

## Double taxation without a treaty

*Dr Alexander Ressos, TEP  
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),  
Solicitor (England & Wales)*

Since there is no Swiss-Italian treaty on inheritance taxes, double taxation is avoided only by unilateral rules. Art. 26 TUS grants a credit for taxes paid to foreign states on the same succession for assets situated abroad, "fino a concorrenza della parte dell'imposta di successione proporzionale al valore dei beni stessi".<sup>1</sup> The credit is limited to foreign assets, so that a Swiss tax on Italian assets would not be credited. On the Swiss side, cantonal inheritance taxes are levied on the worldwide movable estate of a person whose last domicile was in the canton and on real estate situated in the canton, while foreign real estate is excluded. Because Ticino, like most cantons, exempts spouses and descendants, conflicts in the nuclear family are rare. They arise mainly where more distant relatives or unrelated persons inherit, or where the Italian and Swiss authorities both consider the deceased to have been resident in their territory.

Gifts raise further questions. Italian law requires a notarial deed for gifts of significant value, but money is often transferred within families by bank transfer, as an indirect gift (*donazione indiretta*). The Italian tax authorities have taken the view that a gift executed abroad between Italian residents remains subject to the tax. A conference at the Scuola universitaria professionale della Svizzera italiana (SUPSI) in 2020 discussed the presumption of territoriality for gifts executed abroad that a resolution of the Agenzia delle Entrate had stated.<sup>2</sup> A gift from a parent resident in Italy to a child resident in Ticino is taxable in Italy. A gift from a parent resident in Ticino to a child resident in Italy is taxable in Italy only if it concerns Italian assets, while Ticino exempts it because the recipient is a descendant.

### 1 The reform of 2024 and the consolidated code of 2027

The Italian tax reform enabled by Law No 111 of 9 August 2023 has produced a series of legislative decrees. Legislative Decree No 139 of 18 September 2024 revised the inheritance and gift tax, the registration tax

and other indirect taxes. Its most visible change for families is the self-assessment of inheritance tax (*autoliquidazione*). Since 1 January 2025 the heirs calculate the tax in the succession return and pay it themselves with form F24 within 90 days of the filing deadline. Payment in instalments is possible after an initial payment of 20 per cent.<sup>3</sup> Before the reform the tax office assessed the tax and sent a demand. The reform also codified the taxation of trusts in a new Art. 4-bis TUS, which is examined below.

The next stage is consolidation. Legislative Decree No 123 of 1 August 2025 brings the rules on inheritance and gift tax together with other indirect taxes in a single consolidated code, which is to apply from 1 January 2027. Until then the references in practice remain those of the 1990 Act.<sup>4</sup> For the adviser the consolidation will mainly change article numbers. The substance of the rates, the allowances and the territorial scope is not expected to change.

## 2 Notes

1. D.Lgs. 346/1990, Art. 26, at Bosetti & Gatti (above). ↩
2. SUPSI, "Successioni e donazioni tra Italia e Svizzera" (above), referring to resolution No 310 of the Agenzia delle Entrate of 24 July on the presumption of territoriality of gifts executed abroad. Form of gifts: Art. 782 Codice civile ("La donazione deve essere fatta per atto pubblico, sotto pena di nullità"), with the exception for gifts of modest value in Art. 783, Brocardi.it, <https://www.brocardi.it/codice-civile/libro-secondo/titolo-v/capo-iii/art782.html> (consulted 5 October 2026). Year of the resolution (probably 2008). ↩
3. NotaiOnline (above); Teleborsa (above). Decreto legislativo 18 settembre 2024, n. 139, "Disposizioni per la razionalizzazione dell'imposta di registro, dell'imposta sulle successioni e donazioni, dell'imposta di bollo e degli altri tributi indiretti diversi dall'IVA", Gazzetta Ufficiale, Serie Generale No 231 of 2 October 2024, <https://www.gazzettaufficiale.it/eli/id/2024/10/02/24G00157/sg> (consulted 5 October 2026), adopted under the enabling Legge 9 agosto 2023, n. 111. ↩

4. NotaiOnline (above): D.Lgs. 123/2025 consolidates the rules into a single code for indirect taxes, effective 1 January 2027. Date of the decree (1 August 2025). ↩

---

*For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.*

Online version: [helveticaregister.com/lugano-double-taxation-without-a-treaty](https://helveticaregister.com/lugano-double-taxation-without-a-treaty)