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News

CIVIL PROCEDURE

Mediation for the Settlement of Civil and Commercial Disputes - Civil and Commercial Mediation - Updates from Legislative Decree 216/2024

In the Official Gazette No. 7 of January 10, 2025, Legislative Decree 216/2024 was published, titled *"Supplementary and Corrective Provisions to Legislative Decree No. 149 of October 10, 2022, on Civil and Commercial Mediation and Assisted Negotiation."*
The amendments will come into effect on January 25, 2025.

New Time Limits for Mediation Proceedings

Regarding mediation regulations, Legislative Decree 216/2024 introduces changes to the duration of proceedings under Article 6 of Legislative Decree 28/2010. The maximum time limit has been extended from three to six months, with the possibility of further extensions, before expiration, for periods not exceeding three months.

While maintaining the six-month maximum duration, a single three-month extension may be granted in the following cases:

- The judge, in a dispute where attempting mediation is a prerequisite for initiating the proceedings, discovers (ex officio or upon the defendant's objection) that mediation has not been started or completed. In such cases, the judge schedules a subsequent hearing after the six-month period under Article 6 to verify whether the prerequisite for proceeding has been met (Article 5, Paragraph 2, Legislative Decree 28/2010).
- Mediation is ordered by the judge before the case is referred for a decision, in accordance with Article 5-quater, Paragraph 1, Legislative Decree 28/2010.

In any case, the time limits for mediation are not subject to the suspension during judicial recesses, and any extensions must be documented in a written agreement attached to the mediation report or included therein.

Pursuant to Article 4, Paragraph 1 of Legislative Decree 216/2024, the new rules described above also apply to mediation proceedings still ongoing as of January 25, 2025.

Online Mediation

Legislative Decree 216/2024 has also partially revised Article 8-bis of Legislative Decree 28/2010, now entirely dedicated to online mediation (i.e., mediation conducted with fully digitized documentation). The new provision removes previous references to participation in mediation sessions via remote audiovisual connection, which is now regulated by the new Article 8-ter.

The revised Article 8-bis, Paragraph 1 of Legislative Decree 28/2010:

- Explicitly states that conducting mediation online must result from a specific agreement between the parties;
- Eliminates the prior requirement for all mediation documents to be signed digitally, clarifying instead that documents must be signed in accordance with Legislative Decree 28/2010 and the provisions of the Digital Administration Code. Therefore, Article 8-bis does not expand the cases where digital signatures are mandatory, which remain the same regardless of whether the procedure is conducted in analog or digital form.

Paragraph 2 of Article 8-bis establishes rules for drafting and signing the final report of online mediation, as well as any conciliation agreements reached. These are formalized as an "electronic document" and signed by the required parties. The previous reference to a "single electronic document in native digital format," which caused implementation issues (e.g., when the final report includes attachments not natively digital but subsequently digitized), has been removed.

Participation in Meetings via Remote Audiovisual Connection

Pursuant to the new Article 8-ter of Legislative Decree 28/2010, when mediation is conducted in analog form, if one or more parties request to participate in the meetings via remote audiovisual connection, the signing of documents with a digital signature can only take place with the consent of all parties. Otherwise, the signature must be affixed in analog form in the presence of the mediator.

Seriousness Requirements for Mediation Bodies Established by Public Entities

Regarding the seriousness requirements for mediation bodies, the amendment to Article 16, paragraph 1-bis, of Legislative Decree 28/2010 stipulates that for public entities, the requirement to exclusively include mediation, conciliation, alternative dispute resolution services, or training in such fields in their corporate purpose or associative scope is replaced by a declaration of compatibility between the entity's institutional activity and the provision of such services.
For training entities under Article 16-bis of Legislative Decree 28/2010, the exclusive provision of training services in mediation is no longer among the qualifying requirements for inclusion in the relevant lists.

- Art. 1 Legislative Decree 216 of December 27, 2024
- Art. 16-bis Legislative Decree 28 of March 4, 2010
- Art. 16 Legislative Decree 28 of March 4, 2010
- Art. 4 Legislative Decree 216 of December 27, 2024
- Art. 6 Legislative Decree 28 of March 4, 2010
- Art. 8-bis Legislative Decree 28 of March 4, 2010
- Art. 8-ter Legislative Decree 28 of March 4, 2010

Source: *Il Quotidiano del Commercialista* (January 23, 2025) - "Amendments to Civil and Commercial Mediation in Force from January 25"

DIRECT TAXES
IRES - Capital Losses, Liabilities, and Losses - Dividend Washing - Irrelevance of Capital Loss from Shareholding Depreciation
(*Agency Revenue Ruling No. 8 of January 21, 2025*)

For the purposes of the non-application of Article 109, paragraphs 3-bis and 3-ter, of the TUIR (rules to combat "dividend washing"), Agency Revenue Ruling No. 8/2025 clarified that the causes leading to the negative income component subject to non-deductibility are irrelevant.

Rules on Dividend Washing

The anti-dividend washing rule establishes that the following are non-deductible up to the amount of the non-taxable dividends received within the 36 months preceding the disposal:

- Capital losses realized under Article 101 of the TUIR on shares, units, and financial instruments similar to shares that do not qualify for participation exemption under Article 87 of the TUIR;
- Negative differences between revenues and related costs arising from the disposal of shares, units, and similar financial instruments recorded as current assets.

The purpose of the rule is to eliminate the tax advantage obtained by acquiring a shareholding with "useful income," where the dividend is taxed at only 5% while the capital loss is fully deductible.

On this topic, Circular No. 21 of June 14, 2006, clarified that the anti-dividend washing rules apply generally to the disposal of equity instruments, including those conducted as part of trading activities involving shares listed on regulated markets.

Irrelevant Factors for Non-Application

Ruling No. 8/2025 examined the case of a company that realized capital losses on shareholdings, which were deemed non-deductible under Article 109, paragraphs 3-bis and 3-ter, of the TUIR to prevent larger economic losses resulting from market and share performance.

The applicant claimed that the disinvestment decisions were based on "financial analysis and strategies, as well as historical evaluations and future market trend forecasts." However, the Agency clarified that the anti-dividend washing rule operates as an automatic mechanism to neutralize capital losses on shareholdings that meet the objective requirements under the participation exemption, limited to the dividend value detached by the investee companies within 36 months prior to disposal.

As such, the causes that led to the negative income component triggering the rule are irrelevant.

- **Article 109, paragraphs 3-bis and 3-ter, DPR 917 of December 22, 1986**
- Source: *Il Quotidiano del Commercialista* (January 22, 2025) - "Shareholding Depreciation Irrelevant for Dividend Washing" - Sanna
- *Il Sole 24 Ore* (January 22, 2025, p. 33) - "Minusvalence and Dividend Washing for Participations with Dividends" - Germani
- *Italia Oggi* (January 22, 2025, p. 26) - "Dividend Washing: Capital Losses Are Irrelevant" - Stancati
- *Eutekne Direct Tax Guides*

ASSESSMENTS

Assessment and Controls - Extension of Deadlines - Suspension for Pandemic Emergency - 85-Day Suspension for National and Local Taxes

(*Supreme Court Ruling No. 1630 of January 23, 2025*)

The statute of limitations for assessment activities is governed by Article 43 of DPR 600/73, which states that assessment notices must be issued by December 31 of the fifth year following the filing of the tax return.

During the pandemic, Article 67, paragraph 1, of Decree-Law 18/2020 provided for a suspension of assessment activities, effectively extending the statute of limitations. Specifically, the rule states that "the deadlines for liquidation, control, assessment, collection, and litigation activities by the tax authorities are suspended from March 8 to May 31, 2020."

Contrasting Interpretations

Article 67, paragraph 1 of DL 18/2020 has been subject to conflicting interpretations.
The prevailing practice suggests that "the suspension introduced by article 67 caused a delay in the deadlines for the same duration as the suspension" (Videoconference responses 27.1.2022; Guardia di Finanza Circular 14.2.2022 n. 0043494).
Therefore, all deadlines for which there was an imposition power on 17.3.2020 (the effective date of DL 18/2020) would be "delayed," from the year 2016 (or 2015 in the case of an omitted declaration) up to the year 2018.
The 2019 tax year does not seem affected, as by 17.3.2020, the deadlines for income tax and VAT filings had not yet expired.
The deadlines expiring on 31.12.2024 would therefore be extended to 26.3.2025.
An opposing view holds that Article 67, paragraph 1 of DL 18/2020 only applies to the years impacted by the epidemic emergency and not subsequent years (C.G.T. II° Campania 21.10.2024 n. 5925/7/24 and C.T. I° Taranto 10.6.2024 n. 930/3/24).

Previous Ruling

The Court of Cassation, with its judgment on 15.1.2025 n. 960, ruled that Article 67, paragraph 1 of DL 18/2020 applies "not only to activities to be carried out within the time frame set by the law but also to other activities, meaning that there is a delay in the deadlines for the same duration as the suspension."

Court Ruling

Given the differing viewpoints, the C.G.T. I° Gorizia 13.11.2024, section II (for national taxes, particularly income taxes and VAT) and C.G.T. I° Lecce 19.11.2024, section 1 (concerning local taxes) raised a preliminary ruling under Article 363-bis of the Italian Civil Procedure Code.
The Court of Cassation, with ruling 23.12.2025 n. 1630, rejected the preliminary interpretive question, referring explicitly to judgment Cass. n. 960/2025, which established (point 1.1.3) that the suspension deadlines apply not only to activities to be completed within the prescribed timeframe but also to other activities, thus extending the deadlines for the same duration of the suspension.
Consequently, deadlines for expiry at the end of the year or non-annual deadlines are "shifted forward" by 85 days due to the suspension.

Effects

Tax years that could have been subject to assessment during the pandemic period are now subject to an 85-day extension. For example, if assessments for 2018 (REDDITS, IRAP, 770, and VAT 2019) were due by 31.12.2024, the new deadline will be 26.3.2025.

Administrative Sanctions

General Principles – Favor Rei – New Regulations in DLgs. 87/2024 – Applicability and Constitutional Legitimacy (Cass. 19.1.2025 n. 1274)

Concerning administrative tax sanctions, DLgs. 87/2024, a decree adopted following the fiscal delegation law (L. 111/2023), introduced more favorable penalties for certain cases, in line with the principle of proportionality.
The provisions for more favorable sanctions apply only to violations committed from 1.9.2024, as expressly stated in Article 5 of DLgs. 14.6.2024 n. 87.
Thus, the provisions of Article 3 of DLgs. 472/97, which allows for the application of the more favorable law in cases of legislative changes, are inoperative.
For violations committed up until 31.8.2024, the sanctions prior to DLgs. 87/2024 still apply.

Court Ruling

The Court of Cassation, with its judgment on 19.1.2025 n. 1274, addressed the constitutional legitimacy of Article 5, paragraph 2 of DLgs. 87/2024 concerning the derogation from the favor rei principle.
The Court affirmed that the derogation is justifiable by "compelling reasons related to constitutional-level counter-interests, such as respecting balance principles and public debt sustainability."

Legitimacy in the EU Context

The Court found that the potential unconstitutionality of the derogation aligns with the European Court of Justice's decision (24.7.2023 n. C-107/23), where the law on more favorable sanctions may be superseded by other interests, such as combating fraud affecting the financial interests of the European Union.

Derogation in the Past

Recent judgments, such as Cass. 14.4.2017 n. 9670, show that simple application of a new law's timeline does not conflict with the favor rei principle. However, this may differ when a law changes the framework for specific violations.

Tax Incentives

Super Deduction for New Hires – Requirements and Calculation – Clarifications (Agenzia delle Entrate Circular 20.1.2025 n. 1)

The Agenzia delle Entrate provided clarifications on the super deduction for new permanent hires under Article 4 of DLgs. 216/2023.
This incentive, initially for 2024, has been extended through 2027 under the 2025 budget law.
Eligible beneficiaries include business income earners and freelance workers, excluding those under simplified tax regimes or agricultural income earners.

Minimum Activity Requirement

Applicants must have been active for at least 365 days before 1.1.2024. The incentive applies only if businesses can demonstrate that their activity meets this requirement.

Employment Increase Verification

The deduction applies to new hires but requires an increase in the total number of employees (both permanent and temporary).
The agency defines which costs can be included, specifically those directly related to employees' salaries, social security contributions, and severance pay, excluding certain costs like meal vouchers or training expenses.

Workplace Safety

Points License for Temporary or Mobile Construction Sites – Updates from DL 19/2024 (PNRR) – Clarifications (INL FAQ 17.1.2025)

The National Labor Inspectorate (INL) provided clarifications on the points license for mobile or temporary construction sites under Article 27 of DLgs. 81/2008.
The license requires businesses or independent workers to certify compliance with specific regulations, with flexibility for changes after initial certification.
The INL distinguished between "justified exemptions" and "non-requirement" for not meeting specific conditions, such as businesses without employees not needing to prepare certain safety documents.

Application Scope

With regard to the topic of the scope of the points-based driving license, the INL confirms that both businesses and self-employed workers, regardless of the nature and activity carried out, are required to hold this license simply for operating within a location legally designated as a "construction site" by the mentioned Legislative Decree 81/2008.

For example, the requirement to hold the license also applies to plumbers, glaziers, and suppliers of doors/windows who work on a construction site for the installation of sanitary fixtures or interior/exterior window frames.

The legal exception applies to those who perform only supply activities or intellectual services. In this sense, intellectual services include those performed by a contractor acting as a general contractor, who, by outsourcing the entire execution of works to third-party contractors, limits the use of their non-technical staff (engineers, architects, and surveyors) for professional activities.

The obligation is also excluded for accredited and/or notified bodies conducting periodic, extraordinary inspections and certification activities under the DPR 162/99, DPR 462/2001, and Article 71 of Legislative Decree 81/2008. Specifically, in such cases, performing periodic and extraordinary checks grants the verifier the qualification of “public service official” (Article 358 of the Criminal Code), effectively performing a similar activity to that of public entities (Labor Inspectorate, ASL, INAIL, etc.) who conduct similar checks on the same types of installations.

Similarly, those providing emergency services, including firefighting, are excluded from the requirement of holding the license.

Verification Obligations for Clients

Some clarifications are provided regarding Article 90, paragraph 9 of Legislative Decree 81/2008, which obliges clients and project managers to verify that executing companies or self-employed workers hold the points-based driving license, or, for foreign companies, equivalent documentation, or the SOA qualification certification of at least class III for companies exempted from the license requirement. This obligation also applies in the case of subcontracting.

The Labor Inspectorate reiterates what was already explained in note no. 9326/2024, stating that this verification must be carried out at the time of the work assignment, excluding the need for further checks in subsequent stages of the site’s development and the related work, unless new companies or self-employed workers are involved later, in which case the verification must be carried out for the first time.

In contrast, the loss of the license or failure to meet the required minimum score does not affect the client but only the company.

Article 27 of Legislative Decree 9.4.2008 No. 81

FAQ from the National Labor Inspectorate, January 17, 2025

The Italian Ministry of Enterprises and Made in Italy, 17.9.2024, No. 159 - Administrative Law

Company Digital File - Implementing Regulation

In implementation of Article 4, paragraph 6, of Legislative Decree 25.11.2016, No. 219, the following regulation is issued concerning the formation and management of the company digital file as per Article 2, paragraph 2, letter b) of Law 29.12.93 No. 580.

Structure and Purpose of the Company Digital File

The company digital file:

- Is a structured, uniquely identified electronic document aggregation containing all documents of each company and economic entity;
- Is unique for each company registered or listed in the Business Register and for economic entities listed in the Economic and Administrative Information Repertory (REA);
- Is maintained by the locally competent Chamber of Commerce, in conjunction with the REA, and is electronically linked to it.

The creation of the company digital file aims to simplify administrative activities and reduce bureaucratic burdens on companies.

Contents of the Company Digital File

The company digital file contains:

- Applications, statements, reports, and communications concerning the company's activity, along with related technical documents;
- Administrative decisions that conclude the procedures related to the company's activities;
- Documents certifying acts, facts, qualities, or subjective statuses;
- Authorizations, licenses, concessions, permits, or approvals issued by the Single Desk for Productive Activities (SUAP) or obtained from other administrations, including quality or environmental certifications and inspections conducted on the company's activity and premises.

Filling of the Company Digital File

The company digital file is populated by:

- The Single Desk for Productive Activities (SUAP);
- Responsible authorities in state administrations, local public entities, and other public non-economic bodies;
- Administrations conducting controls under the legislative decrees issued in implementation of Article 27 of Law 5.8.2022 No. 118 (e.g., Legislative Decree 12.7.2024 No. 103).

For the purposes of inclusion in the file, these authorities transmit electronic duplicates of documents related to the company's activity to the locally competent Chamber of Commerce based on the taxonomy in Annex A of this regulation and in accordance with approved technical specifications and within the specified deadlines.

Access to the Company Digital File by Registered Entities

The company or economic entity registered with the Chamber of Commerce has the right to free and unlimited access to consult its own file.

Access to the Company Digital File by Other Private Entities

Other private entities may consult and acquire data and documents relating to each company's activities through direct queries to the file:

- In compliance with personal data protection regulations;
- Upon payment of applicable administrative fees.

Access to the Company Digital File by Public Entities

For their institutional purposes, public entities have access to the company digital file and can acquire all relevant data and documents without any economic charges.

Companies are not required to provide certifications, facts, self-certifications, or documents already contained in the file. Data and documents can be accessed by public administrations through system interoperability and services provided by the National Digital Platform Data, as per Article 50-ter of Legislative Decree 7.3.2005 No. 82 (Digital Administration Code, CAD).

Data Retention in the Company Digital File

Documents in the company digital file are retained for the time necessary to achieve the purposes for which they are processed. After this period:

- Data related to an individual business will be deleted;
- Personal data concerning other entities will be anonymized.

Implementing Provisions

Subsequent decrees from the Minister of Enterprises and Made in Italy will define:

- The technical specifications for submitting data to the company digital file;
- The procedures to ensure interoperability between the Single Desks for Productive Activities and the company digital file;
- Procedures for data submission by public administrations.