

INHERITANCE AND GIFT TAX PAID ABROAD SUITABLE FOR INCREASING THE TAX COST OF SHARES

Italian Revenue Agency ruling No. 132/2024

- ✓ With the ruling in comment the Italian Revenue Agency (IRA) provides clarifications regarding the relevance of inheritance tax paid abroad concerning shares subject to testamentary legacy for the purpose of determining the related tax cost under Article 68, paragraph 6, of Income Tax Code.
- ✓ The taxpayer, fiscally resident in Italy, raised the question with reference to the earlier mentioned shares in a listed company governed by French law, also stating that the deceased was a resident of Italy. According to the Double Tax Treaty concerning inheritance and gift taxes between Italy and France, and its related protocol, the described situation was fiscally relevant for inheritance taxes both in Italy and France. Moreover, the taxpayer noted that, under Article 11 of the aforementioned Treaty, the inheritance tax, which in this case was paid in France, could be credited against the corresponding tax due in Italy up to the latter amount, with the consequence that - considering the amount of the French inheritance tax - the Italian inheritance tax was fully absorbed by the former.
- ✓ Given this, the taxpayer asked IRA whether the tax paid in France could be considered a "cost related to (...) production" under Article 68, paragraph 6, of the TUIR, useful for determining the tax cost of the shares subject to testamentary legacy in the event of their subsequent sale.
- ✓ IRA, also referring to the previous circular letter of the Ministry of Finance dated June 24, 1998, no. 165, according to which every expense and cost strictly related to the acquisition of the share increases the related tax cost (to be used as a reference for determining the capital gain subject to taxation), concludes that inheritance and gift tax, including that paid abroad, is a cost strictly related to the acquisition of the same share and, therefore, is capable of increasing the mentioned tax cost.

