U.S. Trusts and Italian Tax Residency: The 2026 Ruling That Redefines Interposition for Inbound Beneficiaries

Descrizione

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A recent ruling by the Italian Revenue Agency — Response to Ruling Request No. 81 of 18 March 2026 — sets a sharper standard for how foreign trusts are treated once a beneficiary becomes tax resident in Italy. The decision concerns a Delaware irrevocable trust, classified as a “complex trust” and fiscally autonomous in the United States, whose principal beneficiary was preparing to move to Italy. The Agency concluded that the trust was fiscally interposed — meaning it does not exist as a separate taxpayer for Italian purposes — and that all of its income and assets must be reported directly by the beneficiary. The ruling is an important signal for any international family considering relocation to Italy with an existing U.S. trust structure.

The case in brief

The trust was established in 2024 under Delaware law. It held U.S. financial assets and an interest in a New York LLC owning real estate. The settlor had retained a testamentary power to designate, via will or fiduciary instrument, the ultimate recipients of the trust capital. The beneficiary, still non-resident at the time of the request, asked the Revenue Agency to confirm that — once she moved to Italy — the trust would be treated as a non-interposed entity, i.e. as a separate taxable layer between her and the underlying assets.

The Agency disagreed. Even though the trust was irrevocable, discretionary, and administered by an independent trustee, the residual powers retained around the final destination of the capital were enough, in the Agency’s view, to displace the trust’s fiscal autonomy.

Why the trust was recharacterised

The ruling confirms a principle that has been consolidating in Italian tax practice: a trust earns independent fiscal relevance only when real divestment of control has occurred — not merely when the paperwork says so. The Agency looks through the structure and tests whether any party (settlor or beneficiary) still holds meaningful influence over how the assets are managed or distributed.

Three elements proved decisive. First, the testamentary designation clause, which allowed the settlor to reshape the final destination of the trust capital. Second, the possibility that the beneficiary could indirectly influence distributions through will or fiduciary arrangements. Third, the conditioned discretion of the trustee, whose autonomy was not absolute in practice.

The ruling is significant because it extends the concept of interposition to formally correct, properly drafted structures. A trust that looks irrevocable and discretionary on paper can still be disregarded for Italian tax purposes if influence over the assets survives, even in latent or testamentary form.

What this means for an inbound beneficiary

If the Italian Revenue Agency recharacterises a foreign trust as interposed, the fiscal consequences fall squarely on the Italian-resident beneficiary. The trust effectively disappears as a taxable subject, and the beneficiary must report all trust income — interest, dividends, capital gains, rental income — in the Italian personal tax return, as if the assets were held directly; disclose the underlying foreign assets through the Quadro RW monitoring framework; and pay IVIE on the foreign real estate and IVAFE on the foreign financial assets held in the trust.

This treatment applies from the first year of Italian tax residency.

A Note for U.S. Citizens

U.S. citizens face a particularly delicate overlap. Under U.S. rules, a Delaware complex trust is typically a separate taxpayer filing Form 1041, while a grantor trust is transparent to the settlor. Italy, by contrast, may ignore both classifications and look straight through to the beneficiary. The result can be a mismatch in who is taxed on what, and when — creating friction in the Foreign Tax Credit mechanism and potentially leaving trust income unrelieved under the Italy–U.S. treaty. FBAR and FATCA obligations continue regardless of how Italy classifies the trust, and the beneficiary may end up with parallel — and partly inconsistent — reporting duties on both sides of the Atlantic. Structures set up before relocation should be stress-tested well in advance.

Practical points before moving to Italy

Anyone planning a move to Italy with an existing foreign trust should review the deed for any retained powers — including testamentary designation, letters of wishes with binding effect, or informal influence over the trustee. Removing or properly insulating these elements prior to the transfer of residence is often the difference between fiscal opacity (trust taxed as a separate entity) and full pass-through to the beneficiary.

Final Considerations

Ruling 81/2026 does not change the law, but it narrows — clearly and publicly — the space in which a foreign trust can claim fiscal autonomy once its beneficiary becomes Italian-resident. For U.S. families in particular, the interaction between Italian interposition doctrine and U.S. trust classification deserves careful, personalised review before the move. Specialist advice is strongly recommended, ideally at least twelve months ahead of the change in tax residency, to allow structural adjustments where needed.

Tag

1. U.S. citizens

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