

GMS Flash Alert

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Italy – Immigration Process Eased for Legally-Recognized Same-Sex Couples

In recent months, Italy's Home Office has clarified regulations and procedures for the country's immigration system that concern same-sex foreign partners/spouses, in particular in respect of immigration clearance, family reunion, and residence permits.¹

Under new rules, since August 2016, same-sex legal spouses or partners are allowed to enter Italy to join their spouses/partners who are planning to work and live there, and request a work permit and a Residence Permit.

WHY THIS MATTERS

Foreign partners/spouses in a legal same-sex "union" (i.e., marriage, civil union, civil partnership) under prior rules experienced significant hurdles to clear immigration and join their spouses/partners in Italy.

Under the new changes to Italy's immigration regime, foreign same-sex partners/spouses (legally married or joined in a civil union or civil partnership) of assigned workers to Italy and foreign same-sex partners/spouses of Italian citizens will now have an easier time clearing immigration hurdles and obtaining residence permits.

This may facilitate decisions by employees with same-sex spouses to take up international assignments to Italy and will help global mobility program managers move their employees taking an assignment and their same-sex "trailing" spouses to Italy.

Background

In May 2016, Italy's Parliament gave final approval to a law (Law n.76) recognizing civil unions of same-sex couples.² Under the *Cirinnà law*, as it is called, same-sex partners joined in a civil union are legally recognized as a couple. The law

requires partners in a same-sex civil union to provide mutual moral and material assistance, and to contribute to common needs, and among several rights and privileges the law confers is the entitlement to the same inheritance rights as opposite-sex married spouses. The law clarifies that a civil union in Italy allows same-sex-couples the right to enjoy essentially the same legal rights and responsibilities as a civil opposite-sex marriage.

This law impacts Italy's immigration system, which is now undergoing modifications to adapt the law to Italy's immigration regime and practices. The government introduced a Circular (n.3511 of 5 August 2016) explaining the new law and its impact on various related immigration laws and regulations.³

The Circular clarifies that people of the same sex who have entered into a civil union with one another are entitled to immigration clearance by the one spouse or partner to join the other spouse or partner in Italy. This had not been the case under prior rules.

Art.1, 20 of the law establishes the following: "The instructions referring to weddings and the instructions containing the words spouse, spouses or equivalents, in any decrees, documents, regulations, as well as in administration deeds and in collective agreements, are also applied to each side of the civil partnership."

Changes to Immigration Rules and Procedures Since Law n. 76 of 20 May 2016

Immigration Clearance and Residence Permit⁴: Categories of People Covered

The immigration clearance necessary to obtain a Residence Permit in Italy can be requested by:

- a) foreigners with residency in Italy and married to a foreign partner (or joined in a civil union/partnership);
- b) foreigners married (or joined in a civil union/partnership) to an Italian/ European Union citizen.

For all these categories, all the provisions of Legislative decree n. 286/1998 (*Testo Unico Immigrazione*) in respect of family reunification are applied; in the particular case of same-sex partners/spouses, as follows:

- The foreigner, who has residency in Italy, can apply for family reunion immigration clearance for his/her civil partner.
- The foreigner, who is married to an Italian/EU citizen, can apply for a Residence Permit for family reasons.

Requesting Immigration Clearance

The request for immigration clearance must be presented to the Ministry of Labour via its official Web site. Once the request has been sent, the competent Authority (*Prefettura*) will set up an appointment in order to verify the supporting documentation.

The following must be provided:

- Declaration of the civil union issued by Italian Consular Representation;
- Forms and documents required for the common immigration clearance.

Immigration clearance for family reunification is issued within 180 days from the date of the request.

FOOTNOTES:

1 [Circolare n. 3511 del 5 Agosto 2016](#) (in Italian).

2 *Legge del 20 maggio 2016, n. 76: Regolamentazione delle unioni civili tra persone dello stesso sesso e disciplina delle convivenze.* (16G00082) (*Gazzetta Ufficiale Serie Generale n.118 del 21-5-2016*). Legislative decree n.76 of 20 May 2016 was published in *Gazzetta Ufficiale* (the Italian government's official gazette) on 21 May 2016. [The law \(in Italian\)](#).

3 [Circolare n. 3511 del 5 Agosto 2016](#) (in Italian).

4 Family reunion comes under article 29 and Residence Permit for family purposes comes under article 30 of Legislative decree n. 286/1998 (*Testo Unico Immigrazione*).

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New Back to Basics: Business Immigration 101

We are pleased to announce the publication of "[Back to Basics: Business Immigration 101](#)," the fifth installment of our Back to Basics thought leadership series!

Global mobility program managers often have the responsibility of managing the many complexities of immigration globally in support of both employee service delivery as well as compliance goals. The severity of potential risks and resulting liabilities necessitate a solid operational framework by organizations for immigration compliance, administration, and service delivery. This newest issue of Back to Basics has been developed to serve as an introduction to understanding key definitions and concepts associated with global business immigration. We also highlight certain leading practices in immigration program management.

We have created [a page on the KPMG TaxWatch Web site](#) for the other articles in the GMS practice's Back to Basics series. This current article as well as past articles (covering home leave, repatriation, short-term assignments, and assignment letters) are in .pdf format on the TaxWatch site.

Contact us

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** Please note that the KPMG International member firm in the United States does not provide immigration services.*

The information contained in this newsletter was submitted by the KPMG International member firm in Italy.

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