



**Ruling Extends Income Tax  
Breaks to Landmark Property  
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**by Luigi Perin**

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## Ruling Extends Income Tax Breaks to Landmark Property Owners

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A recent ruling by the Italian Ministry of Finance will extend significant income tax breaks to many commercial landmark property owners.

There are thousands of historic and artistic landmark real estate properties in Italy, including villas, castles, palaces, and residential and commercial buildings, that make up attractive real estate investments.

Income taxation of rental income in Italy differs depending on the character of the income. If the rental activities are considered a trade or business, the rental income is treated as business income and may be offset by all the deductions allowable under Italian law. However, if the income is characterized as “real property income,” income taxes are levied on the greater of:

- the “phantom income” (*rendita catastale*) attributed by the Italian authorities, which is usually significantly lower than the actual rental income; or
- the gross rental income, less a flat 15 percent deduction.

In consideration of public interest in the preservation and restoration of historic and artistic landmarks, Italian law contains provisions aimed at reducing the income tax burden of the owners of those properties. Article 11(2) of Law 413 dated December 30, 1991, provides that income arising from landmark buildings must be determined on the lowest phantom income applicable to real estate properties in the area.

Because of that provision, taxpayers earning real property income from renting out landmark build-

ings would generally end up reporting only a fraction of actual rental revenues as taxable. However, for over a decade, the Ministry of Finance had defended a controversial interpretation of the law. The ministry had argued that whenever landmark buildings were rented out, taxpayers were to report the higher of the gross rental income or the phantom income.

The ministry’s position has resulted in an inordinate amount of controversy and tax litigation. For years, numerous local tax courts and, more recently, the highest Italian courts, including the Corte di Cassazione, the Corte Costituzionale, and the Consiglio di Stato, ruled in favor of the taxpayers. On March 14, 2005, with Circolare Ministeriale No. 9/E, the Ministry of Finance agreed that the favorable tax regime applied to rental income arising from residential real estate landmarks. However, the ministry still contended that the favorable regime did not apply to rental income arising from commercial real estate landmarks.

Finally, on January 17, 2006, with Circolare Ministeriale No. 2/E, the Italian tax authorities conceded losing their last battle and agreed that the tax break applies to landmark buildings, regardless of their residential or commercial nature.

The ruling will cause the tax authorities to withdraw from the numerous cases pending before the local tax courts and will provide significant relief to many taxpayers. ♦

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