

Trusts: how they work and how they are taxed in Italy

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IN SHORT

A trust separates assets from the settlor's estate and places them with a trustee, who manages them for the beneficiaries. For income tax purposes a trust is either opaque, paying corporate income tax (IRES), or transparent, when the beneficiaries are identified and the income is attributed to them. Since 2025 inheritance and gift tax is, as a rule, charged when the assets pass to the beneficiaries, unless the settlor elects to pay when the trust is funded (Article 4-bis of Legislative Decree 346/1990). RW reporting, IVAFE and IVIE, beneficial ownership and the risk of the trust being disregarded as a nominee arrangement remain to be managed.

Trusts: definition and parties (1985 Hague Convention)

Italy has no domestic trust law, but it recognises trusts governed by foreign law under the **Hague Convention of 1 July 1985**, ratified by Law 364 of 16 October 1989. Trust assets form a separate fund that the trustee's personal creditors cannot reach. The main parties are:

- the **settlor**, who creates the trust and transfers the assets;
- the **trustee**, who becomes the owner of the assets and manages them under the trust deed and the governing law;
- the **beneficiaries**, who receive income or capital, with fixed entitlements or at the trustee's discretion;

- the **protector**, an optional role overseeing the trustee, whose consent may be needed for certain decisions.

Opaque and transparent trusts (Article 73 TUIR)

A trust is subject to IRES (Article 73 of the Italian Income Tax Code, TUIR), and its income is calculated according to whether its activity is commercial or not. The key distinction concerns the beneficiaries:

- **transparent trust:** if the beneficiaries are "identified", the trust's income is attributed to them in any case, even if not distributed, and taxed as investment income (Article 44(1) (g-sexies)). According to Revenue Agency practice (Circulars 48/E of 2007 and 34/E of 2022), a beneficiary is identified when entitled to demand that income from the trustee;
- **opaque trust:** with no identified income beneficiaries, the income is taxed in the trust at the IRES rate of 24%. For a non-commercial trust, financial income subject to withholding or substitute tax stays taxed that way.

If the income has already been taxed in the trust, a later distribution to a resident beneficiary is generally not taxed again. Distributions by an opaque commercial trust are the exception: they are taxed like dividends.

Foreign trusts and distributions to residents (Article 44(1)(g-sexies) TUIR)

If an opaque trust is established in a country with **preferential taxation** of trust income (nominal tax below half the Italian level, Article 47-bis TUIR), amounts paid to Italian residents are investment income, even if the recipient is not an identified beneficiary. They are taxed on receipt. If income cannot be distinguished from capital, the whole amount is treated as income, unless proven otherwise (Article 45(4-quater)). These rules were introduced by Decree-Law 124/2019 and explained in **Circular 34/E of 20 October 2022**.

Article 47-bis in principle excludes EU and EEA states with effective information exchange from this classification. However, the Italian Revenue Agency considers letter g-sexies applicable to trusts and similar arrangements established in an EEA state that enjoy a tax

exemption regime (Circular 34/E, para. 3.3) and applied it, together with the Article 45(4-
quater) presumption, to amounts paid by a tax-exempt Liechtenstein family foundation
(Ruling 221 of 2023). In other cases, distributions from opaque foreign trusts to resident
beneficiaries are in principle not taxed as income. They are, however, relevant for
inheritance and gift tax.

Trust residence and the presumptions of Article 73(3) TUIR

A trust is resident in Italy if, for most of the tax year, it has its registered office, place of
effective management or day-to-day management there. Trusts set up in countries that do
not ensure adequate exchange of information are also deemed resident, **unless proven
otherwise**:

- if at least one settlor and at least one beneficiary are Italian residents;
- if, after the trust is set up, a resident transfers real estate or real estate rights to it, or
creates restrictions on their use in its favour.

A foreign trust that is in fact run from Italy, for example by a settlor who keeps making the
decisions, risks being treated as resident.

Inheritance and gift tax: from Circular 34/E to Legislative Decree 139/2024

In Circular 34/E of 2022 the Revenue Agency adopted the Supreme Court's position:
funding a trust does not enrich the beneficiaries, and tax applies when the assets are
distributed to them. **Legislative Decree 139 of 18 September 2024** turned this into law
with Article 4-bis of the inheritance and gift tax code, for transactions from 1 January 2025:

- tax applies on the **transfer to the beneficiaries**, who self-assess it by reporting the
transfer;
- allowances and rates depend on the **relationship between settlor and beneficiary**, for
example 4% above €1 million for a spouse or children;

- the settlor, or the trustee of a testamentary trust, can **elect to pay on each contribution**. If the class of beneficiary cannot be determined, the highest rate, 8%, applies with no allowance. Later distributions to beneficiaries of the same class are no longer taxed, and the tax paid is not refundable.

Under Article 13 of Legislative Decree 148 of 7 August 2026, in force since 12 August 2026, the election also covers mortgage and cadastral taxes; the decree sets no specific start date for this change. The rules also apply to existing trusts; their implementation is left to a Revenue Agency measure which, as of October 2026, does not appear to have been issued; anyone planning to elect, especially for a trust set up before 2025, should bear this in mind.

For trusts that already paid tax on funding under the former practice, Circular 34/E treats the matter as closed: no further tax if the same assets pass to the same beneficiaries, but no refund either. If assets or beneficiaries differ, the tax already paid is credited against the tax due on distribution.

On territorial scope, if the settlor is resident when the assets are segregated, tax covers all assets; if not, only those located in Italy (Article 2(2-bis)). Exemptions, such as the one for controlling shareholdings described in the [guide on family holding companies](#), are generally assessed for the beneficiaries at the time of distribution: for the Article 3(4-ter) exemption the beneficiary must be the settlor's spouse or descendant and meet its conditions. **Beware of the election:** according to the Revenue Agency's instructions to the inheritance tax return, which concern testamentary trusts, a trustee who elects to pay upfront cannot claim exemptions or reliefs that depend on specific requirements, not even when the assets are later distributed to the beneficiaries. The instructions do not expressly mention the Article 3(4-ter) exemption, nor lifetime contributions, but there is a real risk that the election rules it out: the point is disputed and should be weighed carefully before electing on shareholdings or businesses.

Tax monitoring: RW reporting, IVAFE and IVIE

Under Circular 34/E, Article 4 of Decree-Law 167/1990 and the definition of beneficial owner:

- a **resident trust** reports its foreign assets in the RW section, unless the whole fund is attributable to resident beneficial owners, who report it in their own RW section;

- **resident beneficiaries of a foreign trust**, even if identified by class, are beneficial owners. Those of fixed-interest trusts report the trust's investments and their share; those of discretionary trusts report their claim against the trust once the trustee announces a distribution.

A resident non-commercial trust pays **IVAFE** (0.2%, or 0.4% for assets held in the preferential-tax countries listed in the Ministerial Decree of 4 May 1999, capped at €14,000; a flat €100 per bank account) and **IVIE** (1.06%, not due up to €200). The €5,000 average-balance threshold that removes the flat charge on accounts applies to individuals.

Beneficiaries of an opaque trust, including a foreign one, file the RW section where required but do not pay IVAFE or IVIE, because they do not own the assets (Circular 34/E, section 6). If the trust is a nominee arrangement, the assets are treated as belonging to the person who in fact controls them, who is taxed as the owner.

Register of beneficial owners

Trusts relevant for tax purposes and similar arrangements must report their beneficial owners to a special section of the companies register (Article 21 of Legislative Decree 231/2007; access rules were rewritten by Legislative Decree 122 of 10 June 2026, published in Official Journal no. 156 of 8 July 2026 and in force since 23 July 2026). The register is suspended because of litigation brought by Italian trust companies (*società fiduciarie*). On 21 May 2026 the EU Court of Justice (cases C-684/24 and C-685/24), ruling on Italian fiduciary mandates, found the Italian framework compatible with EU law, but required that beneficial owners be able to obtain interim judicial protection against refusals of exemptions from access. Pending the Council of State's decision (first hearing announced for May 2027), the chambers of commerce treat filings as optional. The trustee's anti-money-laundering duties to identify beneficial owners still apply.

Sham and nominee trusts, and abuse of law

A trust is disregarded for tax purposes if the settlor, or a beneficiary, in fact keeps control of the assets. Revenue Agency practice (Circular 61/E of 2010, referred to by Circular 34/E) gives examples such as:

- a trust the settlor can freely terminate, or end by naming themselves as beneficiary;
- a trustee who needs the settlor's consent for decisions;
- a settlor who can name themselves as beneficiary.

In these cases income is taxed directly on the person who controls the assets, and on the settlor's death the assets form part of the estate. In civil law, a **sham trust** is one that exists only on paper. The general anti-abuse rule (Article 10-bis of Law 212/2000) also applies to transactions lacking economic substance.

Typical uses of trusts for HNWI families

Trusts are used, among other things, to:

- manage the transfer of shareholdings or real estate to the next generation under rules set by the settlor, for example until the children reach adulthood;
- protect vulnerable family members, including "after us" trusts (Law 112/2016);
- keep a family fund and its governance together across several branches of the family.

Compared with a holding company, a trust separates ownership from enjoyment of the assets. The two can also be combined, with holding shares placed in trust.

From 1 January 2027: new article numbers

In the Consolidated Income Tax Act (Legislative Decree 117 of 19 June 2026):

- Article 73 becomes Article 82;
- Article 44(1)(g-sexies) becomes Article 46(1)(o);
- Article 45(4-quater) becomes Article 47(6);
- Article 47-bis becomes Article 162.

In the Consolidated Act on registration tax and other indirect taxes (Legislative Decree 123 of 1 August 2025), Articles 1, 2 and 4-bis of Legislative Decree 346/1990 become Articles 87, 88 and 90.

What to do in practice: setting up and running a trust

1. **Trust deed:** define the beneficiaries' rights to income, which determine whether the trust is transparent or opaque, and the powers of trustee and protector, without settlor powers that would make it a nominee.
2. **Place of management:** a foreign trust managed in practice from Italy may be treated as resident.
3. **Gift tax:** decide before the endowment whether to opt for upfront payment, considering exemptions and the implementing measure not yet issued.
4. **Every year:** RW section for the resident trust or resident beneficial owners; IVAFE and IVIE for a resident non-commercial trust.

Key risks in the taxation of trusts

- **Nominee trust.** The income is taxed on whoever controls the assets in practice, and on that person's death the assets form part of the estate (Circulars 61/E of 2010 and 34/E of 2022).
- **Italian residence.** A foreign trust managed from Italy, or caught by the presumptions in Article 73(3) TUIR (unless proven otherwise), may be treated as resident and taxed in Italy on its worldwide income: through IRES if it is opaque or, if it has identified beneficiaries, by attributing the income to them (Article 73(2) TUIR).
- **Option for upfront payment.** There is a concrete risk that it rules out the exemption for controlling shareholdings; the issue is debated and the tax paid is not refundable (Article 4-bis Legislative Decree 346/1990).
- **Distributions from foreign opaque trusts.** If the trust is in a low-tax country or, according to the Revenue Agency, in an EEA state that exempts it, they are investment income, in full if income and capital cannot be told apart (Article 44(1)(g-sexies) TUIR; ruling no. 221/2023).

Legal sources

- [Law 364 of 16 October 1989 \(Hague Convention\) – Normattiva](#)
- [Article 73 TUIR – Normattiva](#)
- [Article 44 TUIR – Normattiva](#)
- [Article 45 TUIR – Normattiva](#)
- [Article 4-bis, Legislative Decree 346 of 31 October 1990 – Normattiva](#)
- [Article 3, Legislative Decree 346 of 31 October 1990 – Normattiva](#)
- [Article 7, Legislative Decree 346 of 31 October 1990 – Normattiva](#)
- [Instructions to the inheritance tax return, booklet 1, line EF18bis on testamentary trusts \(Italian\) – Agenzia delle Entrate](#)
- [Article 2, Legislative Decree 346 of 31 October 1990 – Normattiva](#)
- [Legislative Decree 139 of 18 September 2024 – Normattiva](#)
- [Legislative Decree 148 of 7 August 2026 – Normattiva](#)
- [Revenue Agency Circular 34/E of 20 October 2022 \(para. 3.3 on opaque foreign trusts\) – Agenzia delle Entrate](#)
- [Ruling no. 221/2023 \(Italian\)](#)
- [Revenue Agency Circular 61/E of 27 December 2010 – Agenzia delle Entrate](#)
- [Article 4, Decree-Law 167 of 28 June 1990 – Normattiva](#)
- [Article 19, Decree-Law 201 of 6 December 2011 – Normattiva](#)
- [IVA FE, tax base and rates – Agenzia delle Entrate](#)
- [IVIE, tax base and rate – Agenzia delle Entrate](#)
- [Article 21, Legislative Decree 231 of 21 November 2007 – Normattiva](#)
- [Legislative Decree 122 of 10 June 2026 – Normattiva](#)
- [Notice of 4 August 2026 on the beneficial ownership register \(Italian\) – Cuneo Chamber of Commerce](#)
- [Court of Justice of the EU, press release 74/26 of 21 May 2026 – Curia](#)
- [Article 10-bis, Law 212 of 27 July 2000 – Normattiva](#)

- [Legislative Decree 117 of 19 June 2026 – Normattiva](#)
- [Legislative Decree 123 of 1 August 2025 – Normattiva](#)

Frequently asked questions

When is gift tax paid on a trust?

Since 2025, as a rule, when the assets are transferred to the beneficiaries, with rates and allowances based on their relationship to the settlor. The settlor can instead elect to pay on each contribution; later distributions are then no longer taxed, but there is a real risk of losing exemptions such as the one for controlling shareholdings: for testamentary trusts the Revenue Agency's instructions rule out exemptions and reliefs that depend on specific requirements.

What is the difference between an opaque and a transparent trust?

In a transparent trust the beneficiaries are entitled to the income and taxed on it even if they do not receive it. In an opaque trust there are no identified income beneficiaries, and the income is taxed in the trust at the IRES rate.

Are distributions from a foreign trust taxed in Italy?

If the trust is opaque and established in a preferential-tax country, yes, as investment income; according to the Revenue Agency, also if it is established in an EEA state that exempts it from tax (Ruling 221 of 2023). Otherwise, distributions from an opaque trust are in principle not taxed as income, but they may be subject to gift tax.

Can a foreign trust be treated as resident in Italy?

Yes, if it is in fact managed from Italy or if the Article 73(3) TUIR presumptions apply, such as having at least one settlor and one beneficiary resident in Italy for trusts set up in countries without adequate exchange of information.

Must the beneficiary of a foreign trust file the RW section?

Yes, if they are a beneficial owner. In fixed-interest trusts they report the trust's investments and their share; in discretionary trusts they report their claim against the trust once a distribution is announced. If the trust is opaque, they do not pay IVAFE or IVIE.

When is a trust disregarded by the tax authorities?

When it is a nominee arrangement, i.e. the settlor or a beneficiary in fact keeps control of the assets, for example with a freely revocable trust. Income and assets are then attributed directly to that person.

More answers on the topics of this guide are on the [FAQ](#).

Related questions

[What is "upfront" taxation of a trust for Italian inheritance and gift tax?](#)

[Can a new resident settle foreign assets in a trust using "upfront" taxation?](#)

[When is a trust at risk of being disregarded for tax purposes?](#)

[How is an Italian resident beneficiary of a foreign trust taxed?](#)

[What is the best instrument for asset protection and succession planning?](#)

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[UAE and Liechtenstein foundations](#)

[Italy's flat tax for new residents](#)

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[All frequently asked questions](#) – short answers on international tax and HNWIs, moving tax residence and generational transfers, holdings, trusts and foundations, court-appointed experts

Contact

Risks and obligations depend on the facts of each case: for an analysis of the specific case, see the contact page.

Contact form

Legislation cited with the article numbering in force until 31 December 2026. For information only; it does not replace advice on a specific case.