



The Italian Revenue Agency, in its ruling No. 42/2026, clarified that the **contribution of shareholdings into a holding company** followed by the donation of bare ownership of the shares does not constitute an abuse of law if the transaction **has economic substance**.

The analysis is based on Article 10-bis of the Taxpayer's Statute, which requires three conditions in order to establish abuse:

- undue tax advantage,
- lack of economic substance,
- essential nature of the tax advantage.

In the case examined:

- The contribution pursuant to Article 177, paragraph 2, of the Italian Income Tax Code (TUIR) takes place under a **controlled realization regime**, with no capital gains arising if the values coincide.
- The subsequent donation of the bare ownership generates an **undue tax advantage**, as it reduces gift tax compared to the direct transfer of the operating company shares.

However, the transaction is not considered abusive because the establishment of the holding company is supported by **valid non-tax reasons**, such as centralized management, financial efficiency, and succession planning.

In line with the Italian Supreme Court (Judgment No. 14493/2022), the existence of economic substance is sufficient to exclude abuse, even if there is a tax saving