



MATRIMONIAL PROPERTY REGIMES

Sources: basic rules common to all spouses (Art. 143 to 148 of the Italian Civil Code) + Art. 159 et seq. of the Italian Civil Code on matrimonial property regimes

Rules common to all spouses: contribution by the spouses to the expenses of the marriage in proportion to their respective abilities, obligation of the spouses to support and educate the children.

I - Statutory regime (in the absence of a prenuptial agreement): community of property (Art. 159 Italian Civil Code)

Statutory community of property provides for the existence of joint property, personal property and deferred joint property.

(Since the reform of family law of 19 May 1975, which came into force on 20 September 1975, the statutory regime in Italy has been community of property. This replaced the statutory regime of separation of property. The community of property regime applies to all couples, even those married before the reform, unless the spouses expressly stated otherwise before 15 January 1978 in a deed drawn up by a notary or before the registrar of the place where the marriage was solemnized).

Definition of joint property

Property acquired by the spouses during the marriage, individually or together, becomes part of their common property, with the exception of personal property and property that falls under deferred joint property (Art. 177 Italian Civil Code).

In the absence of proof to the contrary, movable property is considered part of joint property (Art. 195 Italian Civil Code).

Deferred joint property

The fruits of a spouse's personal property and his or her personal activities, provided that they still exist at the time of the dissolution of the community of property (Art. 177 b and c Italian Civil Code).

Property used for the operation of the business of one of the spouses if the business was established during the marriage, and the profits of a business established before the marriage, provided that they still exist at the time of the dissolution of the community of property (Art. 178 Italian Civil Code).

If a business is set up or acquired during the marriage by only one of the spouses and is managed by him or her alone, the property allocated to its exercise and any increases will only be classed as joint property if it still exists at the time of the dissolution of the community as well as the separate income of each of the spouses (Art. 177 Italian Civil Code).

Deferred joint property arises at the time of the dissolution of the community of property and consists of a right for one spouse to be paid by the other (the owner), in an amount equal to half the value of the property.

Definition of personal property

Property acquired before the marriage or before the adoption of the community of property regime.

Property acquired during the marriage by gift or inheritance, unless it has been specified in a deed of gift drawn up by a notary or a will that the property is to be treated as joint property.

Property for strictly personal use and ancillary items.

Property necessary for one of the spouses to exercise his or her profession (if acquired during the marriage, this property, in order to be treated as personal, must be declared excluded from the community of property in the deed of purchase, with the agreement of the other spouse – Art. 179 Italian Civil Code)

Property received as compensation, as well as any pension related to partial or total incapacity to work.

Property acquired with the proceeds of sale or following an exchange of personal property, provided that this is explicitly stated at the time of acquisition, with the agreement of the other spouse.

Ancillary items of personal property are not part of the community of property.