



Guide to buy a property in Italy

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Persons involved in property purchase

- **The Vendor and the Purchaser**

Every natural or legal person can legally sell or purchase properties in Italy. This activity is usually carried out with the assistance of an estate agent and with the necessary intervention of a notary.

- **The Estate Agent (Mediator): General features**

Article 1754 of Italian civil code states that "a mediator is a person that makes possible a relationship between two or more parties, with the purpose to have them entering into a deal". The mediator has no connection whatsoever with the parties, not being bound by any form of collaboration, employment or agency relationship.

The legal regime of the profession of mediator can be found in the Italian civil code (articles from 1754 to 1765 and also article 2950) and in a more specific Law number 39 of 3rd February 1989.

Those persons that intend to exercise the profession of estate agents (that is a specific kind of business as mediators) must be regularly enrolled in the register of the Chamber of Commerce. In order to obtain this registration, estate agents must have attended a training course, being successful in the final exam and have consequently obtained the Estate Agent Diploma.

Only those estate agents regularly enrolled in the register of Agents for Business Mediation before the Chamber of Commerce are entitled to commissions.

Estate agents have an identification card that has to be renewed and authenticated before the Chamber of Commerce on a yearly basis.



Persons involved in property purchase

- o **The Estate Agent (Mediator): General features**

“**Demuro Immobiliare agency**” is regularly enrolled before the Chamber of Commerce since September 2004 in the specific register at number 804. We recommend all potential customers to request to see the estate agent identification card while visiting properties.

“**Demuro Immobiliare**” while operating as estate agency, employs mediators that are regularly authorised to exercise their professions¹

- **The Commission**

Estate agents are entitled to commissions from both parties when a deal is entered as a result of his/her work. When a purchase offer or a preliminary contract is entered by both parties, a commission will be payable to the estate agent. If an agreement is entered, but the parties decide, for other reasons, not to fulfil the obligations arising from such agreement, the agent is nonetheless entitled to his/her commission. The agent's right to commission is not subject to the successful achievement of the deal; however, it is allowed to contractually derogate from such general rule, inserting a clause whereby commission will be paid only if the deal between the parties is finally and properly executed and fulfilled. The right to commissions will be time barred after a year from the moment when the commission is payable (article 2950 Italian civil code).

“**Demuro Immobiliare**” demands a commission based on the selling price agreed between the parties.

¹ Refer to www.fiaip.it , where you will find “Demuro Immobiliare”



Persons involved in property purchase

- **The Estate Agent (Mediator)**

- **Commission**

The amount ranges between 2% and 5%, having regard to the property subject of the sale, the amount of the total price paid, the state of the building site subject of the deal (completed building, to be completed, off plan), the time of delivery of the purchased property, the date of the final act to transfer the legal title of the property.

“**Demuro Immobiliare**”, in order to avoid any sort of misunderstanding, will agree with customers, before the signature of any legal document, the amount of the commission, the timeframe for the payment .

- **Privacy issues**

Law Decree 196 dated 30th June 2003 (“legislation related to protection of personal data”) regulates protection of persons and other entities with regard to the use of personal information. Article 13 of the mentioned Decree requires preventive information to interested parties. Such information may be given in an oral or written form (it must be written in case of sensitive information).



Persons involved in property purchase

- **The Estate Agent (Mediator)**

Privacy issues

The person gathering personal information must communicate to the interested party the following:

- Details of the person gathering information and the person responsible for the treatment of them
- The purpose and the use of such information;
- Whether to communicate certain details is compulsory or discretionary;
- Consequences in case of refusal to disclose certain information;
- Persons or categories of persons to whom information can be communicated or that can be made aware of it by the person responsible for treating personal details or responsible for distributing personal information;
- Rights of the interested party.



Persons involved in property purchase

- **The Estate Agent (Mediator)**

Legislation on money Laundering

Following Decree enacted by the Minister for economy and finance on the 3rd February 2006 number 143 – Regulation on identification and preservation of information related to non financial operators on matters of prevention of use of financial system for the purpose of money laundering of proceeds of illegal activities – estate agents have to obligations to:

- Identify customers in relation to transactions involving transfers or transmission of payments for an amount higher than 1.000 €;
- Establish an archive to register and preserve all details related to customers and transactions;
- Communicate all suspicious transactions;
- Establish internal systems of control, train employees and workers and also communicate to the Minister of Finance violations of art 1 of Money Laundering Legislation.

With regard to the aforesaid legislation, personal details necessary to identify a person are as follows:

- For a natural person, name and surname, date and place of birth, address, fiscal code and ID document number;
- For a moral person, name, legal place of residence and fiscal code.



Persons involved in property purchase

- **The Estate Agent (Mediator)**
 - **Legislation on money Laundering**

In practice the estate agent register all relevant documents when the seller and the purchaser enter a preliminary contract or a final contract where the total price to pay is higher than 12.500 €.

In the archives must be listed date of transaction, personal details of the parties, agreed price for the sale of property.

Registration must be done within 30 days from the date of the transaction

All details and information must be kept in the archives for ten years.

“**Demuro Immobiliare**” uses a “**FIAIP**” certified form.

- **The notary ²**

Notary public is a professional private officer, carrying out public functions in relation to certain legal acts (such as transfer of property).

A notary does not represent one of the parties (as a solicitor would do), but certifies that the entire operation is carried out in accordance with all regulations. His presence is necessary for the purchase and “**Demuro Immobiliare**” will contact a notary and provide assistance in order to liaise with him/her.

2 In relation to national body of notaries, please see www.notariato.it (English version is provided)



Stages of transactions: from initial visiting to the property transfer deed.

- Information related to the property and the “Visit Document”

During the initial stage of a property sale, “Demuro Immobiliare” may require that customers sign the so-called “Visit Document”.

This “Visit Document” is a document that certifies and protects the work of the estate agent while giving information about one or more properties and about the visits of them by customers.

Information given about properties and visits thereof are given free of charge, unless differently Agreed.

- Negotiation and Offer to purchase;

Offer to Purchase or “Proposta D'acquisto”

During the initial steps of a transaction, an “offer to purchase” (in Italian “Proposta D'acquisto”) is usually made. This is a modern system of work that has been used by estate agents since many years.

This is an agreement between purchaser and estate agent, whereby the former is bound to keep an offer open for a certain period (generally between 7 and 15 days), while the vendor will decide whether accept or refuse the offer, evaluating in the meantime other offers.

In case of acceptance by the vendor, the agreement will be concluded when the purchase will have been made aware of this acceptance.



Stages of transactions: from initial visiting to the property transfer deed.

- Negotiation and Offer to purchase;

Offer to Purchase or "Proposta D'acquisto"

An offer to purchase might contain all elements of a preliminary contract. In this case acceptance by the vendor will conclude a legally binding preliminary contract, stating obligations of both parties.

- Entering preliminary contracts and payment of deposit: obligations related to property sales in term of transparency on agreed price and registration duties;

➤ The Preliminary Contract

This is a legally binding contract that is a "prelude" to a successive final contract that will take the form of a deed before a notary.

Through a preliminary contract the parties promise to enter a final and definitive contract that will have all four essential elements of the preliminary contract itself (Consent, Form, Consideration and Object).

This type of contracts creates rights and obligations for the parties and can be enforced through specific performance, in accordance with article 2932 of Italian civil code. In fact, if one of the parties bound to enter the future and final agreement does not fulfil his obligations, the other party can (unless otherwise agreed) seek a court order that will have the same effects as the final contract that would not be concluded.



Stages of transactions: from initial visiting to the property transfer deed.

- Entering preliminary contracts and payment of deposit: obligations related to property sales in term of transparency on agreed price and registration duties
 - Register preliminary contract;

The new Finance Act has introduced an important change in relation to transfer of land property.

Starting from the 1st January 2007 estate agents are bound to register all preliminary contracts that have been entered as a result of their activity.

As a consequence of this duty to register, estate agents are jointly liable for the payment of fees due as a result of entering a preliminary contract (and they are liable for sanctions to pay in case of failure to comply with registration duties).

- How to register preliminary contracts?;

In order to register preliminary contracts, two copies of the document signed by the parties have to be handed to the Italian Revenue Agency ("Agenzia delle entrate") within 20 days from the time of signature.

Registration is charged by a fee of € 200 and a stamp duty of € 16,00 for each copy (if the contract is less than 100 lines long).

Also in this case it is important to distinguish between sale charged with VAT and sale between private persons. In the latter case, in addition to the mentioned fee and stamp duty, there will be an advancement of future stamp duties that is charged as follows:



Stages of transactions: from initial visiting to the property transfer deed.

- Entering preliminary contracts and payment of deposit: obligations related to property sales in term of transparency on agreed price and registration duties
- How to register preliminary contracts?;

In the latter case, in addition to the mentioned fee and stamp duty, there will be an advancement of future stamp duties that is charged as follows:

- **An amount of 0.5% of the amount paid as deposit (“Caparra confirmatoria”)**
- **An amount of 3% of the amount paid as liquidated damages deposit (“Caparra penitenziale”)**
- **An amount of 3% of the amount paid as down payment (“Acconto Sul prezzo”).**
- Deduction of proportional amount paid in advance;

The aforesaid amount, which is paid as a proportion of initial deposit when the preliminary contract is registered, can be deducted at the time of executing the final deed, unless the transaction is charged with VAT. In this case the initial advancement cannot be deducted.

Preliminary contracts will be registered before Italian Revenue Agency (“Agenzia delle entrate”) the by “**Demuro Immobiliare**”, in order to avoid any sort of sanction or delay. Subsequently, the purchasing party will be charged for such an expense.



Stages of transactions: from initial visiting to the property transfer deed.

- Entering preliminary contracts and payment of deposit: obligations related to property sales in term of transparency on agreed price and registration duties

- Deposit in Italian Law: «Caparra Confirmatoria» and Caparra Penitenziale»;

Generally a purchaser will advance a sum of money as deposit (called “Caparra”), in order to strengthen his commitment arising out of the preliminary contract. Alternatively, a penalty clause can be introduced in the contract, in case of withdrawal by the other party.

Two forms of deposit can be distinguished:

Simple deposit (“Caparra Confirmatoria” under art. 1385 Italian Code);

Liquidated damages (“Caparra Penitenziale” under art. 1386 Italian Code).

About the simple deposit, if contractual obligations are fulfilled, the amount paid will be returned or deducted from the final price (the latter option is the most common situation).

On the other hand, in case of breach of contract, it must be established who is liable for it.

If the purchaser does not fulfil his contractual obligations, the vendor is entitled to rescind from the contract and keep the amount paid as deposit.

Alternatively, the vendor has other options: firstly, specific performance can be sought before the local court (in accordance with art. 2932 Italian Code); secondly, he can have the contract rescinded and seek damages.

If the vendor is in breach of contract, the purchaser is entitled to rescind the contract and receive the double of the sum paid as deposit. As well, the purchaser may opt for the alternative options aforesaid mentioned.



Stages of transactions: from initial visiting to the property transfer deed.

- Entering preliminary contracts and payment of deposit: obligations related to property sales in term of transparency on agreed price and registration duties

- Liquidated damages deposit;

This type of deposit is not as binding as the "Caparra confirmatoria", because if the parties are respectively in breach of contract, the deposit will still be kept by the vendor (for breach of the purchaser) or paid in double to the purchaser (for breach of the vendor). On the other hand, the aforesaid alternative options (specific performance or rescission with damages) will not be allowed.

- Liquidated damage clause;

In this case no payment is made in advance. However, a clause is inserted in the contract, whereby in case of breach of contract or delay in fulfilment of contractual obligations, the amount of damages payable is already established.

- Final deed: property transfer, registration duties, notary expenses and obligations related to the sale;

- Final deed, called Rogito

This is the final act of purchase executed before the notary, whereby the transaction is legally completed and the property is definitely transferred.

The role of the notary is to insure the regularity and legality of the purchase with regard to legal and fiscal aspects.



Stages of transactions: from initial visiting to the property transfer deed.

- Entering preliminary contracts and payment of deposit: obligations related to property sales in term of transparency on agreed price and registration duties
- Final deed, called “Rogito”

The role of the notary is to insure the regularity and legality of the purchase with regard to legal and fiscal aspects. In addition, the notary will register the transfer with the land register, collect duty to be paid to the government, in order to transfer them to the relevant authorities.

- Duties and obligations related to land purchases

In recent years regulations related to transactions about land purchase have substantially changed. The new regulation has been introduced by the law 248/2006, also known as Bersani's Decree.

The main aspects of the new rules refer to transparency of land purchase transactions and have directly involved parties to the transactions and estate agents. The first important change is that there must be a public declaration (in the form of a “notorious act”) about the method of payment, the sale price and the possible intervention of an agent.

In practice it will be essential to show how a payment has been made in order to purchase a property. In addition, in case of transaction through intervention of an estate agent, the fees paid and the method of payment of these fees will have to be stated.

The second important change is connected to taxation. New tax rate will differ whether a property (used for residential purposes) is sold between private parties (i.e. natural persons not acting in the exercise of their business or profession), or whether a party to the transaction is a company or a trader (subject to VAT regime).



Stages of transactions: from initial visiting to the property transfer deed.

- Entering preliminary contracts and payment of deposit: obligations related to property sales in term of transparency on agreed price and registration duties
 - Duties and obligations related to land purchases

In case of transactions between private parties, the taxable amount to calculate stamp duties for the land register is not based on the purchase price, but on the land register value (so called "Valore Catastale").

The land register value is an estimate made by the land register for a certain property and is a relation between the "land registered revenue" (called "Rendita Catastale"), increased by 5%, and fix ratio.

The most important ratios related to this system are the following:

- ❖ **115,5 for first houses**
- ❖ **126 for second houses**
- ❖ **112,5 for mere lands (with no buildings or constructions)**
- ❖ **63 for offices**
- ❖ **42,84 for commercial venues**



Stages of transactions: from initial visiting to the property transfer deed.

- Entering preliminary contracts and payment of deposit: obligations related to property sales in term of transparency on agreed price and registration duties
 - Land registered revenue

This a revenue estimate for fiscal purposes related to properties. This is calculated by the land register in consideration of a statistical value of income that a property might produce in a certain area (therefore a property in the city centre of Milan or Rome will have a “land register revenue” much higher than a property in the countryside, and the owner of the former property will pay higher duties).

On the other hand, in case of property purchases subject to VAT regime (as one of the party acts in the exercise of his business or profession), the taxable amount to calculate stamp duty will be determined by the purchase price established by the parties.

All tax features related to land ownership in Italy are analysed in more details in the following paragraphs.



Tax features related to land ownership in Italy

- **Fiscal Code**

The fiscal code is an alphanumeric code for tax purposes that is used to identify in a unique manner

persons resident and not resident in Italy. Every person will receive a plastic card with a magnetic strip (a

paper document is given to non residents) displaying fiscal code, name, surname, gender, date and place of

birth and date of issue of the card.

The fiscal code is issued by local offices directly to the person entitled to have it or to a representative of the latter.

“**Demuro Immobiliare**” gives assistance to obtain this important document.

- **Taxes and duties at the time of the sale:registry duties**

- **Stamp Duty («imposta di registro»)**

Register duties are either fix or calculated as a proportion of purchase price and are paid to the relevant registration office at the time of the registration of a certain transaction (sale, rental, succession, etc.)



Tax features related to land ownership in Italy

- Taxes and duties at the time of the sale: registry duties

- Land Register Duty («Imposta ipotecaria»):

Land register duty is paid for registration, cancellation, amendments and new inscriptions in the Land Register.

The Land Register (in Italian “Conservatorie dei Registri Immobiliari”) is the public agency in charge of property public registries, where all properties are enrolled, together with the name of owners and all legal modifications occurred to a property (sale, mortgage, creation of right on the property, etc.).

- Deed Registration Duty («Imposta catastale»):

Deed registry duty is related to the ownership transfer itself. This will have to be paid to Deed Register for Property Transfer (“Ufficio del Catasto dei trasferimenti immobiliari”).

Also this duty is either fixed or calculated as a proportion of purchase price.



Tax features related to land ownership in Italy

DUTIES THAT MUST BE PAID BY THE PURCHASER

As mentioned, when a property is acquired, the purchaser will have to pay not only stamp duties (or alternatively VAT), but also Land Register Duties and Deed Registration Duties.

Here below the various purchasing scenarios and applicable duties:

A. When the vendor is:

- **a private party,**
- **a company not in the building industry,**
- **a builder that has completed construction works since more than 5 years,**

duties will have to be paid as follows

- **Registration tax 9%;**
- **Mortgage Tax € 200**
- **Land Registry Tax € 200**



Tax features related to land ownership in Italy

DUTIES THAT MUST BE PAID BY THE PURCHASER

B. When the vendor is a builder that has completed construction works within 5 years, duties will have to be paid as follows:

- **VAT at a rate of 10% (20% in case of luxurious estates)**
- **Registration Tax , fixed amount of € 200**
- **Mortgage Tax, fixed amount of € 200**
- **Land Registry Tax. fixed amount of € 200**



Tax features related to land ownership in Italy

Tax Regime in case of “First House Purchase”:

When a person purchases a house for the first time, a more favourable fiscal regime is granted. Here below the various purchasing scenarios and applicable duties:

A. Purchase from a private vendor (not subject to VAT regime).

- **Registration Tax is reduced to 2%**
- **Mortgage Tax, fixed amount of € 50**
- **Land Registry, fixed amount of € 50**

B. Purchase from traders (subject to VAT regime)

- ❑ **If the vendor is a builder and the sale occurs within 5 years from the completion of the works.**
 - **VAT is reduced to 4%**
 - **Registration Tax , fixed amount of € 200**
 - **Mortgage Tax, fixed amount of € 200**
 - **Land Registry Tax. fixed amount of € 200**



Tax features related to land ownership in Italy

Tax Regime in case of a purchase of a land:

A. Purchase of an Agriculture Land from Private Vendor.

- VAT 15%
- Registration tax € 50
- Mortgage Tax € 50

B. Purchase of a Development Land from a Company.

- VAT 21%
- Registration tax € 200
- Mortgage tax € 200
- Land registry tax € 200

C. Purchase of a Development Land from Private Vendor

- VAT 9 %
- Registration tax € 50
- Mortgage Tax € 50



Tax features related to land ownership in Italy

- **Municipal tax on land ownership called “TASI”: land register house value and payment of “TASI”**

The “TASI” (ex IMU) tax consists of two payments of the same amount: the first payment (related to the first semester of the year) is due by 30th June, and the second and last payment, (related to the second semester of the year) is due by 20th December.

The “TASI” tax must be paid according to the amount of months that the property has been owned.

If the property is bought by the 15th of the month, the buyer must pay the whole month, if it is bought after 16th, the seller must pay the half-month.

For example, if you buy a property on 12th April 2000, you will pay the “TASI” tax for the whole month of April 2000. You must pay (for the three months of ownership, April, May and June) by 30th June 2000.

The next six months must be paid by 20th December 2000. The months up to April, of course, will be paid by the seller.

Every year the Municipality (“Comune”) decides the amount of “TASI” to be paid, and this may vary according to the use of the property (for example, main residence, or rented, or not rented, or given for free to relatives, etc.).



Tax features related to land ownership in Italy

The IUC, (Imposta Unica Comunale) was introduced om 2014 Stability Law , is a tax destined to the municipality where the property is situated and is divided into three separate taxes with different tax assumptions : TARI, TASI, IMU.

- **TARI** is the fee payable by anyone who owns or holds premises and areas that are likely to produce waste.
- **TASI** is a direct charge to cover the cost for indivisible services provided by the municipalities, such as lighting, road safety, management of public networks etc. The tax is therefore due to everyone who owns or holds, on any basis (eg . the tenant who pays 10-30 % of the tax), a premise and/or buildable areas. Exceptions are made for agricultural land and first homes where an individual resides.
- **IMU** (former “ICI”) continues to be due on all premises **not** intended as a principal residence and those considered as luxury homes that falls into the categories A/1, A /8, A/9 (luxury apartments, castles, villas, etc.).

Beside some exceptions - the IMU is also due by those who own a land or building area.



Tax features related to land ownership in Italy

The Municipality also decides every year the deduction to apply for the main residence and any extra deduction applicable for special cases, such as large families, or families with a disabled member, or low income retired owner, etc.

You can find all relevant information from the local Town Hall ("Ufficio Tributi").

The payment form ("bollettino di conto corrente") can be obtained at any "Ufficio Tributi", or local Post Office, or some newsagents. If you receive such form at the "Ufficio Tributi" in which the property is situated, the form will include the details of the area.

In addition, the owner of a property must also send to the Town Hall the "TASI" Statement" by the 30th June of the year following the date of purchase. In this statement the owner must specify the technical details concerning the property ("dati catastali"), the exact period of ownership and other information useful to the City municipality to calculate the correct payment.



Tax features related to land ownership in Italy

- **Property income in case of a foreign resident being owner of Italian property – IRPEF (Imposta sul reddito delle persone fisiche – income tax for individuals)”**

The IRPEF tax is calculated in the income tax statement (“dichiarazione dei redditi”, Mod. 730 or Mod. UNICO). The IRPEF tax on property income must be submitted in the year following the purchase of the property, and is calculated in proportion to the period of ownership.

The property income must be added to any other income (employment, pension, etc.). Every citizen will pay according to his/her own total income.

The IRPEF on property income varies according to the use of the property, its land register revenue (“Rendita Catastale”) or its actual rent, if any is received.

The land register revenue (“Rendita Catastale”) is an official amount usually specified in the deed of sale. If not specified, you can request the local “Catasto” office to calculate it. This income will be increased by 5%³

The main residence or the one used as a main residence by a family (husband or wife, and close relatives) is totally exempt from IRPEF tax. This exemption is applicable only for one property. Such exemption includes also the facilities relating to the property: garage/car space, cellar, etc.

3 See in this guide page 13, about land register revenue (called in Italian “rendita catastale”)



Tax features related to land ownership in Italy

Taxation on income for non-residents

The following income, if originates in Italy, is deemed as “taxable income” according to Italian legislation:

- **Income from property (buildings and land) situated in Italy;**
- **Income from employment, or self owned business, or industrial / commercial revenue;**
- **Income from any subsidy such as pension, benefits etc;**
- **Other sources of income.**

There are exceptions according to international agreements which consider cases of double taxation. As regard to income tax, buildings and lands situated in Italy are deemed to be profitable, whether rented or not. They are subject to taxation from diverse sources, such as:

- **IRPEF;**
- **Supplementary regional IRPEF (“addizionale regionale”);**
- **Supplementary municipal IRPEF (“addizionale comunale”);**
- **TASI (Municipal Tax on property);**
- **Waste tax.**



Tax features related to land ownership in Italy

Waste disposal tax

If you buy or own a property, you will have to go to the “Ufficio Tributi”, in the local Town Hall, and give details so that they can calculate the tax that you will pay for waste disposal.

Such details include your private details (name, address, and date of birth), your fiscal code number (Codice Fiscale), the date when you commenced to use the property, the size of the property in square metres (excluding the measurements of internal and external walls, and excluding any balcony or terrace, but including cellar and garage).

It is recommended that You submit such details within 3 months the purchase of the property.



Services

- **Electricity**

You can request a new service by phone. For new buildings, you will submit the following details: personal data and fiscal code, electricity meter number, power details, address for billing purposes.

If you take over an existing service, you will need also the name of the previous user and the latest meter reading.

If you are legally residing in the property, you are entitled to a reduced fee for your electricity. In this case you must provide the electricity company your residence certificate ("Certificato di Residenza"). This statement can be mailed.

- **Gas and Water**

Regulations may vary from place to place and you will have to obtain further information from local municipal office ("Comune")



Services

- **Condominium**

The buyer of a property in a condominium must inform the condominium manager for the payment of service charges.

Finally, for any purchased property it will be necessary to arrange and pay for new contracts ("Volturazione delle utenze") with the main utilities (power, water, gas, telephone, etc.), and where the property is in a block of flats, to inform the condominium manager (Amministratore del condominio) of the ownership transfer.)



Disclaimer

The present document is a mere guide in relation to property purchase and does not replace or give interpretation of existing legislation.

