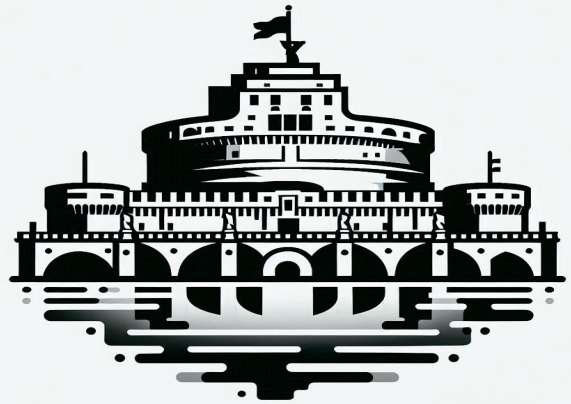


ITALIAN TRUSTS



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For foreigners purchasing property in Italy, managing and protecting assets can present significant challenges. Italian succession laws impose strict inheritance rules, probate procedures can be complex, and tax considerations may lead to unexpected liabilities. A trust offers a flexible and legally recognized solution for structuring property ownership in Italy, ensuring better estate planning, asset protection, and tax efficiency.

Types of Trusts in Italy

Trusts in Italy serve various purposes and can be structured in different ways to meet individual needs. The primary types of trusts include:

- **Family Trusts:** Designed to preserve family wealth and ensure structured inheritance planning, protecting property across generations.
- **Discretionary Trusts:** The trustee has full discretion over the distribution of assets, offering flexibility in how and when beneficiaries receive property or funds.
- **Fixed Interest Trusts:** Beneficiaries receive predetermined distributions, which can be useful for ensuring financial stability for family members.
- **Purpose Trusts:** Established for specific goals such as philanthropy, business succession, or asset protection without designated individual beneficiaries.
- **Trusts for Vulnerable Beneficiaries:** Created to provide long-term financial security for disabled family members or dependents needing special care.
- **Business Succession Trusts:** Used to ensure a smooth transition of business ownership while avoiding inheritance disputes and operational disruptions.

Advantages of Using a Trust in Italy

1. **Avoiding Forced Heirship Rules:** Italian succession laws mandate that a portion of an estate must pass to specific heirs, which may not align with the property owner's wishes. A trust allows greater control over the distribution of assets.
2. **Streamlining Estate Administration:** Probate in Italy can be a lengthy and bureaucratic process. A trust facilitates a smoother transfer of property to beneficiaries without legal delays.
3. **Tax Efficiency:** Properly structured trusts can optimize tax liabilities, reducing inheritance and wealth taxes for beneficiaries. Trusts can also provide opportunities for tax deferral and efficient wealth transfer across generations.
4. **Asset Protection:** Trusts safeguard property from legal claims, creditors, and family disputes, ensuring the integrity of the estate. They also provide stability by preventing fragmentation of property ownership.
5. **Business Continuity:** For foreign investors with business interests in Italy, trusts provide a structured framework for succession planning and long-term management. This is particularly beneficial for family-run businesses that wish to maintain continuity while avoiding potential disputes among heirs.
6. **Cross-Border Compliance:** Trusts align with international legal structures, making them a suitable choice for individuals managing assets across multiple jurisdictions. They provide a legally recognized mechanism for handling property and wealth across different legal systems, reducing the risk of conflicts between foreign and Italian inheritance laws.
7. **Confidentiality and Control:** Unlike wills, which may become public during probate proceedings, trusts offer greater privacy in estate planning. The settlor can establish specific instructions regarding how assets should be managed and distributed, ensuring their wishes are followed without external interference.
8. **Philanthropic and Charitable Giving:** Trusts can also be structured to support charitable organizations, ensuring long-term contributions to causes of interest while benefiting from tax advantages.

Italian Trust Law and Legal Framework

- Italy does not have a domestic law governing trusts but recognizes them through the **Hague Convention on the Law Applicable to Trusts and on Their Recognition (1985)**, ratified by **Law No. 364 of 16 October 1989**. Key elements of Italian trust law include:
- **Recognition of Foreign Trusts:** Trusts established under common law jurisdictions (such as the UK or Switzerland) can be legally valid in Italy, provided they comply with tax regulations.
- **Inheritance Law Considerations:** While a trust can help structure an estate, it must be carefully planned to avoid conflicts with Italian inheritance laws, particularly concerning forced heirship rights.
- **Trustee Responsibilities:** The trustee is responsible for managing trust assets in the best interests of beneficiaries while adhering to legal and tax reporting obligations.
- **Taxation of Trusts:** Trusts in Italy are classified as either "transparent" (where income is taxed at the beneficiary level) or "opaque" (where income is taxed at the trust level), impacting their tax treatment.

Conclusion

For foreigners investing in Italian property, a trust provides a strategic solution for estate planning, asset protection, and tax efficiency. By structuring property ownership through a trust, investors can navigate Italy's complex inheritance laws, avoid probate delays, and safeguard their wealth for future generations. Understanding the legal framework and selecting the appropriate type of trust ensures that assets are managed effectively while remaining compliant with Italian and international regulations.