

## **Business immigration to Italy**

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Italy does not have a specific Visa for investors in the country who can however obtain an entry visa under two different categories, depending upon on the type of activities they are willing to carry out. An individual willing to work or establishing a company, can apply for an autonomous work visa, while someone who is interested only to live in the country without working can be entitled to an elective residence visa.

#### **1) Un-sponsored business-related immigration**

##### **1(a) Self-Employment, Entrepreneurs, Investors**

Italian Immigration Law provides the right, under certain conditions, for foreign nationals to enter Italy and carry out self-employment activities. “Autonomous Work” refers to free-lance and consultancy activities and in general all activities in which a professional has discretion and autonomy regarding the organization of his work and is not ranked below another employee in terms of seniority or office hierarchy. It generally includes the appointment of the individual as Board Member of a company.

Autonomous Work permits can be issued for:

- Activities which are subject to a license – The procedure for those who intend to carry out an activity subject to a license or enrolment with a professional body (such as doctors, lawyers, architects, etc.) is the most lengthy one, as the foreign worker needs to register first with the relevant professional body. The procedure to obtain such clearance varies depending on the type of activity the foreigner wishes to perform in Italy.
- Consultancy activities – Freelancers and anyone willing to carry out non-licensed activities, need to secure a contract with an Italian company and be guaranteed a yearly compensation of not less than €8500/year. In general, however, the Labour Office expects much higher compensation for these kinds of permits. Indeed, it would raise concern if compensations are kept at the minimum. The contract must be submitted to the Labour Office for a clearance. After its issuance the application for the permit is lodged with the Police Office.
- Entrepreneurs and Officers of Italian companies – Authorizations for those appointed as officers (members of the Board) of Italian companies are the fastest and with less requirements, but the Italian company must have been established for at least three years. The foreign national will have to provide evidence of the appointment in office and, based on our experience, the Immigration Office will also review the financial status of the company and can raise concerns in case the company has incurred losses or has a limited number of employees and low yearly turnover.

The issuance of Autonomous Work Permits is subject to the availability of the quotas, as provided by *Art. 3 of Decree No. 286/98*. A limited number of quotas is issued periodically (usually once a year) by the Italian Government, and is divided for each Province; if obtained, the quota allows the foreigner to obtain work authorization and the relevant entry visa. The issuance and number of quotas is, however, unpredictable and therefore the obtainment of this type of permit is generally rather difficult.

##### **1(b) Autonomous Work permit for Intra-Company assignees**

Workers who meet the conditions of an “Intra Company Assignment” (see below) but who are seconded to Italy in order to carry out autonomous work activities directly for the benefit of the Italian host company, can obtain an Autonomous Work Permit instead of a standard Intra Company Permit without being subject to

the quotas restrictions. The individual shall not be hired by the Italian company and therefore will need to pay his own taxes, social security charges, etc. The procedure for the obtainment of this type of Work Permit is identical to the standard Autonomous Work Permit process, but the applicant will need to prove both the employment status with the sending company as well as the contractual agreement (consultancy) with the Italian host company.

### **1(c) Elective Residence Visa**

The Elective Residence Visa is regulated by *Art. 11 of Decree 394/99*. It is limited to individuals who have a prolific amount of money and savings in the country of origin and who intend to live in Italy without working. If the applicant has purchased a property in Italy, he has a higher chance of success. However, property ownership is not a condition for obtainment of the visa and a rented property can also suffice.

The applicant's income cannot be derived from current employment or any other work activities. Applicants need to show a stable source of income deriving, for example, from owned real estate, saving accounts or a portfolio. The Consulate may request original financial statements from banks, investment/brokerage firms or social security, all indicating current balances. The deciding factor is showing established wealth that would allow the applicant to live in Italy without working. The minimum threshold set forth by the law is €31,159/year (plus 20% for the spouse and 5% for each children). However, Consulates have full discretion to request a much higher income, and they usually do.

## **2) Sponsored business-related immigration**

### **2(a) Subordinate Workers**

#### **2(a)(i). Local Hiring**

An Italian company willing to hire a non EU worker will need to apply for a Subordinate Work Permit. These permits are regulated by *Art. 22 of Legislative Decree No. 286/98*. The issuance of Subordinate Work Permits is subject to the availability of quotas. A limited number of quotas is issued periodically by the Italian Government, and divided for each Italian Province.

#### **2(a)(ii) Temporary Work Assignments**

There is an exception to the quota system for Temporary Work Assignments (they are temporary because in total the assignment cannot exceed 4 or 5 years, depending on the type of permit). The condition precedent for these permits is that the workers remain hired by the foreign sending company and are only temporarily assigned to work at an Italian company. Temporary Work assignments are regulated by *Art. 27, a), f), g) and i) of Legislative Decree No. 286/98*.

There are three typologies of temporary work assignments, depending on the relationship between sending and host company:

- Intra Company Assignment – When a highly specialized worker with at least six months of seniority within the same working field (some Immigration Offices, however, require that the worker has at least 6 month seniority with the sending company) is seconded to an Italian company or branch which is part of the same Company Group of the sending company.
- Highly skilled workers – The law does not specifically require that the sending and host companies are part of the same group for this category of permits, but most Immigration Offices request proof of affiliation between the sending and the host company in any event. Accordingly, this kind of permit is very similar to the Intra Company Permit. For this permit, however, 6 month experience in the same field or 6 month seniority with the sending company is not required. The company must however prove that the worker is highly skilled (generally a University diploma will suffice) and that the worker is needed for implementing a specific project.

- Service Agreement Assignment – When the sending and host companies are not part of the same Group, it is still possible to obtain a temporary work permit based upon a Service Level Agreement executed between the two companies. The Agreement must provide that it is necessary that foreign personnel be assigned in Italy in order to carry out some specialized work, such as installing machinery or conducting quality controls. For these kinds of permits, it is necessary for the Italian host company to inform the Trade Unions. Even though the Unions do not have any right to object to the assignment, Italian companies are generally hesitant to start this procedure due to the impact it may have in industrial relations

## **2(a)(iii) Blue Card permits**

Since August 8, 2012, Italian companies can hire – out of the quota limitation – non EU nationals with a highly specialized job profile who meet certain educational and employment requirements.

Qualification requirements:

- The foreign worker must have completed a post-secondary study program with a minimum duration of three years;
- The school must be an institution of higher education recognized by the State in which it is located;
- The foreign worker's university Diploma must be recognized by the Italian Ministry of Foreign Affairs;
- The foreign worker's profession must be acknowledged by the Italian Ministry of Education;
- The foreign worker must be offered a contract or a firm job offer for a position that must be filled by a highly qualified professional (Level 1, Level 2, or Level 3 of the ISTAT – Italian institute of statistic - classification of occupations); the contract must be valid for at least one year and must offer a minimum salary of at least €25,500/year.

The holder of a Blue Card permit issued by another EU country can, after 18 months, move to Italy without obtaining a visa. However, within one month after entering Italy, the employer must notify the Immigration Office and obtain a local work authorization.

## **3) DEPENDANTS**

Workers are entitled to have their family members join them in Italy, either if they have permanently transferred to Italy, or if they are on a Temporary Work Assignment.

The term "family member" refers to the worker's spouse; children under the age of eighteen; children over the age of eighteen if physically or mentally handicapped; parents that have no other children abroad and cannot care for themselves financially or parents over the age of sixty-five that cannot care for themselves for health reasons. Italy does not recognize common-law spouses. Only recently have Police Offices (after a ruling by the Constitutional Court) started to grant Residence Permits, to same sex partners of EU citizens, provided that the couple is legally married in a foreign country which recognizes same sex marriages.

Dependants will obtain a family visa which is linked to the principal's residence permit. Accordingly, if the principal leaves the country and his permit is no longer valid, the dependants' permit will automatically become null and void.

There are four categories of applications for dependants:

- Family Reunion: Workers living in Italy and holding a valid Residence Permit are entitled to invite their family members who are still living abroad to join them.
- Accompanying Family Members: This procedure enables workers and their family members residing in the country of origin to enter Italy together, at the same time. Workers enter Italy with work visas, while their family members are granted a family visa.

- **Family Cohesion:** Family members can also enter Italy with a short term visa (unless they are non-Visa Nationals) and, in some cases, after having reported their presence in Italy at the local Police ('Dichiarazione di Presenza' – to be done within eight days of arrival only if entering Italy through another Schengen country) they can apply for a change of status and request a family permit without going through the family visa application.
- **Family Members of an EU national:** Family members of nationals of the European Union are entitled to obtain a special residence permit called 'Carta di Soggiorno per Familiare di Cittadino UE,' which has a longer validity compared to standard residence permits (five years), with no need to apply for a family visa. They are in fact entitled to enter Italy with a short-term visa (see above: Family Cohesion) and should directly apply for the 'Carta di Soggiorno.' In case of extension, the Police can issue a residence permit with unlimited validity. Recently, the right to obtain the 'Carta di Soggiorno' has been extended to same-sex partners of EU nationals, provided that they got married in a country recognizing same-sex partnerships.

Once the family Residence Permit is issued, dependants are entitled to carry out any type of work activity (autonomous or subordinate) without being required to convert their permit into a work residence permit.

#### **4) SETTLEMENT AND CITIZENSHIP**

##### **4.1 General process and time frame for obtaining permanent residence**

According to *Art. 9 of Decree No. 286/98*, after five years of continuous legal residence in Italy, foreign workers may apply for a Permanent Residence Permit. The application is filed at the Post Office and processed by the local Police Headquarters, similarly to all other standard permits.

##### **4.2 General process and time frame for obtaining citizenship**

*Law No. 91 of 5 February 5, 1992*, specifies a number of different cases for the acquisition of Italian citizenship, some of which are automatic and others that apply only to specific conditions.

###### **4.2.1 Naturalization**

Foreigners are entitled to apply for the Italian citizenship through the "naturalization" procedure after ten years of legal residence in Italy. Mandatory conditions are that (i) the applicant must have continuously and legally resided in Italy for ten years; and that, (ii) he must be compliant with the fiscal obligations (i.e. file tax returns) related to his employment. The Naturalization requirements are different if the applicant has native-born Italian parents or grandparents: in this case the applications can be filed after only three years of legal residence in Italy.

###### **4.2.2 Marriage**

Foreigners who are married to an Italian national can apply for the Italian citizenship (i) after two years of marriage if residing in Italy; or (ii) after three years of marriage if residing abroad. Such time requirements may be shorter if the applicant has children with the Italian spouse, one year if residing in Italy and one and half year if residing abroad.

###### **4.2.3 Ancestry**

Italian citizenship law affirms the principle of *jure sanguinis* (continuity of blood), by which any child born to an Italian parent instantly inherits Italian citizenship. Under some circumstances, Italian citizenship can also be claimed if one of the grandparents or great-grandparents were Italian nationals. Ancestry applications can be filed at the local Town Hall if residing in Italy or at the relevant Italia Consulate if residing abroad, and processing times for the obtainment of the citizenship are usually about one year.