



Foreign Transparent Trusts and IVAFE: When the Beneficiary Is Not Taxable

Descrizione

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Italian Revenue Agency [Ruling No. 84/2026](#) provides important clarification on a nuanced issue in international tax: whether IVAFE (Italy's tax on foreign financial assets) applies to Italian tax residents who are beneficiaries of foreign trusts.

The ruling is particularly relevant because it addresses a common scenario in practice—where a beneficiary of a “transparent” trust is entitled to receive income but has no control over, or ownership of, the underlying assets.

The case involves a U.S. citizen who became tax resident in Italy and is a beneficiary of an irrevocable U.S. trust. The trust is administered by an independent U.S.-based trustee, and its assets consist entirely of foreign financial investments, including funds, equities, ETFs, and bonds.

What ultimately matters, however, is not the composition of the portfolio but the beneficiary's legal position. Under the terms of the trust deed, the beneficiary has no right to the trust capital, no management powers, no ability to influence the trustee, and no authority to dispose of the assets. His sole entitlement is to receive the income generated by the trust during his lifetime.

This distinction is crucial. The beneficiary does not hold any ownership interest or real rights over the trust assets. Instead, his position is more accurately described as a contractual or creditor-like right to receive income, rather than a proprietary interest in the underlying investments.

Against this background, the taxpayer sought confirmation that such a position does not fall within the scope of IVAFE, which applies to Italian residents holding foreign financial assets capable of generating taxable income.

In its analysis, the Revenue Agency focused on the core requirement for IVAFE to apply. The tax is triggered only where the taxpayer has a qualifying legal relationship with the assets—namely ownership, a real right, or actual holding (detention) of the financial assets.

In a trust structure, however, legal ownership of the assets rests exclusively with the trustee, who manages them and exercises powers broadly equivalent to those of an owner. The beneficiary, by contrast, has no direct relationship with the assets. He does not own them, cannot manage or dispose of them, and does not bear any investment risk.

This point is decisive. The Revenue Agency emphasizes that the beneficiary does not invest capital and is not exposed to the economic risk associated with the assets. As a result, his position cannot be treated as a financial investment for IVAFE purposes.

On this basis, the conclusion is straightforward: the beneficiary is not subject to IVAFE, as he neither owns nor holds the trust's financial assets.

This interpretation is consistent with prior guidance concerning opaque trusts. While the ruling does not explicitly frame this as a general principle, it effectively extends the same reasoning to transparent trusts, confirming that the key factor is not how income is taxed, but who legally owns or controls the assets.

It is important to note, however, that the absence of IVAFE does not remove reporting obligations. An Italian-resident beneficiary must still disclose their interest in the trust under Italy's foreign asset reporting rules (RW form), as it represents a relevant cross-border position.

In conclusion, Ruling No. 84/2026 reinforces a fundamental principle: wealth taxes on foreign financial assets require actual ownership or control. Where a beneficiary has no rights over the trust assets and is merely entitled to income, the basic condition for IVAFE is not met.

This clarification is particularly valuable in practice, as it sharpens the distinction between income taxation and wealth taxation and underscores the importance of carefully assessing the legal structure of a trust and the specific rights granted to its beneficiaries.

Tag

1. Retiring in Italy
2. U.S. citizens

Data

09/10/2026

Data di creazione

26/03/2026