IVAFE apply even where assets are exempt from disclosure (e.g frontier workers)

- Taxable base is the value of the financial investments as of 31 December or the end of the holding period;
- Applicable tax rate: 0.2%;
- Tax due proportionate to percentage share of the asset;
- Flat amount equal to € 34.20 for each bank account
- No tax due if the average annual value shown in bank account statements does not exceed €5,000;

Euro 100,000 = Euro 200
Euro 1 million = Euro 2,000

Introduced by art. 19, para.
13-17, D.L. n. 201/2011

- The applicable tax rate is 0.76%.
- The rate is reduced to 0.4% for a building used as main residence (exempt from 2017 on).
- Tax due proportionate to percentage owned and size of property.
- Applied on the value of the real estate at year end

Euro 100,000 = Euro 760
Euro 1 million = Euro 7,600

Art. 19 paras. 18 to 22, of
D.L. no. 201/2011

Codice titolo possesso	Vedere istruzioni	Codice individuaz. bene	Codice Stato estero	Quota di possesso	Criterio determin. valore	Valore iniziale	Valore finale
1	2	3	4	5	6	7	8
						,00	,00
Valore massimo c/c paesi non collaborativi		Giorni (IVAFE)		IVAFE		Mesi (IVIE)	
9	10	11	12	13			
,00		,00		,00			
RW1	Credito d'imposta	IVAFE dovuta	Detrazioni	IVIE dovuta	Vedere istruzioni	Quota partecipazione	Solo monitoraggio
14	15	16	17	18	19	20	
,00	,00	,00	,00	,00	<input type="checkbox"/>		<input type="checkbox"/>
Codice fiscale società o altra entità giuridica in caso di titolare effettivo				Codice fiscale altri cointestatori			

- The Revenue Agency allows the U.S. real estate tax paid in the USA as a tax which is deductible, deductible from IVIE.
- Because real estate tax is generally higher than IVIE, generally speaking IVIE on properties located in the US is not payed.
- Properties located in the US owned by a Corporation or an LLC – requirement to disclose?

- **IVAFE:** First payment on account and balance of prior year on or before 30 June 2017, (deadline modified by 2017 Budget Law.)
- Balance or sole payment by November 30, 2017.
- Payment must be made using Model F24 quoting the correct codes.
- **IVIE:** First account payment due on or before June 30, 2017. Balance or single payment, by 30 November 2017.

- The sanctions applicable to the non-declaration of investments and assets held abroad are set between 3% - 15% of the amount of undeclared amounts.
- Only where the aforementioned investments and activities have been held in non-cooperative states or territories the measure of that penalty increases between 6 - 30% of the undisclosed amounts.
- Possibility of “Ravvedimento Operoso” – reduces minimum penalty from 3% to 0.375% - 0.6% (doubled for black list countries).
- Additional penalty (cumulative) for “infedele dichiarazione” – 90% to 180% of any tax due with reduction for early payment
- Principal of “favor rei” – recent legislation has reduced sanctions and these reduced penalties will also apply to earlier years

- Penalties increased on Foreign Exchange Income Taxes: From 267% of the unpaid taxes in the event of a declaration of invalidity, to 320% in the event of a declaration being omitted.
- Criminal penalties: 1-8 years of imprisonment
- Limitation period
 - was (up to 2016) generally four years from the end of the tax period in which the return was presented (e.g. FY 2011 expires 31 December 2016).
 - After 2016 it is five years (seven years if no return presented)
- Extension of Limited Period where criminal activity is involved

- Introduced by DI n. 193 , 22 October 2016;
- July 31 2017 deadline for election.
- Reduction of 75% on the minimum penalty on sanctions applied to income taxes, substitutions, IVIE and IVAFE (taxes on property and financial assets held abroad);
- Reduction of 50% on violations of tax monitoring obligations;
- Significant Documentary Burden and professional fees;

- Common Reporting Standard
- Automatic exchange of information
- Addition of other countries to VD:
Guernsey, Hong Kong, Cayman Islands, Isle of Man, Cook Islands, Jersey, Gibraltar.

- New flat tax for Italian first-time residents of € 100,000 regardless of the amount of taxable income.
- Regime permits
 - exemption from the duty to report non-Italian financial assets,
 - Exemption from Italian estate and gift tax.
 - Foreign source income is exempt from tax, while domestic source income is taxed under the normal rules.
- Election to tax foreign source income (e.g. where there is a foreign tax credit)
- Applies to individuals who have not been resident in Italy for Italian tax purposes for at least nine of the previous ten years, at the time they establish their tax residency in Italy.

- Tax is due in relation to all assets and rights transferred, anywhere located, if the donor is resident in Italy;
- If the donor resides abroad at the time of the conclusion of the inheritance/donation, the tax is due only to the assets and rights transferred that are "existing", i.e. materially placed, on Italian territory (Principle of territoriality);
- As soon as the asset "belong to" the donee/legatee the monitoring requirements in Form RW and liability to account for IVIE and IVAFE will arise;

Contacts

Avv. Colin Jamieson

Via delle Betulle 6

20090 Assago (MI)

colin@taxing.it

Tel: + 39 02 488 3945

Cell: + 39 348 242 37 55

Farah Hashem

farah@taxing.it

+393404006150

Disclaimer

These materials have been prepared for general information purposes only.

The information presented is not legal advice, is not to be acted on as such, may not be current and is subject to change without notice.

No Attorney-Client Relationship is hereby established nor are these materials intended to constitute legal advice.