

Exemptions for business transfers

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The most important exemption for entrepreneurial families is that for the transfer of businesses and shareholdings to descendants and to the spouse. Under Art. 3(4-ter) TUS, transfers of businesses or parts of businesses, and of shareholdings that give or complete control of a company, are exempt from inheritance and gift tax. The beneficiaries must continue the business or hold the controlling interest for at least five years and declare this intention in the succession return or the deed of gift. The exemption expressly covers transfers made by means of a family pact under Art. 768-bis ff. Codice civile. In Resolution No 12/E of 14 February 2025 the Agenzia delle Entrate clarified that it applies to the transfer of the business itself and does not extend automatically to the compensation that the successor pays to the other heirs.¹ Combined with the allowance of EUR 1 million for each child, the exemption means that most Italian family businesses can be passed on to the next generation without significant inheritance tax.

The exemption has a direct consequence for planning in Ticino. Within the nuclear family a move of the head of the family to Switzerland is rarely justified by Italian inheritance tax alone, because the tax is low and the exemption for businesses is available in Italy in any case. The decisive motives for a move are more often the rules of succession law, income tax, wealth tax, personal security and quality of life. An adviser who presents a move to Lugano as an inheritance tax saving for an Italian entrepreneur with two children and a family company is likely to overstate the benefit. The comparison changes where the beneficiaries are siblings, nephews, a partner without a civil union or unrelated persons, since for these beneficiaries the Ticino rates, though reduced in 2024, may be higher than the Italian ones.

1 Notes

1. D.Lgs. 346/1990, Art. 3(4-ter), at Bosetti & Gatti (above): "I trasferimenti, effettuati anche tramite i patti di famiglia di cui agli articoli 768-bis e seguenti del codice civile ...". Teleborsa (above), on the five-year condition and on Agenzia delle Entrate, Risoluzione n. 12/E of 14 February 2025. ↩

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