

# You really shouldn't have

STEFANO LOCONTE HIGHLIGHTS PROPOSED INCREASES TO ITALY'S GIFT TAX AND INHERITANCE TAX

IN ITALY, the tax on gifts made during a donor's life and on transfers on death is presently considerably lower than in most countries.

As far as *inter vivos* gifts are concerned, if the donor and/or the donee are Italian residents at the time of the gift, gift tax is always levied, regardless of whether the assets or rights are located abroad or whether the gift is performed by way of a deed executed abroad.

In relation to transfers on death, inheritance tax is levied on any transferred asset or right, whether or not the transferred assets or rights are located in Italy or abroad, if the deceased is resident in Italy at the time of death.

The tax base of both levies is calculated by reference to the value of the transferred assets or rights. The tax rate currently applicable to transfers both *inter vivos* and on death varies in relation to the relationship between the donor or deceased and the donee, heir or legatee:

- transfers to the spouse or lineal relatives are taxed at 4 per cent;
- transfers to relatives in the collateral line up to the fourth degree, to lineal relatives-in-law up to the fourth degree and to relatives-in-law in the collateral line up to the third degree are taxed at 6 per cent; and
- transfers to other, unrelated subjects are taxed at 8 per cent.

Specific thresholds are then provided for transfers benefiting certain classes of individuals:

- the spouse or lineal relatives of the transferor are taxed on the net value exceeding EUR1 million for each transferee;
- siblings of the transferor are taxed on the net value exceeding EUR100,000 for each transferee; and
- transferees with serious disabilities are taxed on the net value exceeding EUR1.5 million for each transferee, regardless of their ties to the transferor.

Transfers, both *inter vivos* and on death, are exempt if they are in favour of the state, other local authorities, public bodies, political parties, foundations, legally recognised associations or other non-profit entities whose purposes are exclusively of public interest.

Practitioners may wish to advise their clients to take immediate planning steps to mitigate their future tax liabilities'

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## PROPOSED TAX RATE INCREASES

A draft Bill has recently been introduced in the Italian parliament to amend the gift tax and inheritance tax. The reform is likely to increase the tax rate to:

- 7 per cent for the spouse or lineal relatives of the transferor;
- 8 per cent for siblings;
- 10 per cent for relatives in the collateral line up to the fourth degree, for lineal relatives-in-law up to the fourth degree, and for relatives-in-law in the collateral line up to the third degree; and
- 15 per cent for other, unrelated subjects.

All percentages will then be tripled for transfers over EUR5 million. Furthermore, the threshold for the spouse or lineal relatives of the transferor will be reduced to EUR500,000.

In parallel to the gift tax and inheritance tax reforms, the Italian legislator is performing a comprehensive review of the Land Registry, which could lead to an overall increase in the cadastral revenues. This will have a direct and negative impact on the gift tax and inheritance tax burden, as the tax base of these levies is the cadastral revenue multiplied by the relevant coefficients.

For the sake of clarity, consider this situation. A widower dies intestate with two children. His estate is worth EUR12 million. During his life, he made a gift of EUR800,000 to one of his children.

The overall inheritance tax burden under the current system would be EUR432,000:

- EUR232,000 for the child who received the lifetime gift; and
- EUR200,000 for the child who did not receive the lifetime gift.

If the reform is enacted in the proposed terms, the overall burden of inheritance tax would be EUR2,415,000:

- EUR1,260,000 for the child who received the lifetime gift; and
- EUR1,155,000 for the child who did not receive the lifetime gift.

In light of these developments, practitioners may wish to advise their clients to take immediate planning steps to mitigate their future tax liabilities.