

# Succession and transfer of wealth: How it is taxed in Switzerland, Italy, and in other countries. Analysis, comparison, and some reflections.

The transfer of wealth from one generation to another represents a very delicate topic that is widely debated by central Governments and public opinion both in reference to topics of social equity and in reference to topics related to fiscal policies and tax revenue.

In an economic context such as the current one, aggravated by the impact that Covid is having on world economies, we are hearing about proposals for rationalization interventions and more generally an increase on inheritance taxes, especially in some countries where the contribution of tax revenue related to the inheritance tax is significantly constrained.

According to the supporters of this latter approach, this would permit having greater fiscal revenues to be used to lower taxation on working income once implemented.

In light of this, it is necessary to underscore how, at the European Union level, there is no legal harmonization of taxation of "generational wealth transfers".

Further considering the increasingly dynamic and international context of peoples' lives, cases occur more frequently in which several states are involved in a situation of "intergenerational transfer".

Precisely to try to make the applicable regulations in case of "international wealth transfers" more organic and harmonized, at least from the point of view of the applicable civil discipline, the European Union has adopted Regulation no. 650/2012 which regulates all inheritances opened as of August 17, 2015 in a uniform manner.

In brief and to put it simply, based on this Regulation, the law which applies to inheritance is that of the State where the deceased had his or her usual residence at the moment of death. The Regulation also envisions exceptional cases in which the country where the owner of the assets had a manifestly closer relationship, the applicable law of the country in which the deceased was a citizen can be selected in the will.

The purpose of such Regulation is to bring the applicable legal regulations back to uniformity in cases of "international inheritances".

With regard to the fiscal regulations, on the other hand, there is no uniform reference legislation, not even with regard to the European Union States. We therefore find a plethora of regulations, taxable amounts, tax rates, and exemptions. For example, there are some preliminary indications and specifics regarding some countries in the European Union and some of the rest of the world.



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Country	Inheritance Tax	Tax rate
Austria	No	No
Belgium	Yes	3-8% (depending on the region, the family relationship, and the taxable amount)
Cyprus	No	No
France	Yes	5-60% (depending on the family relationship and the taxable amount)
Germany	Yes	7-50% (depending on the family relationship and the taxable amount)
Ireland	Yes	33% (depending on the family relationship and the taxable amount)
Italy	Yes	4-8% (depending on the family relationship)
Luxembourg	Yes	0-48% (depending on the family relationship and the taxable amount)
Malta	No	In some cases the inheritance tax may be applied
Holland	Yes	10-40% (depending on the family relationship)
Portugal	No	10% stamp tax (plus city tax rate)
Spain	Yes	7.65-81.6% ((depending on the family relationship, the taxable amount, and the pre-existing holdings, specific rules for autonomous regions.
Brazil	Yes	0-8% (depending on the various Brazilian states)
Hong Kong	No	No
Monaco	Yes only assets located in Monaco	0-16% (depending on the family relationship) Only assets
Russia	No	Income tax may apply in some cases
Singapore	No	The stamp tax may apply in some cases
Switzerland	Yes	0-50% (depending on the family relationship and the canton)
United Kingdom	Yes	0-40% (depending on the family relationship)
United States	Yes	0-40% (depending on the family relationship and the taxable amount, 60,000 USD exemption for non-residents)

From the above we can clearly see that regulations are very different, even within the EU, and that the impact of the tax itself in case of inheritance can be very relevant in some cases.

One example: in the case of an inheritance leaving 2 million Euros to a son, In Italy the inheritance tax is equal to 40,000 euros, in Switzerland (canton of Ticino), it is equal to 0 euros, in Germany it is equal to approximately 265,000 euros, in France to approximately 617,000 euros, and in Great Britain to approximately 650,000 euros.

One must further consider that, in order to avoid "abusive" behaviors with the aim of trying to benefit from more favorable taxation in some States (for example, by changing residency), some States envision ad hoc regulations governing this. For example, for German citizens, for the purposes of the regulations on inheritance taxes and gifts, the status of a person usually resident or domiciled in Germany persists for five years from the moment in which the residence or usual domicile is transferred abroad.

Finally, where various States are involved (for example the deceased resident in State A, beneficiary resident in Country B, inherited asset present in Country C, etc.), one must consider that the application of various taxes may be applied by each Country with the result of having to then evaluate the possibility of deducting the taxes paid in the other Country.

With regard to Italy, in the absence of a Treaty, any double taxation can be resolved through the "domestic" tax credit envisioned in art. 26 section 1 letter b) of Legal Decree no. 346/90, based on which the "taxes paid to a foreign Country, depending on the inheritance itself and with regard to the assets existing in such State, up to the concurrence of the part of the inheritance tax which is in proportion to the value of the assets themselves, with the exception of the application of international Treaties or agreements".

To better understand the relative mechanism, consider the following case: a deceased resident in Italy, among whose holdings subject to inheritance there are assets located in Germany and in Italy, and an heir resident in Germany: in conformity with the German regulations, the inheritance tax is applied on a global basis as a result of the residency of the heir, thus resulting in double taxation of all the assets in the inheritance; by virtue of the tax credit mechanism envisioned by Legal Decree no. 346/90, Italy recognizes a credit for the German taxes paid only on the assets located in Germany, with the result that the double taxation is only resolved for the assets located in Germany and not also on those located in Italy.

Where there is a Treaty, one can refer to the provisions contained in it in order to resolve particular cases of double taxation. For example, consider the following case: deceased individual residing in Italy among whose holdings subject to inheritance there is a property located in the United Kingdom; in application of the Italian and English regulations, the property is subject to taxation in both Countries: for the purpose of resolving the double taxation, the Treaty concluded between Italy and the United Kingdom provides that "when a Country that is a signatory to the treaty applies the tax on assets which are not located in its territory but are in that of the other signatory, the first Country grants a credit equal to the amount of the tax applied in the territory of the other Country that can be attributed to such assets (without exceeding the amount of the tax thus applicable)"; thus, Italy grants a credit for the taxes paid in the United Kingdom on the property located there.

For this purpose we note that the Agreements on double taxation for inheritance taxes are few if compared to those envisioned for the purposes of income tax. For example, Italy has signed only seven Treaties on the subject of inheritance (United States, Sweden, Greece, United Kingdom, Denmark, Israel, and France) compared to 100 regarding income tax. This means that there are potentially many cases of double taxation in cases of "international inheritances".

From the above one can see how it is increasingly important to analyze one's wealth and family situation in a timely fashion in order to be able to plan and manage a future inheritance event in an efficient manner without unforeseen consequences.

Veco Group, which has extensive experience in cross border taxation and Swiss taxes, can help its clients in analyzing their asset position and identifying the most suitable solutions or arrangements for each specific case, assisting the client itself in all phases of wealth planning.

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