Università degli Studi di Ferrara

ITax Papers on Taxation

The Italian Inheritance Tax

Marco Greggi, Professor, Università degli studi di Ferrara

Department of Law
Corso Ercole I D'Este, 37 - Ferrara - Italy
www.dirittotributario.eu
Working Paper: 01-24 ISSN: 2281-3179

DOI

The Italian Inheritance Tax

By Marco Greggi[1]

Summary

1. The Reasons of a Tax

The Italian tax system is inspired by the Ability to Pay and Equality principles, as defined by Articles 3 and 53 of the Constitution[2]: both these rules, but in particular the second, demand a reapportionment of wealth amongst the individuals belonging to the same community Such a need for reapportionment meets limits and countervailing values enshrined in the same constitution, such as the property right and the freedom of economic initiative. Therefore, need to strike a balance between these drives has always been a constant in the Italian jurisprudence and, with that, research of ways and means to achieve this objective. The application of a tax upon transfer of wealth due to death was considered necessary (rather than possible) to enforce these goals[3].

Actually, an Inheritance Tax was not the only solution possible. Considering that inheritance is the descent of a compound of assets from somebody to somebody else *mortis causa*, that goal would have been achieved

[1] Marco Greggi, University of Ferrara can be reached at grgmrc@unife.it. This article has been prepared in the framework of the EU funded research KA 2017-1-LI01-KA203-000088.

[2] Gaspare Falsitta, *Il Principio Della Capacità Contributiva Nel Suo Svolgimento Storico Prima e Dopo La Costituzione Repubblicana* (Milano: Giuffrè, 2014); Marco Greggi, *Fondamenti Di Diritto Tributario* (Ferrara: University of Ferrara, 2018).

[3] Simone Ghinassi, *Imposte Di Reigstro e Di Successione, Profii Soggettivi Ed Implicazioni Costituzionali*, 1996.

through ways and means. The legislator would have taxed the wealth as such, or would have consider the increase of capital of the individual benefitting from inheritance as income, or perhaps some other solution in the middle of the two[4]. As a consequence, the taxpayer would be the deceased person, the heirs, depending to the model of ta adopted.

The choice made in the 1990, namely to have a specific tax in force to charge inheritances, derives from the peculiar definition of Income the Italian legislator upholds[5]. In the Italian system, with a certain margin of appreciation, income is the increase of and individual wealth deriving from a specific (qualified) activity[6]. Hence pure increases of wealth not deriving from an activity are, generally, non-taxable. As the heirs actually increase their assets, but without a specific activity, the aforesaid gain would have been tax-free. Hence the necessity to introduce a tailor-made tax to target these specific increases. The correlation between "income" and "activity" is also helpful as to understand why the legislator introduced different thresholds to the calculation of the taxable base.

2. The Turbulent Life of a Tax on Death

It is not easy to track all the changes that in recent years affected the Italian inheritance tax. Being a very politically sensitive argument, various Governments in the past intervened as to mitigate or adjust it, in the attempt to please the electorate (in the first case) or to raise more money for the necessity of the State budget (in the second)[7]. We assisted therefore to a swing of the tax *pedulum* from one side to another: a portion of the law introducing the tax was repealed, then deleted and eventually reinstated with amendments. All these changes make the reading of the Act (and more than that, its understanding) extremely challenging and the implementation of the tax ultimately uncertain in various situations.

The first text of the tax is the one in the Consolidated Act n. 346 passed on October 31st 1990 and eventually amended by decree n. 262 passed on October 3rd 2006, article 2, paragraphs from 47 to 54.

The latest decree (Act n. 383 passed on December 18th 2001, Article 13[8]) brought back to life the tax after it was repealed only insofar it was compatible with the new provisions, introduced at the paragraphs 47 – 54 mentioned above. So the current statutory text is divided in two different bills, with the one applicable only insofar it does not collide with the second, and the second addressing only selected aspects (although of extreme importance) of the tax.

3. The Taxpayers and the Taxable Items

The proper identification of the subjects supposed to pay the tax is anything but simple, under a theoretical point of view: most of this uncertainty derives from the literal text of the Italian law, as amended in 2006.

The 2006 Act wants the tax to be charged "on the transfer of goods and assets of any kind *mortis causa*".

---

[4] These possibility are also discussed in the UK perspective in James A. Mirrlees and Stuart Adam, "Taxes on Wealth Transfers," in *Tax by Design: The Mirrlees Review*, ed. James A. Mirrlees (Oxford: Oxford University Press, 2011), 347–67.

[5] Gaspare Falsitta and Nicoletta Dolfin, "Manuale Di Diritto Tributario. Parte Speciale. Il Sistema Delle Imposte in Italia," in *Manuale Di Diritto Tributario. Parte Speciale. Il Sistema Delle Imposte in Italia*, ed. Gaspare Falsitta, 12th ed. (Padova: CEDAM, 2018), 1029.

[6] According to Article 6, the Italian Income Tax Act (Act passed on December 22nd 1986, n. 917), income must fall in one of the following categories to be taxed: real estate, capital, labour (both dependent or independent) business or other (this latter case cover miscellaneous cases such as lottery wins, selective capital gains, temporary jobs, etc.)

[7] G. Gaffuri, *Imposta sulle Successioni e Donazioni* (Turin, 1976).

[8] It is important to remember that despite the tax was repealed in 2001, during that period two minor taxes (mortgage tax and cadastral tax) were applicable to the value of the real estate transferred *mortis causa*. These two taxes are applicable still nowadays despite the fact that Inheritance tax has been brought back to life.

The 1990 Act (to be considered valid anyway unless in conflict with the 2006 text however) targeted: "the transfer of goods and assets mortis causa" and "the temporary transfer of the possession on goods and assets deriving from le legal absence of the owner and from the official declaration of presumed death".

The use of the words is relevant in this context, and the reference to "transfer of …" would nudge the interpreter to consider the tax as applicable to the value of the assets transferred, as the tax would be quite similar to a registration tax or an indirect tax on the transfer of wealth.

Other authors[9] observe that this interpretation (abiding by the literal text of the law) is not entirely consistent with the Constitutional principles, and namely with the ability to pay one. The fact that the exact amount of the tax to be paid is calculated according to various factors, including the identity of the individual benefitting from inheritance and his or her relationship with the dead, should bring the interpreter to refuse the aforesaid interpretation if favour of a different one, constitutionally oriented perhaps.

According to the law currently in force transfer in favour of the spouse, or of direct relatives are charged with a rate of 4% and a threshold of € 1.000.000 (which is tax free) each. Transfers to brothers and sisters are charged with a rate of 6% and a threshold of € 100.000 has been introduced as well. Transfers to other relatives up to 4th degree and lineal (or collateral) affines[10] up to the 3rd degree are considered with a rate of at 6%, with no threshold at all. Eventually all the others not mentioned are charged with an 8% tax rate.

The actual amount to be paid eventually depends on a number of factors (rates, thresholds, etc.) all applicable on the basis of the status of the heir (including the relationship degree). It is therefore difficult to consider it as a fee to be paid on the transfer as such irrespective of the identity of the person or the entity benefitting from it. On the contrary, the tax in Italy should be considered as a direct tax to be charged on the individual whose wealth is increased because of inheritance Hence the it would be a direct tax on the increase of wealth rather that on its transfer.

An argument supporting this interpretation derives also from the nature of the individual befitting from a reduced rate: the decision by the Government to charge a reduced tax rate on family members might be justified according to the fact that those very same individuals supported the deceased person in increasing his or her wealth. It would be unfair therefore to charge with a standard rate those whose activity was (arguably) relevant in accruing the wealth that is bequeathed *mortis causa*. On the top of that, considering inheritance tax as a sort of "income tax in disguise" would also help in fixing the Italian system that consider as "income" the increases of wealth deriving from qualified activities only, and not any increase of wealth as such.

The fact that the tax under discussion is on increase of wealth rather than on its transfer has many practical consequences, including those concerning the calculation of it, the passive solidarity for the debts, etc.

This interpretation is rather than unanimously accepted, as most of the judiciary and the judge-made law appear much more conservative in this respect[11]. In other words, the Italian tax judiciary insists in considering the tax as due on the transfer of wealth as such, irrespective of the identity of the beneficial owner. This feature would be rather an ex post parameter.

[9] See for instance Gastare Falsitta, cited at footnote 5 above.

[10] Affinity is the relation of a spouse to the other spouse's relatives or between two spouses' relatives to each other. See Bryan G. Garner, "Affinity," *Black's Law Dictionary* (Thomson West, 2004).

[11] See implicitly the very recent sentence of the Italian Supreme Court (*Corte di Cassazione*) n. 975 decided on January 17th 2018. Here the Court confirms that inheritance tax (likewise the registration tax) are applicable on the transfer as such rather than on the transferee or the transferor.

This different interpretation of the tax is based on the fact that, under the law, the tax timeline was as follows: (1) Opening of the succession procedure (upon the death) and individuation of the heirs; (2) Filling in of the inheritance tax return by heirs; (3) Payment of the tax due.

Because of this timeframe the tax was supposed to be due right at the moment (1) above, even by those who were just eligible to inherit. In order to inherit an asset, according to the Italian law, eligibility is not sufficient: a specific deed of acceptance is also requested. Failing to accept (or postponing the decision in a suitable time limit) just make the assets frozen in a no-man's land, which is relevant obviously for taxation anyway.

According to this different interpretation, people who are just eligible to inherit would become actual taxpayer, with an excess tax actually paid suitable of being reimbursed later on, should they decide to refuse this possibility.

Italian academics in the past strongly criticized this solution, arguing that charging taxes on an individual who is only eligible to an increase of wealth would be a violation of his ability to pay as set in the Constitution (Article 53). In 2006 the legislator, aware of this feature of the tax, amended the text considering as taxpayer only the eligible individual who did not refuse to inherit in the time limit granted by the law. The tax return can be omitted by the latter if he does not already own an asset of the individual dead, and he asks for the appointment of a special Commissioner for the inheritance[12]. This special commissioner can be appointed upon request by the Tax office to the judge.

The duty to pay inheritance tax in Italy therefore is very time sensitive.

The tax is changed on individuals whose acceptance of inheritance is not manifested, but yet haven't explicitly refused it. In this sort of legal *limbo*[13], they are demanded to make anticipated payment (which will be reimbursed as conditions are met) and, most important of all, to address all the compliance duties relevant for the assessment of the tax actually to be paid, including the filling of the tax return and its communication to the office. Quite obviously, they are fined as they omit to do so timely.

As to wrap up this first part, considering the changes added in 2006, the Italian Inheritance tax can be defined as a tax on the wealth increase *mortis causa*, while the definitive taxpayer is the individual who accepted the inheritance under the law (the heir), and for an amount derived from it[14].

The fact that each individual is liable to tax for his increase of wealth should also be relevant on whether some sort of solidarity occurs in the payment of it[15]. The legislator allowed this form off solidarity during the previous system (till 1990). The Italian Constitutional Court[16] argued that solidarity in this respect was nonetheless coherent and compatible with the ability to pay principle, thus legally admissible.

This interpretation has been challenged in literature[17], and strongly criticized upon various grounds. It was observed that now the letter of the law has been changed, and the interpretation of the Constitutional Court is not justifiable anymore. It was also observed that it is unreasonable to consider somebody responsible for the omission by somebody else, when the amount to be paid is so strictly dependant front the subjective

[12] In most of the cases a lawyer appointed by the judge who is supposed to act as a sort of trustee and manage the assets pending their acceptance by somebody eligible.
[13] Andrea Fedele, "L'imposta Sulle Successioni e La 'Trasmissione' Della Chiamata Ereditaria," *Riv. Dir. Fin. Sc. Fin.* II (1987): 227.
[14] See paragraph 5 below.
[15] Giuseppe Salanitro, "Solidarietà Tra Gli Eredi e Cumulo Delle Donazioni Nella Nuova Disciplina Dell'imposta Sulle Successioni e Donazioni," *Rivisia Di Diritto Tributario* I (2009): 591.
[16] Constitutional Court decision n. 68 taken on March 20th 1985.
[17] See Gaspare Falsitta at footnote 5 above

condones of the latter. Eventually, should this interpretation be upheld, liability of the former should be limited to the actual increase of wealth by individual who failed to pay.

Despite the reasonableness of the critics, the solidarity principle is still maintained in the current system[18].

4. International Law Aspects of Inheritance Tax

Italian inheritance tax is changed consistently with a world-wide approach: in this respect it is not very much different from the equivalent principle applicable to personal income tax.

In this case, however, the tax is charged considering the residence of the dead at the moment in which succession is opened (Article 2): should he or she be resident in Italy in that moment, then the tax is applicable on all the assets, in Italy and in the world unless a specific double taxation convention provides for the contrary[19].

If the deceased person was not resident in Italy at the moment of the event[20], then the tax is charged on the assets placed in the territory of the peninsula only. This is a reasonable provision whose application can be managed in case of real estates or immovable properties in general. When the situation comes, for instance, to credit wealth and other very movable assets (including for instance the very recent Cryptocurrencies) then the discovery of a link with the territory of the state is anything but certain, and originated in the past to litigation in front of the courts.

Currently, Italy has but a few of international agreement on inheritance tax[21] as to minimize risks of double taxation in this respect[22]. The domestic law however provides for a tax credit to be granted in cross border situation and to be calculated based on the tax paid abroad on the assets localized in Italy[23] (the source state, in this respect)[24].

European Union has legislated in the past in the field of inheritance law and family law[25], but none of her provisions addressed specifically the tax aspects. This might have occurred both because of a lack of specific competence of the Union to do so, or also because of the conflicting position of the states: the lack of positive regulation has been taken by a significant case law of the European Court of Justice[26].

Risks connected to international taxation in the future are destined to a sharp growth due to the increasing mobility within the EU, fuelled by special tax regimes granted to retired and HNW individuals. The Italian

[18] See Supreme court decision n. 24624 on November 19th 2014.
[19] The OECD has developed a Model double taxation convention on estates and inheritances and on gifts, whose latest update dates back to 1982.
[20] The EU Regulation 650/2012 make reference to "Habitual residence" in article 4, for instance.
[21] Most of them dates to the sixties. Countries considered are: Denmark, France, Greece, Israel, United Kingdom, USA and Sweden.
[22] See footnote 19 above.
[23] Article 2, paragraph 2, Inheritance Tax Act.
[24] On International tax law issues see more in general
[25] The Regulation 650/2012 essentially addresses Civil law issues of cross-border inheritances. Taxation is explicitly excluded from its scope (see *Consideranda* 10 to the Regulation).
[26] Vasileios Dafnomilis, "A Comprehensive Analysis of ECJ Case Law on Discriminatory Treatment of Cross-Border Inheritances-Part 2," *European Taxation* 55, no. 12 (2015): 567–77; Vasileios Dafnomilis, "A Comprehensive Analysis of ECJ Case Law on Discriminatory Treatment of Cross-Border Inheritances-Part 1," *European Taxation* 55, no. 11 (2015): 498–508; Jan Karol Szczepański, "European Union Foreign-Located Immovable Property Protected Against Discriminatory Taxation of Cross-Border Inheritance: Comments on the Huijbrechts Decision (Case C-679/17)," *European Taxation* 59, no. 7 (2019): 320–30.

HNWI one for instance[27], has introduced a special waiver in this respect as not to discourage those planning to move to Italy.

5. The Taxable Base

The exact calculation of the taxable base is anything but simple, as the legislator was afraid of possible erosions or avoidance schemes to be enacted right before the moment of death or after it by heirs. The law is therefore filled with claw back provisions, and criteria to assess the value of bequeathed assets that diverge on some occasion from the value as reported by the taxpayers.

As a general principle, the base depends on the increase of wealth of each single heir. This amount equals: (1) the overall amount of the inheritance (in case of one heir); or (2) the amount of the percentage of inheritance attributed, in case of two or more heirs, minus legates[28] and other duties; the amount of legates minus fees legatee are charged with. All these numbers, all in all, depends on actual value of inheritance as such.

Under the law, inheritance value is calculated offsetting active and passive items of it consistently with a procedure and presumptions, which have been introduced as to prevent table base erosions. This possibility should be granted also to non-resident heirs whose asset are in Italy, according to the European Court of Justice case law[29].

Active items include goods owned or possessed by the dead till the moment of his passing, with some exclusions that might include goods from whom he was deprived under a sentence by the judiciary, or goods whose ownership is shared (in this situation only the percentage attributable to the individual of the case would be calculated as an active item).

Then, there are provisions aimed literally at preventing avoidance or evasion behaviours.

Evasion might occur when taxpayers hide or conceal unregistered movable goods or sell registered goods in advance to hide the cash from the Tax office (the same goes for valuables owned by the deceased, such as gold, jewels, etc.). As the actual assessment of these amount would be technically impossible, the legislator assume an amount of unreported goods that equals 10% of the taxable base (net of the threshold, if any) composed by registered goods, such as immovable properties and registered movables.

The value of the spontaneously reported unregistered taxable goods shall be deductible (up to that amount) from the previously mentioned 10%.

This presumption appears to be rebuttable as the legislator allowed implicitly to overtake if the taxpayer of the case demands an analytical inventory of the goods of the deceased persons consistently with Article 769 and *sub* of the Italian Civil Code.

Likewise, all the goods reported in the latest tax return delivered for income tax purposes are considered to be part of the taxable base. This is true even if they are to found at the moment of the death: quite obviously this is a claw-back provision aimed at taking back all the goods that have been winded up at the moment the death or in proximity of it.

Safe Boxes in banks are also quite popular in Italy, and extensively used. Boxes can be rent, or used by one person or by multiple persons at a time: each one of them having the privilege to access and open it. Upon

[27] Now Article 24 *bis* Italian Income Tax Act. The law provides for the inheritance tax to be charged only on assets located in Italy, should an eligible individual opt for the Italian HNWI special tax system.
[28] Legatee is one who is nominated in a will to take personal property. See Bryan G. Garner, "Legatee (Specific)," *Black's Law Dictionary* (Thomson West, 2004).
[29] See the analysis by Vasileios Dafnomilis, cited at footnote 25, at pages 575 and 576.

the death of one of the owner, the safe box can be open only under the presence of the tax inspector or in any case an inventory of the content is necessary for tax purposes. In case of multiple ownership, percentage of it is assumed equal.

Evaluation of single goods is another challenging activity within the inheritance tax system: the methods used match those provided for the Italian Registration Tax[30] (a kind of Stamp Tax equivalent).

The market value at the moment in which the succession opens is considered for immovable properties, where for businesses the value to be assumed equals that of the assets of it, minus liabilities as they are recorded on the books or in the latest tax return delivered for income tax purposes. In case of shares or other financial instruments, they are taken with the average value they had in the latest three months if they are traded on a stock market. If they are not, the amount taxable is calculated according to the value of the underlying asset (that would be the case of shares of an unlisted business).

Deduction of the liabilities is allowed when they are certain and with a registered date falling before the succession or when they derive from decisions by the judiciary or when they are duly registered in the books (if any) of the person deceased[31].

6. Continued: Evidence of the Liabilities.

The correct calculation of the liabilities is perhaps the most delicate step in the determination of the tax due: according to the practice, this is the context in which the risk of avoidance is higher. The tax can be actually eroded in two ways: either claiming costs that never occurred, or carving out item of the base before the whole procedure starts. The legislator, aware of these risks, addressed both the situations with tailor-made provisions.

In the first case (Article 23, Inheritance Tax Act) liabilities may be considered and offset only if the taxpayers brings documental evidence of them with original papers or deed by the creditor who certifies the existence of the deceased's liability. Bank registration or accountancy books may do as well in this respect.

In the second case (Article 22) the law rules that debts occurred to purchase goods or items which do not fall in the lists of goods taxed and inherited are not considered. A similar rule is applicable also to bank registrations, only insofar the deceased was not an entrepreneur or a professional. If he is not, then al the liabilities registered or the checks paid in the last 6 months are disregarded for tax purposes unless the taxpayer could demonstrate that those payments were made in order to purchase goods then taxes. Likewise checks paid up to four days before the death (or later) and issued by the deceased person are not considered for the decrease of the tax base.

The overall value of the goods inherited is increased of the value of the donations received (this is called in Italian "*coacervo*[32]"). Should somebody have received a donation form per person (then) deceased, the amount of the donation is calculated as to check whether the possible threshold is overtaken or not. If yes, the inheritance tax should be calculated and paid on the exceeding amount inherited.

[30] The Italian Registration tax is regulated by the Act n. 131 passed on April 26th 1986.

[31] Other items are deductible under the law, such as the funerary expenses and the costs for medicines and health in the last 6 months before the death only if they are documented with receipts or invoices.

[32] It's a constructive calculation of the taxable base. If the value of the assets bequeathed is 100 but the heir has already received 200 upon donation during the life of the deceased, then the overall value of the assets descended is to be considered as 300.

7. Tax Rates (and Calculation)

The essentials concerning the calculation of the tax have already been addressed in paragraph 3 above.

On that occasion it was noted that consistently with the law currently in force, transfer in favour of the spouse or of direct relatives are charged with a rate of 4%. A threshold of € 1.000.000 (which is tax free)is granted to each. Transfers to brothers and sisters are taxed at 6% with a threshold of € 100.000: those to other relatives up to the 4th degree and lineal or collateral affines up to the 3rd degree are taxed at 6% with no threshold. Eventually all the others not mentioned above are charged with a 8% tax rate.

Recently the legislator has implemented a specific threshold for heirs who and in special needs (serious handicap): in this situation the threshold is € 1.500.000, and is applicable irrespective of the family connection with the deceased.

8. Continued: Allowances and Special Provisions

Italian tax system is well known for providing derogations ad exception to the majority of taxing rules: inheritance tax is no exception in this.

The tax is not applied to inheritance received by the State, Regions, Provinces, Municipalities, Charities or anybody else if the reason why inheritance is descended is to pursue a public utility (the scope must be demonstrated in 5 years by the entity which received it tax free). Even if there are no provisions in this respect, inheritance received by the Church or by branches of it active in charity enjoy this tax regime (in Italy, the Catholic church is by large the greatest beneficiary of this kind of grants). Goods relevant for the culture (and qualified as such by the proper administration) fall also outside the taxable base upon the recipient.

Under a practical point of view, the exemptions for the business are much more relevant. The transfer of the business as going concern is a situation of extreme importance in Italy. Most of the business sector in the peninsula is operated by small or medium size enterprises: the vast majority of them is family run with low capitalization status. The transfer of the ownership between generations is a delicate moment for various reasons. First of all, because the new generation sometimes in uncapable to address business challenges as the old generation was, in some other circumstances because of the lack of liquidity necessary to make upfront payment of the tax.

The legislator, aware of this situation, has introduced specific provisions for the business transmitted *mortis causa* within the family. The law provide for a full exemption from the tax for the transfer of businesses as going concern, when it occurs in favour of the descendants of the owner (or the spouse). The exemption in granted even if the whole transfer occurs in the framework of a *Family Agreement* (as regulated under Article 768 *bis* of the Italian Civil Code). The same exemption is also applicable when the business is transferred via the attribution of shares or other financial instruments granting control over it. The notion of control (in case of shares) is the one as introduced in the Italian Civil Code, Article 2359, paragraph 1: in the case of a business as going concern the control must be maintained for no less than 5 years after the death of the owner. The exemption is not applicable to quotas in partnerships.

9. Application of the Tax

The implementation of the tax is regulated consistently with the general provisions applicable to any other tax, plus special guidelines, which are necessary due to the peculiar nature of the inheritance and the Civil

law regulating it. In the Italian Civil system, every three month all the Public Registrars[33] are obliged under the law to transmit to the Tax office the list of the persons deceased in every city. In this way the Tax office has always got a updated list of the inheritances to be managed *mortis causa*.

The heir takes the formal initiative, notwithstanding this timely control. The official declaration (the tax return) must be delivered to the competent office (the one in whose jurisdiction the deceased person was domiciled) not later than 12 months from the opening of the succession, irrespective of the fact that inheritance has been accepted or refused. Individuals obliged to report are all those that may inherit under Civil law and the legatee. In case of further variations to the taxable base (for instance, because new goods once belonging to the deceased person are discovered), further subsequent tax returns should be filed and delivered as to amend the tax due by each heir.

The tax return has to be delivered electronically, using a specific form made available by the Tax office. The latter has the power to amend it, and demand an higher tax no later than 2 years from the one in which it has been delivered. If the return is not delivered (that is, it's omitted), then the Tax office has 5 years to assess and calculate the tax due.

As to minimise risks of avoidance or tax deferral the legislator has imposed specific duties on third parties which may be engaged in the succession *mortis causa*. In particular, reference is made to the Civil servants and practitioners (professionals) who are in some way engaged or involved in the procedure.

The proper delivery of the inheritance tax return is necessary for a number of activities to be finalized, according to Article 48 of the Law. For instance, as long as it is not delivered, no civil servant can process acts or papers, or deliver any activity (registration, *etc*.) concerning the goods part of the inheritance (for instance, a car received as part of the inheritance cannot be sold by the taxpayer until he has delivered the return). Likewise, debtors of the deceased person cannot pay those who have inherited the credit: similarly the Bailee of a good cannot return it and bank cannot allow and movement of money on the account once managed by the deceased person.

10. Concluding Remarks

Inheritance tax is one of the few direct taxes currently applicable in Italy, not counting income taxation. It is also the most important tax on wealth actually charged, even if routinely in Italy Academics advocate the necessity to have a more comprehensive (and annual) wealth tax[34], mostly for budget reasons.

The very recent implementation in Italy of sophisticated structures such as the Trusts[35], imported from the Common law system, and now fully regulated in the Country as well, had opened new possibility to enact aggressive tax planning in this respect, and therefore the necessity by the Tax office to patrol the actual implementation more tightly.

Despite criticism from the Academics, it is unlike for it to be repealed in the next future, as it is perhaps one of the most efficient devices aimed redistributing wealth, and therefore is fully consistent with the structure of the Italian Constitution.

[33] Public Registrars are maintained by the municipalities.

[34] Elena Granaglia and Salvatore Morelli, Diamo un'eredità a tutti i giovani, published on April 19th 2019 on lavoce.info.

[35] G. Gaffuri, *L'imposta Sulle Successioni e Donazioni - Trust e Patti Di Famiglia* (Padova, 2008); Giuseppe Corasaniti, "Vincoli Di Destinazione, Trust e Imposta Sulle Successioni e Donazioni: La (Criticabile) Tesi Interpretativa Della Corte Di Cassazione e Le Conseguenze," *Diritto e Pratica Tributaria*, no. II (2015): 688.

11. Bibliography

Corasaniti, Giuseppe. “Vincoli Di Destinazione, Trust e Imposta Sulle Successioni e Donazioni: La (Criticabile) Tesi Interpretativa Della Corte Di Cassazione e Le Conseguenze.” *Diritto e Pratica Tributaria*, no. II (2015): 688.

Dafnomilis, Vasileios. “A Comprehensive Analysis of ECJ Case Law on Discriminatory Treatment of Cross-Border Inheritances-Part 1.” *European Taxation* 55, no. 11 (2015): 498–508.

———. “A Comprehensive Analysis of ECJ Case Law on Discriminatory Treatment of Cross-Border Inheritances-Part 2.” *European Taxation* 55, no. 12 (2015): 567–77.

Falsitta, Gaspare. *Il Principio Della Capacità Contributiva Nel Suo Svolgimento Storico Prima e Dopo La Costituzione Repubblicana*. Milano: Giuffrè, 2014.

Falsitta, Gaspare, and Nicoletta Dolfin. “Manuale Di Diritto Tributario. Parte Speciale. Il Sistema Delle Imposte in Italia.” In *Manuale Di Diritto Tributario. Parte Speciale. Il Sistema Delle Imposte in Italia*, edited by Gaspare Falsitta, 12th ed., 1029. Padova: CEDAM, 2018.

Fedele, Andrea. “L’imposta Sulle Successioni e La ‘Trasmissione’ Della Chiamata Ereditaria.” *Riv. Dir. Fin. Sc. Fin.* II (1987): 227.

Gaffuri, G. *Imposta Sulle Successioni e Donazioni*. Turin, 1976.

———. *L’imposta Sulle Successioni e Donazioni - Trust e Patti Di Famiglia*. Padova, 2008.

Garner, Bryan G. “Affinity.” *Black’s Law Dictionary*. Thomson West, 2004.

———. “Legatee (Specific).” *Black’s Law Dictionary*. Thomson West, 2004.

Ghinassi, Simone. *Imposte Di Reigstro e Di Successione, Profii Soggettivi Ed Implicazioni Costituzionali*, 1996.

Greggi, Marco. *Fondamenti Di Diritto Tributario*. Ferrara: University of Ferrara, 2018.

Mirrlees, James A., and Stuart Adam. “Taxes on Wealth Transfers.” In *Tax by Design: The Mirrlees Review*, edited by James A. Mirrlees, 347–67. Oxford: Oxford University Press, 2011.

Salanitro, Giuseppe. “Solidarietà Tra Gli Eredi e Cumulo Delle Donazioni Nella Nuova Disciplina Dell’imposta Sulle Successioni e Donazioni.” *Rivisia Di Diritto Tributario* I (2009): 591.

Szczepański, Jan Karol. “European Union Foreign-Located Immovable Property Protected Against Discriminatory Taxation of Cross-Border Inheritance: Comments on the Huijbrechts Decision (Case C-679/17).” *European Taxation* 59, no. 7 (2019): 320–30.