



AUGUSTAABOGADOS

INFORMATION ALERT

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REAL ESTATE ASSETS: THE SUPREME COURT PAVES THE WAY FOR THE APPLICATION OF A 95% TAX REDUCTION ON INHERITANCES AND EXEMPTION FROM WEALTH TAX

The long-awaited and important ruling of the Supreme Court has just been published regarding the application of the 95% reduction for family businesses provided for in the Inheritance and Gift Tax, in cases of property rental activity.

The regulations establish that, for the leasing of real estate to be considered an economic activity, it is necessary to have at least one person employed on a full-time contract who is responsible for its management.

This recognition as an economic activity is essential in order to apply both the family business exemption in Wealth Tax and the aforementioned 95% reduction in Inheritance Tax.

Traditionally, the tax authorities have maintained that the existence of a sufficient workload justifying the employee's exclusive dedication to the management of the leases must be proven. According to this criterion, it would not be sufficient to formally comply with the requirement of having a full-time employee; it would also be necessary to prove that their role responds to real needs. Although the law did not expressly require this additional burden of proof, the courts have often upheld the criteria of the TEAC and the tax authorities. As a result, in the absence of sufficient evidence of such a workload, the application of tax benefits was denied.

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This has led to numerous disputes centered on whether this requirement has been met.

However, the Supreme Court has just provided clarity with its recent ruling 956/2025, in which it rules on the application of the 95% reduction in cases of property leases. The ruling expressly states:

"There is no doubt that this provision must be interpreted in the light of the interpretative principles that have been promoted by the CJEU, so that, in accordance with Recommendation 94/1069/EC of the Commission of 7 December 1994, the survival of the company must be promoted through appropriate tax treatment of succession. This Recommendation translates into the need to adopt a purposive interpretation of Article 27.2 of the Personal Income Tax Law, as we have stated.

This final interpretation leads us, as we have anticipated, to consider that the existence of a full-time employee and premises used for the activity are sufficient requirements to understand that we are dealing with an economic activity, without the need to justify the hiring of the employee from an economic point of view.

With this ruling, the Supreme Court concludes that the objective of the rule is to provide legal certainty to the taxpayer, so that it is sufficient to meet the formal requirement of having a full-time employee for the management of leases. It is therefore not necessary to demonstrate the workload that justifies such hiring, although any fiction must be avoided.



After August, it is advisable to review real estate structures dedicated to property leasing, whether they are individuals or companies, in order to verify that they meet the requirements for applying the exemption from Wealth Tax and the 95% reduction in Inheritance and Gift Tax.

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