

Luxembourg life insurance contract and reporting obligations in Italy

Wealth Planning and Legal
& Tax Departments

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TAX SEASON



The Luxembourg life insurance contract, when taken out by an Italian tax resident, is subject to certain declaratory obligations.

These are the responsibility of the policyholder or may be delegated to the insurance company in certain cases.

A reminder of the different declarations to be made and their possible tax consequences.

Life insurance contract and tax declaration

Italian residents who take out a life insurance policy with a foreign insurance company must declare it in their annual income tax return, unless the policy is taken out through an Italian broker authorised to collect insurance premiums.

The substitution tax is of 26%, and of 12.50% if the policy invests in Italian government securities or similar securities in White List countries.

Corporation Tax may be applied by the policyholder directly in his income tax return or applied by the foreign insurance company directly or by a tax representative ("opted" insurance company) or by a resident broker. The policyholder therefore has no obligation either to declare the income (i.e. to fill in the RM Form in the UNICO PF Modello) or to calculate or pay the tax.

RW Form

The declaration in the RW Form is intended to ensure the monitoring of financial assets held abroad (including life insurance policies).

Income generated by life insurance policies is qualified as "capital income" within the meaning of Art. 44, letter g-quater of the TUIR (the Italian Consolidated Tax Law). These incomes are subject to the application of the substitution tax on income in the event of

- total or partial surrender, and
- in the event of death

except for that part of the lump sum received to cover the demographic risk.

The applicable rate of which varies according to the period in which the capital gain occurs (26% for income received on and after 1 July 2014, and 12.50% for capital gains generated under the policy on investments in government securities or similar securities of White List countries).

The payment of insurance benefits in the event of death is not subject to inheritance tax.

IVAFE and stamp duty

The policyholder is required to declare and pay the IVAFE [tax on the value of financial activities abroad] in the income statement unless the insurance company has opted for the payment of stamp duty virtually ('bi-opted' insurance company) or if the policies the subject of an administration agreement with a resident intermediary (for example, a trustee).

If IVAFE is not applied, stamp duty will be applied. In particular, on 31 December of each year, the insurance company will record the amounts due for ordinary stamp duty on the value of the insurance policy.

Obligations of the life insurance company

The life insurance company has several obligations :

- i) Payment of the tax (0.45%) applied to the amount of the mathematical life insurance reserves entered in each annual balance sheet.
- ii) Annual income tax declaration (using the 'Modello 770/2019 Ordinario' form): The insurance company must file the income tax return with the tax office in order to report the substitution tax withheld and paid during the current year and to notify the option to act as an IRS agent for the following year (but not if the policyholder is an Italian trust company).
- iii) Communication to the Tax Office - «Anagrafe dei Rapporti Finanziari» (Article 7, para. 6 of DPR no. 605/1973): the Company must submit to the Tax Office a communication concerning the personal data of policyholders who have subscribed or redeemed (as the case may be) any unit-linked policies, during the previous month and annually, including additional payments and partial surrenders (but not if the policyholder is an Italian trust).

Do you have any doubts about your situation?
Don't hesitate to call on your trusted advisor or ask us.

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