



**University
of Ferrara**

**Department
of Law**

HOW ITALY DEALS WITH TAX EXEMPTIONS

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Department
of Law

WHEN IS THE TAX APPLIED ?

- Transfers of assets and rights *mortis causa*
- Transfers of goods and rights by or other donation between living persons
- The establishment of destination constraints (e.g. asset funds, assets intended for a specific business, while for as regards trusts)
- Transfers of assets and rights through free acts (other than donations)
- Indirect donations resulting from deeds subject to registration

EXEMPTIONS

(WHEN TAX IS NOT APPLIED)

In favor of:

- The State, the regions, the provinces and the municipalities
- Public bodies and legally recognized foundations or associations, which have the exclusive purpose of assistance, study, scientific research, education, instruction or other purposes of public utility
- Non-profit organizations and foundations
- Political movements and parties

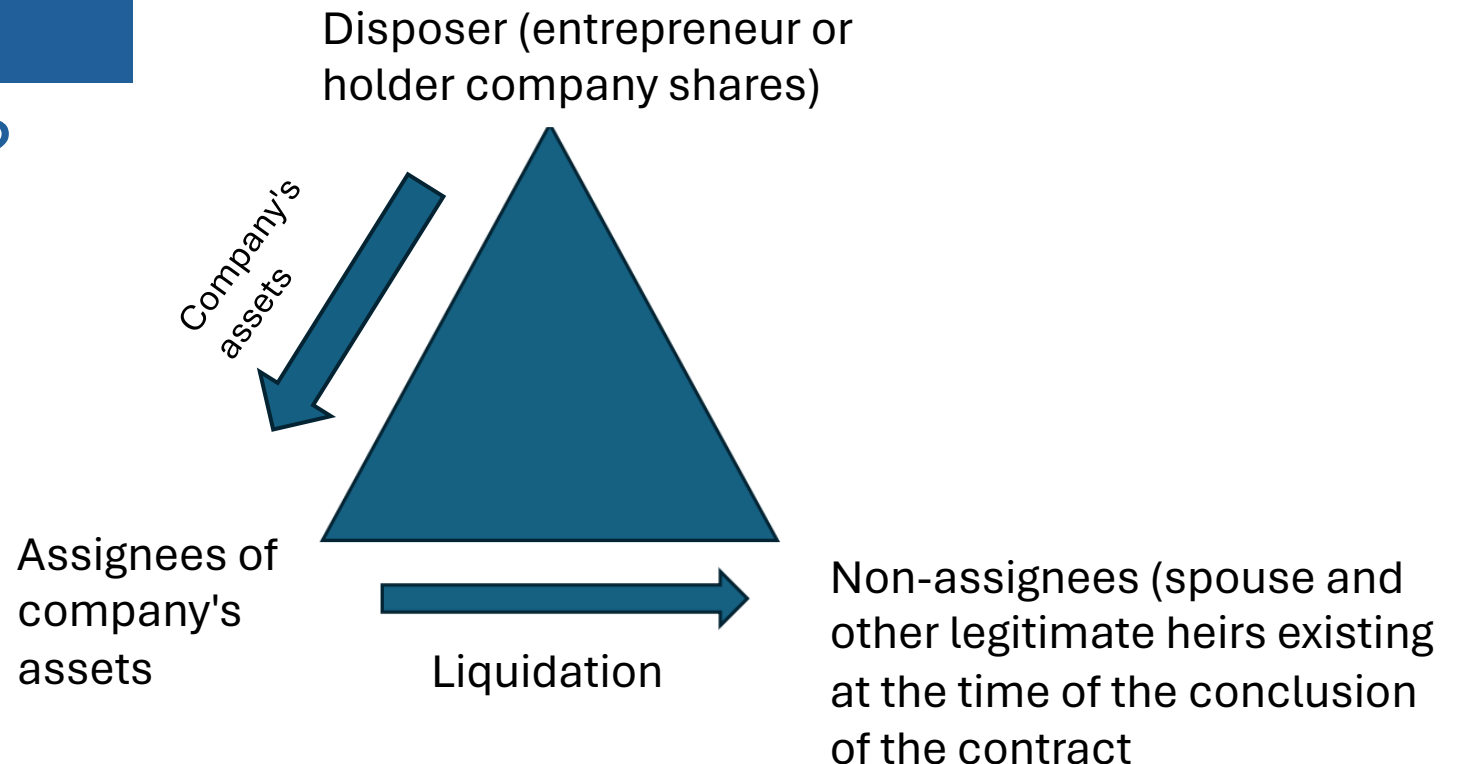
RATES AND DEDUCTIBLES

	Rates for inheritance and gift tax for every asset	Real Estate	
		cadastral tax	mortgage tax
spouse, sons/daughters and relatives in the direct line	4% only on the amount that exceed the 1'000'000 euros	1%	2%
Brothers and sisters	6% only on the amount that exceed the 100'000 euros		
Other relatives up to the 4th degree, related in the direct line, related in the collateral line up to the 3rd degree	6%		
Other subjects	8%		
		In cases of primary house his amount is fixed to 50 euros in cases of transfer by individuals or companies not subject to VAT or 200 euros in cases of transfer by company subject to VAT	

FAMILY AGREEMENT

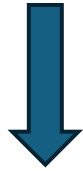
WHAT IS IT AND HOW DOES IT WORK?

The Family agreement is a specific agreement that allows to anticipate the succession of the entrepreneur, by allowing the generational transition within the family business in order to avoid future inheritance disputes



TAX EXEMPTIONS & FAMILY AGREEMENT

No inheritance tax and gift tax if:



The assignee acquires the control of the company
&

Assignee continues to carry out the business activity or holds control for a period not shorter than five years from the date of the transfer

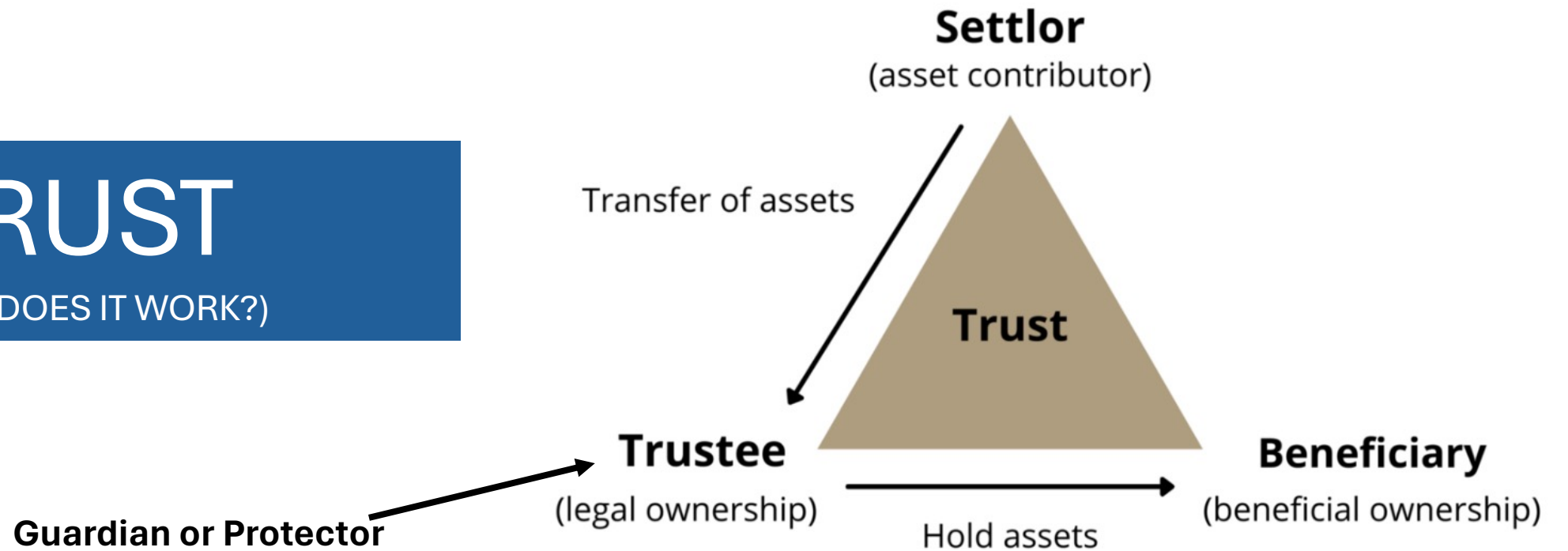
When is the tax applied?



- Post-liquidation between assignees and non-assignees, and tax rates linked to different types of family relationships (Italian Supreme Court judgement no.32823/2018)
- The transfer of participations held in a general partnership, the main object of which is the mere passive management of real estate assets, cannot benefit from the inheritance and gift tax exemption in view of the impossibility of qualifying the simple enjoyment of real estate like a “business activity” (Italian Tax Court of Piemonte - judgement no.445/2023)

TRUST

(HOW DOES IT WORK?)



INHERITANCE TAX & TRUST

TRUST: destination constraints



Applied the traditional regime
(see slides no.3 et seq.)

As confirmed by Italian Revenue Agency
in circular letters no.48/2007 and 3/2008

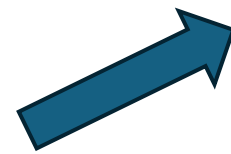
VS

Judges adopted a
different solution:
Applied the tax only at the
moment of the transfer of
assets to the beneficiaries

WHAT IS THE FINAL SOLUTION?



Italian Supreme Court



Judgment no.22754/2019



Judgment
no.22757/2019



Application of the
the tax only at the
moment of the
transfer of assets
between trustee
and beneficiaries.



Judgment no.22578/2019

Italian Revenue Agency
confirmed officially the
solution adopted by the
Italian Supreme Court with
the Circular Letter no.34/2022

OTHER EXEMPTIONS WITH THE LAW "DOPO DI NOI" («AFTER US»)? L.112/2016?

What is the goal?

To promote the well-being, social inclusion, care and autonomy of people suffering from serious disabilities.

And when is possible?

In cases where trust is established by public deed or authenticated private agreement and the assets transferred in trust have as exclusive destination the realization of welfare purposes

What are the exemptions?

- exemption from inheritance and gift tax
- registration, mortgage and cadastral taxes apply at a fixed rate to transfers of real estate assets and relative rights

Thank You!



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