



Tax, Legal and Corporate Information

NEWSLETTER: SPECIAL EDITION

ITALY: IMPOSSIBLE TO RAISE A MORTGAGE TO PROPERTY BELONGING TO A TRUST

The recent judgment of the Tax Commission of the Lombardy Region (No. 140/8/2011), confirm that the entity responsible for the collection cannot raise a mortgage on property previously provided to a Trust, since the same



properties are no longer in availability of the settlor and cannot be attacked from personal creditors of itself. Therefore, the arguments of the taxpayer, who argued that the beneficiary of the Trust is not the debtor, have been accepted with the

consequence that this debtor is not subject to any enforcement action. The Regional Tax Commission, endorsed by an authoritative precedent of the Supreme Court, therefore, have supported the thesis whereby with the establishment of the Trust the figure of the owner declines, with the immediate effect that contributed assets become part of a heritage detached and, consequently, the original owner loses the power to dispose. Furthermore, the subsequent end of the Trust determines the transfer to the beneficiary, that in effect, is a third party with respect to tax liability, and against whom, therefore, it is not possible to initiate enforcement proceedings.

Still undecided about the Trust?

Do not hesitate to contact us

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