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Reform of Trust Law in Italy



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The trust has been expressly regulated by the Italian Code on income taxation since 2007: however, a comprehensive and clear set of rules in the area of indirect taxation still remains to be introduced. A review of the country's tax treatment of trusts is now finally underway.

The large number of trusts settlements in Italy over the last few years indicates the increasing use of this instrument.

The reason the law of trusts is still studied and the trust is regarded as an important instrument lies in the successful experiences of common law countries—the U.K. among them—where the basic concept of the trust has been molded, adapted and modified to deal with an enormous range of situations, from the family needs area to the commercial world.

Being a common law legal jurisdiction, the U.K. offers a plurality of trust types, which have been created on the basis of the settlor's needs. However, it is worth underlining the fact that, despite the multiplicity of conceivable structures, all trusts are characterized by certain core elements.

ing, there are no formal requirements to settle a trust and consequently, in some cases, it is possible to provide for its establishment even in the lack of a written trust deed. The only unavoidable condition is that the settlor should clearly reveal his intention to settle a trust, its subject matter and its purpose.

An additional feature of the U.K. trust, as for all common law trusts, is the transfer of the ownership to the trustee and the split between control (related to the ownership) and the beneficiary position: the trustee has the legal title to control and distribute the trust property—and acts as the real owner of the assets in relation to third parties—whereas beneficiaries have the right to benefit of the trust assets under the provisions set forth in the trust deed or by the settlor (i.e., through the letter of wishes).

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Core Elements

Firstly, what is deemed to be crucial for the life of a trust is the moment of its creation. Generally speak-

Concept of Trust in Italy

Conversely, in Italy, the concept of trust has less defined borders.