

**GUIDE TO REAL ESTATE INVESTMENTS IN ITALY**  
**(PROPERTY PURCHASE PROCESS IN ITALY)**

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**WHY BUY A REAL ESTATE IN ITALY**  
**LEGAL FRAMEWORK**  
**PURCHASING PROCEDURE**  
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## WHY BUY A REAL ESTATE IN ITALY

Italy is surely the place which come to mind when thinking about good living, fashion, style, good food or, synthesizing all this in three words, when thinking about “La Dolce Vita”.

Besides, Italy, referring to which the most used synonymous is, by coincidence, Bel Paese “Beautiful Country”, offers rarely rivaled natural diversity. From the north's icy Alps and glacial lakes to the south's volcanic craters and turquoise grottoes. As epicenter of the Roman Empire and birthplace of the Renaissance is a place of endless Culture, which catalogue includes masterpieces ranging from Michelangelo's David and Sistine Chapel frescoes, Botticelli's Birth of Venus and Primavera, da Vinci's The Last Supper, the classic villas of Andrea Palladio, the chariot-grooved streets of Pompeii, the Byzantine mosaics of Ravenna to Giotto's revolutionary frescoes in Padua.

Although the aforementioned represents by itself the best reasons to invest in a property in Italy, in addition to all the motives and personal considerations that may lead you to do so, it should be further added that the current economic and financial context makes the real estate investments in Italy even more attractive.

The market offers now new glittering opportunities to purchase amazing properties at very interesting prices.

## LEGAL FRAMEWORK

As this document on the property purchase process in Italy is mainly aimed at foreigners, it is pertinent to anticipate that, in general terms, Italian law permits the purchase of real estate by foreigners. Nevertheless, according to principle of reciprocity (pursuant to art. 16 of the regulations on the law in general, contained in the Italian Civil Code) *“The foreigner is allowed to enjoy civil rights attributed to the citizen on condition of reciprocity and subject to the provisions contained in special laws. This provision also applies to foreign legal entity”*. In other words, foreigners who are not resident in Italy are subject to the same possible limitations that are imposed on Italian citizens in the purchase of a property in their respective countries of origin.

The relevant legislation relating to the enjoyment of civil rights by non-nationals is now constituted by the Legislative Decree of 25 July 1998, n. 286 (*“T.U. Immigrazione”*) as further amended, and its implementing regulation (Decree of the President of the Republic August 31, 1999, 394).

Pursuant the above mentioned act, the following mentioned persons are considered to be equivalent

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to the Italian citizens and, therefore, exempted from the verification of the condition of reciprocity:

- citizens (natural or legal entities) of the EU Member States and nationals of EEA countries (Iceland, Liechtenstein and Norway);
- non-EU citizens residing in the Italian territory and are holders of a residence permit or a residence permit issued for reasons of employment, self-employment, for the operation of a sole proprietorship, for family reasons, for reasons humanitarian and for study purposes;
- stateless persons resident in Italy for at least three years;
- refugees resident for at least 3 years.

Besides, pursuant to the consistent interpretation of the relevant provisions, it is considered that the determination of the condition of reciprocity should not be carried out for the citizens of those countries with which Italy has concluded bilateral agreements in the field of promotion and protection of investments (Bilateral Investment Treaties or BITs).

In this case, the measure of ratification and implementation of the Agreement assumes the character of "lex specialis" in relation to the overall provision of the above mentioned article 16, so that the condition of reciprocity with regard to the subject matter is assumed as existing.

The list of countries with which Italy has signed agreements for the promotion and protection of investments and the main test case for their application is available at the following website:

[http://www.esteri.it/mae/it/ministero/servizi/stranieri/elenco\\_paesi.htm](http://www.esteri.it/mae/it/ministero/servizi/stranieri/elenco_paesi.htm)

Irrespective of his/her status of "resident" or "not resident" and regardless of other documents which might be necessary, any person who wishes to purchase property in Italy must first of all obtain a tax identification number "*codice fiscale*". This can be requested at any government financial office or at an Italian Consulate or Embassy. This request shall be submitted on the relevant forms along with a photocopy of one's national passport. It is also possible to have the request submitted by a person entrusted with this task through a specific proxy (Please note that married women should only use their maiden names for the request).

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## PURCHASING PROCEDURE

Italian real estate is a complex area, so before getting in contact with local realtors or real estate agents who have properties for sale, it would be convenient to get to grips with what's involved in purchasing property in Italy.

Foreigners find it can be a frustrating process, filled with plenty of paperwork and endless negotiations and a challenging list of “to do”.

Finding the right people to help you buy real estate in Italy is key.

A foreigner planning to buy a place in Italy should be aware of the main Italian law issues concerning the real estate buying process.

Such process usually involves 3 key stages:

- Reservation Offer “*Proposta irrevocabile d’acquisto*”
- Preliminary Agreement “*Contratto preliminare di vendita*”
- Deed of Sale “*Rogito*”

### Reservation Offer

Once chosen the property, the interested buyer can make an offer (usual, as a gesture of good faith, such an offer is accompanied by the deposit of an amount of money, which can be cashed by the seller only upon its acceptance of the received offer).

As such an offer is binding only on the buyer (as the seller may still consider other offers) it is advisable to specify and mention in the documentation a time limit of the offer, so as not to be left hanging by the seller.

The seller can accept, or not, such offer.

Once the seller acceptance is brought to the offer or an agreement is concluded.

Should the seller, on the contrary, accept at different terms and condition with respect to those contained in the offer, such “acceptance” does not conclude an agreement but, in case, can only be interpreted as a counter - offer which requires the buyer further acceptance to conclude an agreement.

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## The Preliminary Agreement

As above mentioned, once the seller has accepted the proposal made by the buyer and the latter knows about such acceptance, an agreement is concluded.

Before signing any more comprehensive binding agreement the buyer should check that the property:

- Complies with all the applicable local planning, building and land registry regulations (Regolarità edilizia urbanistica e catastale) and with any relevant consent / building plan issued by the Local Authority (Comune);
- Is fit for human habitation and that a certificate to this effect (Certificato di abitabilità) is available;

and that:

- Whether the vendor is a trader / commercial entrepreneur or a company, that he / it has not been adjudged bankrupt nor was / has been compulsorily wound up (Fallito), and no legal proceedings to this effect are pending against him / the vendor Italian company (as may be applicable);
- Where the property is in a condominium ownership (Condominio) all service charges due should have been paid up to date;
- Where the property is inclusive of agricultural land, that there are no tenants / neighbors shaving farming pre-emption rights (Prelazione agraria) nor any third parties rights over the property.

It is important to ensure that the prospective Italian home complies with any applicable land registry planning and building regulations, and this should be considered with great care by the buyer's professionals.

The execution of a commitment agreement "*compromesso*" is a private agreement between the buyer and seller, containing the following:

- Identification of the parties (full names, place and date of birth, passport number, nationality, tax identification number - in the case of companies which are selling, they must provide their value-added tax number, and their legal registration number);

- Indication of the location of the property (city and province);
- Identification in the national register of lands (NCT) or urban areas (NCEU) - this identification is achieved by citing the register sheet, the units of property or parts thereof. In the case of segments of property, the seller must undertake to obtain at his expense, their identification (frazionamento) in the national register. Such action must take place before the final deed of sale;
- In the case of land and/or for portions of buildings, the agreement must be accompanied by a map from the register, which will be signed by both parties;
- Verification of the seller's title to the property;
- Verification of whether any limitations exist to the title, for example judiciary or bank obligations, inheritance or property rights, rights to first choice of purchase, or any other limitations that reduce or in some way curtail the right to full title of the property. The seller must commit him/herself to eliminating such limitations prior to, or simultaneously with, the final sales act;
- Identification of all servitudes that might weigh on the property (roads, trails, pipelines etc. that transit through the property to be purchased) and those from which the property should benefit (access to water from nearby natural sources or wells, rights of passage, and rights to access to pipelines etc);
- Building licenses issued after 1967;
- Building licenses in the process of being issued: in the case of purchase of a building to be constructed, agreement to purchase and total payment must be conditional on the issuance of the required license;
- The sales price, indicating the amounts paid at signature (or at various successive moments) and the balance to be paid at the time of the final sales act. The initial payment (anticipo) should be identified as the down payment (caparra confirmatoria). In case that the seller decides that he/she no longer wishes to sell, he/she will compensate the damaged buying party with a sum equal to twice the initial down payment;
- Indication on whether a real estate agent has been involved in the transaction or not, and, in case of such an involvement, the amount of the fee due to such agent.
- The date established for the final deed of sale.

By signing the commitment agreement, the purchaser is committed to buy and the seller is

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committed to sell the property.

Upon signing of the *compromesso*, the deposit “*caparra confirmatoria*” is raised to 10% to 20% of the sale price, depending on what has been agreed. In the event that you decide not to pursue the purchase, the *compromesso* will be forfeited or the seller may seek legal action to enforce the purchase. On the other hand, if the seller backs out, he will be liable to pay double the amount you have given as deposit.

### **Deed of sale**

A few months after signing the “Compromesso” the deed of sale “Rogito” is signed.

The execution of such deed of sale (the closing) as well as all the aforementioned stages of the sale’s procedure has to be governed by Italian law and the deed has to be executed in written form, before a public notary. The public notary acts as a State officer and takes care of the registration of the real estate transfer at the land registries (“*conservatoria and catasto*”). Usually the public notary is chosen by the purchaser.

The consideration for the sale shall be paid at the execution of the deed of sale; at that time the deposit paid at the signing of the commitment agreement and at the reservation offer will be charged to the consideration for the sale.

### NOTES

Both the purchaser and the seller can delegate someone to act on their behalf at the time of the preliminary purchase agreement or for the final sales act, or in both instances. In this case, a special power of attorney will be needed (whether issued abroad, it requires apostille).

In case the buyer is unable to read Italian, he or she must be accompanied by an interpreter registered with an Italian court.

In order to simplify payments, it is advisable for the purchaser to open a bank account in Italy.

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## PURCHASING FINANCIAL ASPECT

### Costs:

The foreign buyer of an Italian property shall be aware of the fact that the investment is not limited to the selling price of the property which is sought but includes some additional outputs that include the taxation imposed on transaction and fee of different professionals who assist the parties in making the deal.

### Notary

Pursuant Decree n. 1/2012 of 24 January 2012, converted into law March 24, 2012, n. 27 the professional fees repealed, so there are no more minimum and maximum limits for the determination of the remuneration of the notary.

Nevertheless, the customer who expressly requests the notary has the right to obtain a rough estimate and an indication of the complexity of the assignment. This estimate can not be considered as binding, as the real complexity may be checked only at the end of the legal process which leads to the achievement of the final result requested by the parties.

Honoraria of the notary are to be added to the taxes due for the registration, taxes and stamp duties and taxes due to the government (as further detailed and explained in the next paragraph) and VAT (22% of the fee)

As an average, the notary fee for a sale purchase agreement of a property ranging from 500.000,00 euros to one million euro is about 5.000,00 euros.

### Realtor / Real estate agent

The average fee for the realtor service is around 3% + VAT of the value of the deal.

### Lawyers

Pursuant to Decree No. 1 2012 of 24 January 2012, converted into law March 24, 2012, No. 27 the professional fees repealed, so there are no more minimum and maximum limits for the determination of the remuneration of the lawyers.

Nevertheless, the customer who expressly requests the notary has the right to obtain a rough estimate and an indication of the complexity of the assignment. As an estimate depends on the real complexity which may be only in due course of the procedure, we believe that it should be considered the legal fees on an hourly rate basis of about 250,00 euro/hour plus VAT ( 22% ) and

general expenses (15%) and Pension Fund (4%).

Taxation:

Italian tax legislation is very complex and subject to frequent extensive changes. It is difficult even for professional tax advisers to keep up to date with all the changes and their consequential effects. Foreign buyers are advised to check the tax implications of the proposed Italian real estate acquisition well before the date of completion of the acquisition, with specialized professionals.

This section provides only a very general outline of the taxation of real estate acquisitions in Italy.

A specialist and detailed Italian tax advice on the particular circumstances is always advisable.

Type of property	Vendor	VAT		
			Registration Tax	Stamp duty "Ipotecaria + catastale"
Main residence "Prima casa"	Building Firm – Commercial Entrepreneur*	4%	200 €	200 € + 200 €
	Private	-	2%	50 € + 50 €
Second home	Building Firm – Commercial Entrepreneur*	10%	200 €	200 € + 200 €
	Private	-	9%	50 € + 50 €
Second home Luxury (cadastral categories A1, A8 and A9)	Building Firm – Commercial Entrepreneur*	22%	200 €	200 € + 200 €
	Private	-	9%	50 € + 50 €

\* When the Vendor is a Building Firm /Commercial Entrepreneur who sells the property within 5 years from completion of the works ( construction / restoration ). After 5 years from completion of the works the building firm will sell the property as a Private individual (no VAT is due).

There are three main taxes which should be paid by a buyer on the acquisition of an Italian real estate, Registration Tax (Imposta di Registro), Stamp Duty (Imposte ipotecarie e catastali) and

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Italian VAT (IVA). Normally where Italian VAT is charged the other taxes are reduced to a small flat charge of Euro 200,00 each.

Pursuant to article 10 of Decree No. 23/2011 and article 26 of Decree 104/2013, starting from January 1, 2014, the tax on the transfer of residential properties (commercial, professional or industrial property might be subject to a different taxation) are as follows:

The tax base for the calculation of the aforementioned Registration Tax is the selling price or, when the buyer is a private person (not a legal entity) and declare such wish in the deed of sale, can be the cadastral value (“Valore catastale”).

*[Valore Catastale: is a notional value which can be calculated by considering the coefficients and other data appearing next to the title of the particular Italian real estate at the local land registry, and it is frequently only a fraction of the commercial value of the property in question. Thus provided the full commercial value of the Italian home is correctly stated in the Deed of Sale, it is now perfectly legal and acceptable to pay tax on a different, notional and frequently lower value in Italy. This has now resulted in a totally legal and financially substantial tax saving for the buyer of Italian residential properties].*

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