



**University  
of Ferrara**

**Department  
of Law**

# Inheritance and gift taxation: the elimination of double taxation in domestic law through a hierarchy of the states power to tax: an overview in Italy

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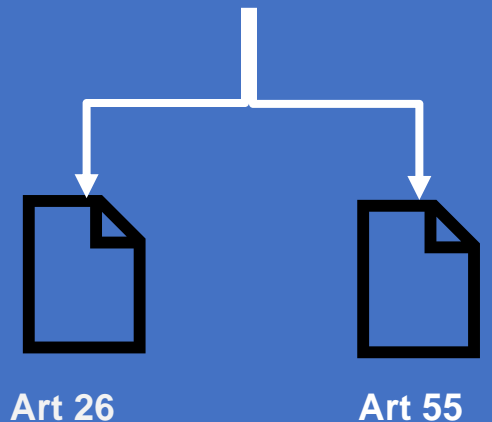


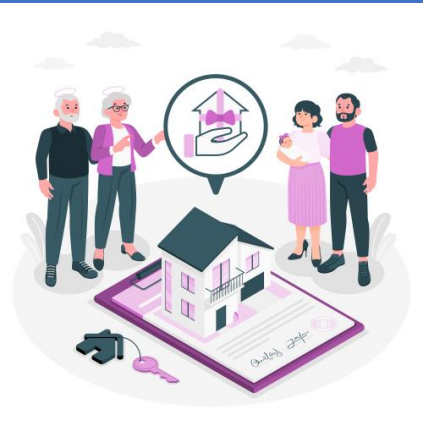
# Elimination of Double Taxation



Being taxed twice  
on the same source  
of income.

Legislative Decree  
no.346/1990-  
Inheritance and gift  
tax code IGTC





“

## ART 26



**From the tax determined in accordance with the preceding articles, the following deductions are made on taxes paid to a foreign state, in connection with the same succession and concerning assets existing in that state, up to the amount of the proportional part of the inheritance tax attributable to the value of those assets, except for the application of international treaties or agreements.**

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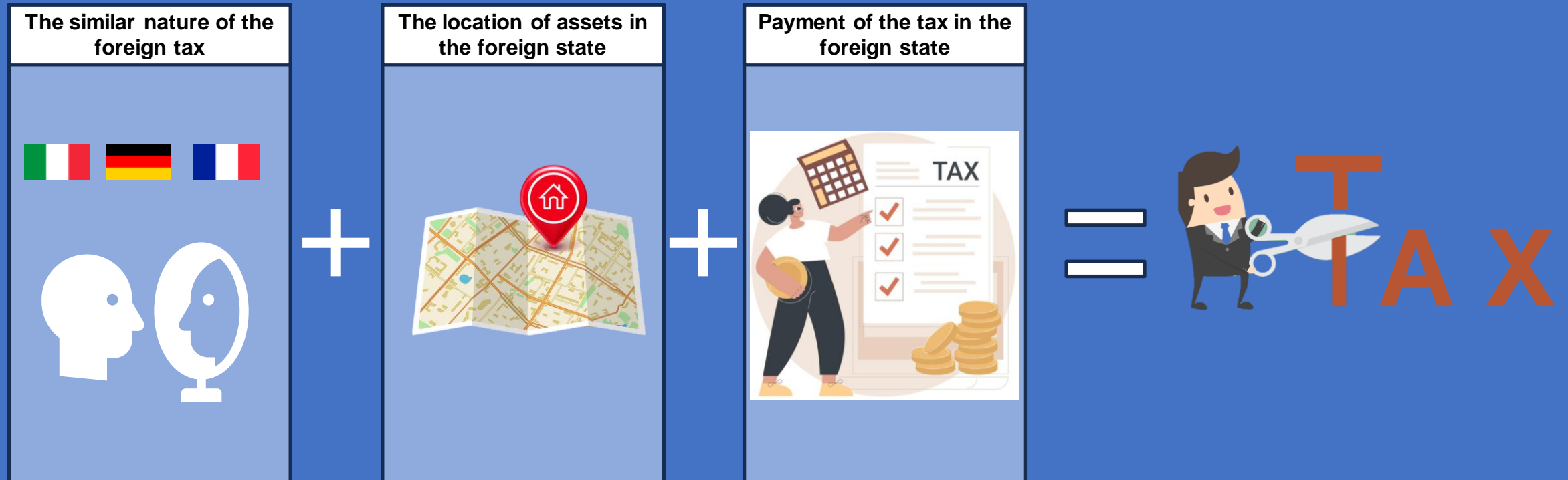
## ART 55



**The acts of donation are subject to registration according to the provisions of the Consolidated Income Tax Act, approved by the President of the Republic with decree no.131 of April 26, 1986, concerning acts to be registered within a fixed term. 1-bis. Acts of donations made abroad towards beneficiaries' resident in Italy are also subject to fixed-term registration. From the gift tax determined in accordance with this title, taxes paid abroad for the same donation and in relation to the existing assets therein are deducted, except for the application of double taxation agreements....**

”

# REQUIREMENTS



# ART 55 IGTC

that the acts of donation are subject to registration according to the provisions of the Consolidated Income Tax Act, approved by the President of the Republic with decree no. 131 of April 26, 1986, concerning acts to be registered within a fixed term.

1-b. Acts of donations made abroad towards beneficiaries' resident in Italy are also subject to fixed-term registration. From the donation tax determined in accordance with this title, taxes paid abroad for the same donation and in relation to the existing assets therein are deducted, subject to the application of double taxation agreements.



Acts concerning transfers under article 3 are registered free of charge, except as provided in paragraph 3 of the same article. As for foreign donations, this provision had to be coordinated from the outset with another provision of Legislative Decree no. 346 of October 31, 1990, which is article 55 and governs the registration obligation for donations.

# Art. 55, para. 1-bis

"Acts of gifts made abroad towards beneficiaries' resident in Italy are also subject to fixed-term registration.

From the gift tax determined in accordance with this title, taxes paid abroad for the same donation and in relation to the existing assets therein are deducted, except for the application of double taxation agreements."

First following the importance of the residence of the beneficiary despite of the residence of the donor



Expansion of the territorial scope criterion



Restriction of the territorial scope criterion



# Assessment of assets abroad



Regarding the amount of the tax paid abroad, this must refer to the tax return issued by the Tax Authority of the state in which the tax has been paid.

The Italian Tax Authority does not have the competence to review the procedure leading to the assessment of inheritance due to a foreign state.



# Assessment of assets abroad



Conversly, the Italian Tax Authority can ascertain the greater value of the asset located abroad compared to the valued declared by the taxpayer in the inheritance declaration submitted in Italy.

The Italian Tax Authority should, in principle, rely on the tax return made by the interested parties and refrain from investigating the existence and value of assets located in foreign countries.

Only if specific and exceptional situations arise, the Italian Tax Authority should contact the Italian Consular Authorities in order to seek specific informations about a particular certification.

*Thank You!*



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