THE WEEK IN BRIEF

02 News
TAXATION
02 **DIRECT TAXES** – Self-employment income – Expenses
03 **INDIRECT TAXES** – VAT – General provisions – Objective requirement
04 **INDIRECT TAXES** – Inheritance and donations
05 **INDIRECT TAXES** – Other indirect taxes – Stamp duty
BENEFITS
06 **TAX BENEFITS** – Tax credit for disadvantaged areas
08 **TAX BENEFITS** – Inbound workers regime (Art. 5 of Legislative Decree 209/2023)
EMPLOYMENT
09 **SOCIAL SECURITY**
10 **SOCIAL SECURITY**
REAL ESTATE
11 **TRANSFER AND SALE**
12 **Laws in Focus**

News

DIRECT TAXES

Self-employment income – Expenses – Mileage reimbursements granted by the professional firm to its associates – Deductibility – Conditions (Cass. 18.2.2025 No. 4226)

With ruling No. 4226 of February 18, 2025, the Court of Cassation reaffirmed that mileage reimbursements to associates are fully deductible for the professional association under Article 54 of the TUIR.

Case Facts

The Italian Revenue Agency had disallowed the deduction of the entire transport cost reimbursed on a mileage basis to individual associates of a professional association (based on records compiled by the associates themselves regarding specific professional assignments). These expenses were incurred using their own private vehicles.

According to the tax authorities, the cost was only partially deductible under Article 164 of the TUIR (up to 40%, as per the regulation applicable at the time).

Cassation Court's Decision

The Court of Cassation rejected the Revenue Agency's reasoning, clarifying that, in this case, the general expense deductibility rule set by Article 54 of the TUIR applied.

The Court stated that Article 164 of the TUIR constitutes a special provision compared to Article 54, as it was introduced to account for the mixed personal and professional use of a vehicle by professionals. This provision establishes a flat-rate deductibility for expenses related to such assets, without requiring an investigation into the purpose of each specific trip.

According to the Court, Article 164 of the TUIR does not prevent the deduction of specific and documented transport expenses related to vehicles owned by individual associates, provided that the general deductibility requirements are met, particularly the relevance of the expense to the association's professional activity.

Therefore, when transport costs are strictly instrumental to the professional activity of the association, and the transport is carried out using the associate's private vehicle, these expenses are fully deductible under Article 54 of the TUIR.

Legal Principle

The Court of Cassation formulated the following legal principle:

"When the requirement of strict instrumentality of the expense to the professional activity of the association is met—where the burden of proof lies with the taxpayer—if the transport is carried out using the private vehicle of an individual associate, the expense will be fully deductible by the professional association that reimbursed it. The provision limiting deductibility to 40% for expenses and other negative components related to vehicles applies only to cases where the vehicles are instrumental to the association's activity."

Previous Case Law

In the past, the Court of Cassation had ruled inconsistently on this matter, often linking the deductibility of mileage reimbursements to Article 164 of the TUIR. For example, in ruling No. 2831/2022, vehicle expenses, even for non-owned vehicles, were considered deductible under Article 164 of the TUIR, generally only partially, or in full only for vehicles exclusively used for business purposes, a condition that had to be proven by the taxpayer.

References:

- Article 164 of Presidential Decree No. 917 of December 22, 1986
- Article 54 of Presidential Decree No. 917 of December 22, 1986

INDIRECT TAXES

VAT – General provisions – Objective requirement – Staff secondment – VAT applicability – Contracts signed or renewed from 1.1.2025 – Updates from Decree-Law 131/2024 (Italian Revenue Agency ruling 18.2.2025 No. 38)

The Italian Revenue Agency ruling No. 38 of February 18, 2025, analyzed the VAT treatment of staff secondments and/or loans following the repeal of Article 8, paragraph 3 of Law 67/88, which had provided a special VAT exemption for secondments and/or loans where only the reimbursement of costs was paid.

Regulatory Framework

Article 16-ter of Decree-Law 131/2024, in alignment with the principles established by the European Court of Justice (Case C-94/19), has determined that staff secondment constitutes a taxable service, provided there is a direct link between the service provided and the consideration received.

The European Court of Justice ruled that the national provision (Article 8, paragraph 35 of Law 67/88), which excluded from VAT staff secondments where only the actual costs were reimbursed, was incompatible with EU law. According to the Court, staff secondment and/or loan services are subject to VAT, *"as long as the amounts paid by the subsidiary to the parent company, on the one hand, and such secondments or loans, on the other, are mutually dependent."*

With Article 16-ter of Decree-Law 131/2024, the aforementioned VAT exemption rule has been repealed. However, the new provisions apply only to *"staff secondments and loans agreed or renewed from January 1, 2025."*

Protection of Past Practices

According to the new provision, past practices adopted by taxpayers before 1.1.2025 remain protected:

- Whether they applied VAT in accordance with the ruling of the European Court of Justice in Case C-94/19;
- Or whether they did not apply VAT based on the national law in force at the time.

Case Subject to the Ruling

The ruling examines a case where staff secondment occurs with the receiving company reimbursing only the actual costs incurred by the seconding company for each worker (including all social security and insurance charges itemized in payroll records), with no profit margin. It is specified that, in this case, the staff secondment does not take place between companies belonging to the same corporate group.

Clarifications from the Italian Revenue Agency

The Italian Revenue Agency notes that, regardless of the absence of a *"mark-up"*, the transaction is considered relevant for VAT purposes due to its onerous nature. Furthermore, in the case at hand (though it is not specified on what basis), a direct link can be identified between the service provided by the seconding company and the consideration paid by the receiving company. This is because the amounts paid to the seconding company and the secondment of personnel *"are mutually dependent."*

The tax authority concludes that the service, provided under an agreement signed from 1.1.2025 onwards, is subject to VAT. Consequently, the amounts paid by the receiving company to the seconding company as reimbursement of the total cost incurred for each seconded worker (including all social security and insurance charges) must be subject to tax.

Interpretations from Legal Doctrine

According to a doctrinal interpretation, a different conclusion might be reached in cases where secondment occurs within the same corporate group, even when applying the principles established by the European Court of Justice. In such cases, the seconding company's interest might not lie in obtaining cost reimbursement but rather in *"the operational function that the seconded individual would perform in the interest of the group"* (Rossi B., Santacroce B., *"VAT on Staff Secondments, Contractual Clause Review"*, Il Sole 24 Ore, NT+ Fisco, 20.2.2025).

References:

- Article 16-ter of Decree-Law No. 131 of September 16, 2024
- Article 3 of Presidential Decree No. 633 of October 26, 1972
- Article 8, paragraph 35 of Law No. 67 of March 11, 1988
- Italian Revenue Agency ruling No. 38 of February 18, 2025
- *Il Quotidiano del Commercialista*, February 19, 2025 – *"Staff Secondment with VAT from 2025, Even Without Mark-Up"* – Greco, La Grutta
- European Court of Justice, March 11, 2020, Case C-94/19
- Eutekne Guide – VAT and Indirect Taxes – *"Staff Secondment"*, Odetto G.

INDIRECT TAXES

Inheritance and Donations – Family Pact – Compensation of Forced Heirs – Taxation Methods (Italian Revenue Agency Resolution 14.2.2025 No. 12)

With Resolution No. 12 of February 14, 2025, the Italian Revenue Agency adopts the stance of the Supreme Court regarding the application of donation tax to compensations made under a family pact.

Definition of Family Pact

A family pact is defined in Article 768-bis of the Italian Civil Code as a contract through which, *"in accordance with regulations on family businesses and respecting different corporate structures, the entrepreneur transfers, in whole or in part, the business, and the owner of corporate shares transfers, in whole or in part, their shares to one or more descendants."*

This contractual tool effectively manages the generational transfer of a business, allowing an entrepreneur to select one or more descendants to whom the business or shares will be transferred, even if the value of such a transfer exceeds the *"available"* share of the inheritance.

To protect the rights of other potential heirs, the law establishes certain conditions (Article 768-quater of the Civil Code), including:

- The contract must also involve the spouse and all those who would qualify as forced heirs if the entrepreneur's succession were to open at that moment.

- The recipients of the business or shares must compensate the other parties to the contract—unless they waive their rights—by paying a sum equal to the value of their statutory shares as per Articles 536 et seq. of the Civil Code, or by providing compensation in kind.

In practice, the family pact allows an entrepreneur to establish an *anticipatory succession* within the business, where, with the agreement of all forced heirs, the business is assigned to one heir while the others receive *compensations* equal to their potential statutory inheritance (unless they renounce them).

These compensations *"are counted toward the recipients' statutory shares"*, and it is significant to note that the amounts received *"are not subject to collation or reduction."*

Indirect Tax Treatment of the Family Pact

The transfer of a business or shares to a spouse or descendant may qualify (under certain conditions) for the exemption provided by Article 3, paragraph 4-ter of Legislative Decree No. 346/90, which was recently revised by Legislative Decree No. 139/2024. On this matter, both administrative practice (see Italian Revenue Agency Circular No. 3 of January 22, 2008) and case law (Cassation Ruling No. 6591/2021) are aligned.

INDIRECT TAXES

Inheritance and Donations – Family Pact – Compensation of Forced Heirs – Taxation Methods (Italian Revenue Agency Resolution 14.2.2025 No. 12)

In the absence of clear legislative provisions on the tax treatment of compensations, uncertainties had arisen—uncertainties that even the delegated legislator, through Legislative Decree No. 139/2024, did not take the opportunity to resolve.

The Italian Revenue Agency, in Circulars No. 3/2008 (§ 8.3.2) and No. 18/2013 (§ 5.3.2), had only stated that the exemption under Article 3, paragraph 4-ter, does not apply to compensations but only to the transfer of the business (or shares). However, it did not clarify which tax rates or exemptions should apply.

The issue arises from the fact that, on the one hand, Article 768-quater of the Italian Civil Code states that compensations must be provided by the chosen assignee who will continue the family business (although the prevailing legal doctrine admits that the transferor may also provide them). However, the assignee does not make this allocation as an act of generosity but rather as a legal obligation.

Thus, two different theories emerged:

- The first theory suggested that compensations should be subject to donation tax, with rates and exemptions calculated based on the relationship between the assignee and the forced heir (Cass. No. 32823/2018).
- The second theory, which soon became dominant in case law, asserts that allocations (regardless of who executes them) should be taxed as a transfer made by the original transferor to the beneficiary. This is because, for the assignee, compensations constitute a burden, which falls under Article 58 of Legislative Decree No. 346/90. According to this provision, *"obligations imposed on a donation that involve payments to specifically*

identified third parties are considered donations in favor of the beneficiaries" (Cass. No. 29506/2020; Cass. No. 19561/2022; Cass. No. 19627/2024).

With Resolution No. 12/2025, the Italian Revenue Agency aligns with the latter interpretation, stating that, in applying the donation tax *"to the 'compensatory allocations' made by the assignee of the business or corporate shares in favor of the non-assignee forced heir, the tax rate and exemption are determined based on the relationship between the original transferor and the non-assignee forced heir."* Consequently, tax offices are invited to review pending cases.

References:

- **Article 58, Legislative Decree No. 346/1990**
- **Article 768-bis of the Italian Civil Code**
- **Italian Revenue Agency Resolution No. 12 of February 14, 2025**
- **Case Law:** Cass. No. 29506/2020, Cass. No. 19561/2022, Cass. No. 19627/2024
- **Articles:**
  - *Il Quotidiano del Commercialista (Feb. 15, 2025): "Compensations of Forced Heirs in Family Pacts Taxed as Obligations" – Mauro*
  - *Il Sole 24 Ore (Feb. 15, 2025, p. 21): "Lighter Taxation for Family Pacts" – Busani*
  - *Il Quotidiano del Commercialista (Feb. 14, 2025): "The Reform Does Not Resolve Doubts on Liquidation of Forced Heirs in Family Pacts" – Sansoni*

INDIRECT TAXES

Other Indirect Taxes – Stamp Duty – Stamp Duty and Government Concession Fee on Corporate Books – Determination Criteria (Italian Revenue Agency Response to Tax Ruling Request 20.2.2025 No. 42)

With Response to Tax Ruling Request No. 42 of February 20, 2025, the Italian Revenue Agency clarified that the payment of stamp duty and the government concession fee on corporate books, where required by law, must be made regardless of the method of keeping such books or registers.

Scope of the Stamp Duty

Stamp duty has been required since its inception for maintaining registers, the journal, and the inventory book under Article 2214, paragraph 1 of the Italian Civil Code, as well as any other register if stamped and validated according to Articles 2215 and 2216 of the Civil Code (Article 16, letter a) of the First Part of the Tariff attached to Presidential Decree No. 642/72). However, books and registers required by tax regulations are exempt from this tax (Article 5, Table B attached to Presidential Decree No. 642/72).

In this regard, the clarifications already provided in response to Tax Ruling Request No. 346/2021 are reaffirmed, highlighting the different methods of calculating and paying stamp duty based on how the book or register is maintained.

Paper-Based Register

If the register is kept on paper or through mechanized systems and then transcribed onto paper, the tax is due every 100 pages or fraction thereof at the rate of €16.00 for corporations that pay the government concession fee as a lump sum, or €32.00 in other cases. Payment is made via tax stamp or F23 form.

Digitally Maintained Register

If the register is kept digitally, the tax is due every 2,500 entries or fractions thereof at the previously mentioned rates, pursuant to Article 6 of the Ministerial Decree of June 17, 2014. Payment is made using the F24 form.

Reiterating the clarification in Circular No. 36/2006 (§ 2) regarding the previous Ministerial Decree of January 23, 2004, the response confirms that the books, registers, and other tax-relevant documents covered by the Ministerial Decree of June 17, 2014, also include corporate books listed in Article 2421 of the Civil Code.

Definition of an Entry

Regarding corporate books, the response clarifies that the term *"entry"* refers to a *"line"* (whether in meeting minutes or a record of a shareholder's entry or exit from the company). This interpretation aligns with the combined provisions of Articles 5 and 16 of Presidential Decree No. 642/72, which define a *sheet* as consisting of four pages, a *page* as one side, and for mechanized printouts, the tax is due for every 100 lines or fraction thereof. For books and registers, the tax applies every 100 pages or fraction thereof.

Given that a *sheet* is conventionally considered to contain 100 lines and a *page* 25 lines, in the case of digitally maintained corporate books, stamp duty is due every 100 pages (or fractions thereof), equivalent to 2,500 lines (or fractions). For tax calculation purposes, it is possible to refer to the digital visualization of books, ensuring that the page count can be verified in a manner similar to physical books (PDF or PDF/A format enables such visualization).

Scope of the Government Concession Fee

The government concession fee for stamping and numbering books and registers is due for books required under Article 2215 of the Civil Code and any other books and registers that, by legal obligation or voluntarily (Article 2218 of the Civil Code), are stamped in the prescribed manner—except those required solely by tax laws (Article 23 of the Tariff attached to Presidential Decree No. 641/72).

For entities other than corporations, the fee is €67.00 for every 500 pages or fraction thereof.

Reiterating what has been stated regarding stamp duty, it is specified that the government concession fee is also required for books and registers kept digitally. This is because the digital format does not eliminate the obligations of sequential numbering and validation, which must be fulfilled at least once a year by applying a timestamp and the digital signature of the entrepreneur or an authorized representative.

For fee calculation purposes, the same criteria as for stamp duty apply; thus, the fee is due every 500 pages (or fraction thereof), corresponding to 12,500 lines (or fraction thereof).

References:

- **Article 6, Ministerial Decree of June 17, 2014 (Ministry of Economy and Finance)**
- **Article 23, Tariff attached to Presidential Decree No. 641/1972**
- **Article 16, First Part of the Tariff attached to Presidential Decree No. 642/1972**
- **Italian Revenue Agency Response to Tax Ruling Request No. 42 of February 20, 2025**
- **Articles:**
  - *Il Quotidiano del Commercialista (Feb. 21, 2025): "Stamp Duty and Fees on Corporate Books Also Apply to Digital Registers" – Rivetti*
  - *Il Sole 24 Ore (Feb. 21, 2025, p. 39): "For Digital Corporate Books, Taxes Are Calculated Based on Lines" – Magrini M., Santacroce B.*

TAX RELIEFS Tax credit for disadvantaged areas - Tax credit for investments in the Mezzogiorno under Law 208/2015 - Return of part of the supply with a settlement agreement - Redetermination - Indication in the income tax return (response to the inquiry by the Revenue Agency dated February 18, 2025, no. 37)

The Revenue Agency, in response to inquiry no. 37 dated February 18, 2025, stated that the return of part of the supply, with a settlement agreement, after receiving authorization to use the tax credit for investments in the Mezzogiorno, results in the redetermination of the relief under Article 1, paragraph 105 of Law 208/2015, necessitating the indication of the reduced amount of the credit in the income tax return form.

Case Description In this case, a company, regarding investments made in 2022, submitted the CIM17 form according to the indications provided by the specific provisions of the Revenue Agency, receiving from the tax administration, on February 7, 2024, the authorization to offset a tax credit for a specific amount. However, part of the supply was returned following the signing of a settlement agreement on June 25, 2024, involving the "resale" of part of the aforementioned investments. The company subsequently submitted a corrected CIM17 form, which was rejected.

Return of Part of the Supply and Redetermination of the Relief According to the Revenue Agency, the aforementioned sale, even if made to the same supplier, falls within the hypothesis of "transfer to third parties" regulated by Article 1, paragraph 105 of Law 208/2015, which results in the redetermination of the original credit. The cited provision states that "if, within the fifth tax period following the one in which they were put into operation, the assets are disposed of, transferred to third parties, allocated to purposes unrelated to the exercise of the business, or allocated to production facilities other than those that granted the relief, the tax credit is redetermined by excluding the cost of the aforementioned assets from the qualified investments..."

Regarding the methods for correcting the amount of the credit actually due in relation to the originally submitted CIM17 communication, the Revenue Agency clarified that by excluding the cost of the transferred assets from the qualified investments, the amount of the expenses incurred and the recognized credit has been "automatically" reduced, without any need to rectify the already submitted CIM17 form.

Indication in the Income Tax Return As for the correct indication of the tax credit in the income tax return of the beneficiary, the Revenue Agency (circ. August 3, 2016, no. 34) clarified that the tax credit must be indicated in the RU section of the tax return form for the tax period during which the credit itself was accrued (therefore the tax period in which the qualified investments were made), as well as in the RU section of the tax returns for the periods during which the credit is used in offsetting.

In this regard, the instructions for filling out the REDDITI SC 2024 form specify that in line RU5, the following should be indicated:

- In columns 1, 2, B2, C2, D2, E2, and F2, the amount of the tax credit accrued in relation to the costs incurred in the tax periods ending December 31 of 2016, 2017, 2018, 2019, 2020, 2021, and 2022, if the use of the tax credit was authorized by the Revenue Agency after the deadline for submitting the tax return for the period preceding the one to which this return refers and within the deadline for submitting this return;
- In column 3, the amount of the tax credit accrued in relation to the costs incurred in the tax period covered by this return, the use of which was authorized by the Revenue Agency by the deadline for submitting this return. Column 3 should also include the amounts indicated in columns 1, 2, B2, C2, D2, E2, and F2.

Based on the aforementioned indications, the tax credit in question must be reported in the income tax return related to the "accrual" period of the same, i.e., the one in which the qualified investments were made, provided that authorization for its use was granted by the submission deadline. Otherwise, the credit should be valued in the first subsequent return after the authorization is granted.

In the case of the inquiry, as of the deadline for submitting the REDDITI SC 2024 form (October 31, 2024), the amount of the tax credit "accrued" in 2022, but authorized on February 7, 2024, and thus to be reported in column F2 of line RU5, was already "redetermined" due to the transfer on June 25, 2024. Therefore, this column should reflect the already reduced amount and not the original one.

Correction of the erroneously reported data in the return can be made by submitting an integrative declaration "against" under Article 2, paragraph 8 of DPR 322/98.

Article 1, paragraph 105 of Law 28.12.2015, no. 208 Response to inquiry by Revenue Agency on February 18, 2025, no. 37 Il Quotidiano del Commercialista, February 19, 2025 - "Investment bonus in the Mezzogiorno reduced with return of part of the supply" - Alberti Il Sole 24 Ore, February 19, 2025, p. 33 - "Bonus Sud, after the transfer the recalculation passes through the integrative" - Sacrestano Eutekne Guides - Direct Taxes - "Investment bonuses in the Mezzogiorno" - Alberti P.

TAX RELIEFS Tax regime for expatriates (Article 5 of Legislative Decree 209/2023) - Expatriate regime - Strengthened previous foreign residency - Conditions (response to the inquiry by the Revenue Agency dated February 20, 2025, no. 41)

In response to inquiry no. 41/2025, the Revenue Agency provided clarifications regarding the conditions under which the requirement of foreign residency for six or seven tax periods, as provided for in Article 5 of Legislative Decree 209/2023, applies to the expatriate regime.

Minimum Period of Previous Foreign Residency Article 5, paragraph 1, letter b) of Legislative Decree 209/2023 establishes that, for the purposes of tax benefits, it is necessary that, in general, workers have not been tax residents in Italy for the three tax periods preceding their transfer. However, under the same provision, in cases where the activity is performed in Italy for the same entity that employed the worker abroad before the transfer (or for an entity belonging to the same group), the minimum period of foreign residency is:

- Six tax periods if the worker has not previously been employed in Italy for the same entity or for an entity belonging to the same group;
- Seven tax periods if the worker was employed in Italy for the same entity or for an entity belonging to the same group "before their transfer abroad."

In other words, the minimum previous foreign residency period is raised to six tax periods if there is "continuity" between the foreign employer and the employer upon return to Italy. This is the case for a worker employed abroad by company X, who, upon moving to Italy, continues to work for the same company X or for a company in the same group.

The requirement for foreign residency increases to seven tax periods if, while verifying the condition of continuity between the foreign employer and the "post-return" employer in Italy, it is also confirmed that the worker was previously employed in Italy for the same entity for which they worked abroad or for an entity belonging to the same group "before their transfer abroad."

Therefore, if the same worker was already employed by company X (or a company in the same group) "before the transfer abroad," the observation period increases to seven years.

Verification of Continuity Between Employers The Agency specifies that the existence of the foreign residency requirement must be evaluated "in the tax period in which the worker transfers their tax residency to Italy," checking whether, upon returning to Italy, the individual continues to work for the same employer they worked for abroad "during the tax period prior to the transfer of residency to Italy or, in any case, until the date on which such transfer occurs."

Therefore, the Agency further specifies that in the case of the same worker returning to Italy in 2024 to perform activities for the same company X where they worked abroad but only until 2020, having interrupted the employment relationship, the minimum period of foreign residency is three years. This is because the coincidence of the employer is relevant only if verified in the tax period preceding the return to Italy.

The situation that prompted the Agency's clarification involved a worker who had worked in Italy between 2015 and 2018 for two different employers:

- Company A (part of group H) in 2015 and 2016;
- Company B (external to the group) in 2017 and 2018.

Subsequently, the individual moved abroad, working for Company C, also part of group H. In 2025, the individual returned to Italy, resuming work at Company A of group H.

In this case, the Agency required a minimum period of foreign residency of six periods, as in the immediately preceding period before the transfer abroad, the individual worked for Company B, which is external to the group, thus breaking the continuity required for the increase to seven periods.

Article 5 of Legislative Decree 27.12.2023 no. 209 Response to inquiry by the Revenue Agency dated February 20, 2025, no. 41
Guide Eutekne - Direct Taxes - "Expatriate Regime" - Corso L.

SOCIAL SECURITY Content Creator - Influencer - Social Security Framework - Criteria (INPS Circular 19.2.2025 no. 44)

With Circular 19.2.2025 no. 44, INPS illustrated the general criteria for identifying the applicable social security legislation for individuals engaged in content creation activities on digital platforms (so-called content creators) and the corresponding contribution obligations pertaining to them.

The Institute emphasized that there are no specific provisions in our legal system that define this figure. Therefore, the applicable social security legislation must be identified considering factors such as the concrete ways in which the activity is carried out, the content of the service, the organizational model adopted, and the methods of providing and receiving compensation.

Triangular Relationship With Circular no. 44/2025, before analyzing the purely social security profiles, INPS clarified that a triangular relationship between content creators, brands, and intermediary agencies is very common.

Between the content creators and the brand, which is the commercial company, the figure of intermediary agencies often intervenes, which can:

- Act as mere intermediaries, putting content creators in contact with the brand;
- Manage every aspect of the relationship with the brand;
- Directly hire content creators as collaborators or employees.

Management of Merchants If organizational elements prevail over personal elements (meaning the predominant use of production means compared to personal elements, such as in the case of selling videos or managing advertising banners), it constitutes an economic activity that falls within the commercial/tertiary sector, requiring operation in the form of a business and subsequent registration with the Chamber of Commerce (CCIAA) with the assignment of the corresponding ATECO code, leading to the obligation of registration with the special autonomous management for commercial activity operators.

It is noted that the activity of a content creator, if not organized in the form of a business, generates self-employment income if carried out habitually (including, according to the C.G.T. II° Piemonte n. 219/2023, activities generating income using the image of the professional). In the absence of repeated activity, it would result in occasional self-employment income.

Separate Management Where personal and intellectual activity prevails, and outside of conducting a business activity, this is considered a freelance professional service, with the obligation to register with the Separate Management referred to in Article 2, paragraph 26 of Law 335/95.

Pension Fund for Entertainment Workers There is an insurance obligation with the Pension Fund for Entertainment Workers (c.d. FPLS) if content creators produce advertising or promotional content, and the activity carried out and the tasks performed are traceable to the categories listed under Article 3 of Legislative Decree CPS 708/47, updated by Ministerial Decree 15.3.2005 (therefore, if the content creator effectively takes on roles such as advertising actor, model, photographer, screenwriter, or director), receiving compensation from a client.

In this case, the client is obliged to pay social security contributions to the FPLS, regardless of the type of employment relationship established (employee, self-employed, coordinated and continuous collaboration).

Certain activities are excluded from the contribution obligation to the FPLS, such as:

- Creating online content without advertising purposes, solely to increase personal visibility on social media;
- Merely using products;
- Cases where mere advertising inserts are introduced in personal content without any activity being carried out by the artist.

INPS Circular 19.2.2025 no. 44 Il Quotidiano del Commercialista dated February 20, 2025 - "Criteria Provided for the Social Security Regulation of Content Creators" - Gianola
Guide Eutekne - Labor - "Influencer" - Gianola G.

SOCIAL SECURITY Employment abroad - Conventional Salaries for 2025 (INPS Circular 18.2.2025 no. 43)

With Circular 18.2.2025 no. 43, INPS outlined the scope of application of Ministerial Decree 16.1.2025, which indicated the conventional salaries to be used for calculating contributions due for the compulsory insurance of Italian workers operating abroad. On this occasion, the social security institution also provided operational instructions regarding the expected contribution regularizations.

Subjective Scope of Application The use of conventional salaries for contribution purposes is provided for in Article 4, paragraph 1 of Legislative Decree 317/87 and applies to workers operating abroad in non-EU countries where social security agreements are not in force.

Thus, the following are excluded from the territorial scope of the cited provision:

- States belonging to the European Union;
- Switzerland and countries participating in the EEA Agreement (Liechtenstein, Norway, and Iceland), to which European Union regulations apply.

In this regard, INPS clarifies that the provisions of Legislative Decree 317/87 apply not only to Italian workers but also to workers who are citizens of other EU member states and to non-EU workers holding a regular residence permit and a work contract in Italy, sent by their employer to a non-EU country, and, residually, also to workers operating in contracted countries limited to insurances not covered by social security agreements.

Determination of Conventional Salary Article 2 of Ministerial Decree 16.1.2025 establishes that for workers for whom salary bands are provided, the taxable conventional salary must be determined based on a comparison with the corresponding national salary band, as indicated in the tables attached to the same provision.

In this regard, INPS specifies that "national salary" refers to the treatment provided for the worker by the collective contract:

- Including payments recognized by agreement between the parties;
- Excluding foreign allowances.

The amount calculated in this way must then be divided by 12, and by comparing the result of the calculation with the corresponding sector tables, the salary band to be used for contribution obligations must be identified.

Furthermore, in the circular under discussion, it is specified that conventional values can only be prorated on a daily basis in the case of hiring, termination of the employment relationship, or transfer during the month. In such situations, the monthly taxable income must be divided by 26 days, and then the resulting value is multiplied by the number of days (excluding Sundays) included in the relevant portion of the month. Outside of these cases, the values in question cannot be prorated. Finally, after reminding that the contribution obligation for the notice period substitute indemnity must be fulfilled according to the conventional system, INPS specifies that conventional salaries serve as a reference for the calculation of pension benefits, sickness and maternity benefits, as well as for ordinary unemployment benefits for repatriated workers.

Special Cases The circular also reminds us that conventional salaries may be subject to variations in the following cases:

- In the presence of a change from one qualification to another during the month;
- In case of a change in the individual economic treatment according to the collective contract during the month, within the qualification of "executive," "manager," and "journalist," or due to a change in qualification;
- If variable compensation (e.g., overtime, bonuses, etc.) is accrued during the year.

Regularization Operations INPS provides instructions for regularization operations by those employers who have operated in breach of what is indicated in the circular for the months of January and February 2025. Technically, the regularization must be carried out through the UniEmens declaration by May 16, 2025 (the 16th of the third month following the issuance of the circular), first calculating the differences between the taxable salaries in effect on January 1 of this year and those subjected to contributions for the same month. The determined differences must be added to the individual taxable salaries for the month in which the regularization is carried out, to be reported in the "Taxable" element of "Salary Data" in the "Individual Declaration," calculating the contributions owed on the totals obtained.**

Art. 4, co. 1, DL 31.7.1987, n. 317 DM 16.1.2025, Ministry of Labor and Social Policies, INPS Circular 18.2.2025, n. 43 Il Quotidiano del Commercialista, February 20, 2025 - "For workers abroad, contribution regularization by May 16" - Mamone Eutekne Guides - Pension - "Salary - Conventional Salary" - Costa A.

TRANSFER AND SALE Real estate sale contracts - Obligation to provide detailed information on payment methods - Optional indication of the mediator's commission - News from Law 203/2024 (so-called "Linked Labor")

Article 22 of Law 203/2024 (so-called "Linked Labor"), which came into effect on January 12, 2025, amended Article 35, co. 22, letter d) of DL 223/2006, stating that in real estate sale deeds, the indication of the amount of the commission paid by each party to the mediator is no longer mandatory. The new wording of letter d) allows the parties to alternatively indicate the invoice number issued by the professional, declaring that the billed amount corresponds to the actual expense incurred.

Previous Regulations It is noted that Article 35, co. 22 of DL 223/2006 sets measures to combat tax evasion and avoidance in the real estate sales sector. To this end, the legislator imposes an obligation on the parties of a property transfer deed, even if subject to VAT, to provide a substitute declaration pursuant to DPR 445/2000, with detailed information on the payment methods of the price. This prescription remains unchanged and is associated with a list of additional information

that must be included in the substitute declaration, which is subject to partial modifications made by Article 22 of Law 203/2024.

The original wording of Article 35, co. 22 of DL 223/2006 required the parties to declare:

- Whether or not the mediator was involved in the transfer, and in case of an affirmative response, the identifying data of the owner if a natural person, or the name, company name, and identifying data of the legal representative if a different subject than a natural person, or of the non-legal representative mediator who acted for the same company (letter a);
- The tax code or VAT number of the mediator (letter b);
- The registration number in the role of mediation agents and the Chamber of Commerce, Industry, Handicrafts, and Agriculture of reference for the owner or for the legal representative or mediator who acted for the same company (letter c);
- The amount of the expense incurred for this activity and the detailed payment methods of the same (letter d).

Declaration Obligations after the Amendment by Linked Labor As mentioned, Article 22 of Law 203/2024 amended only the text of letter d) of Article 35, co. 22 of DL 223/2006. As a result of the regulatory intervention in question, the parties of the real estate transfer deed may indicate in the substitute declaration the invoice number issued by the mediator, associated with the declaration of correspondence between the billed amount and the actual expense incurred, as an alternative to the amount of the commission paid for the mediation activity. The obligation to declare the detailed payment methods of the aforementioned expenses remains in any case. The new provision has the merit of ensuring - albeit based on a free choice reserved for the parties - better protection of the professional's confidentiality regarding the amount of commissions received and, consequently, better management of negotiations.

Sanctions According to Article 35, co. 22.1 of DL 223/2006, the violation of the aforementioned declaration obligations results in the application of an administrative fine from €500.00 to €10,000.00. Furthermore, for registration tax purposes, the omitted, incomplete, or false indication of the information required by the previous co. 22 results in the transfer of the assets being subject to value correction under Article 52, co. 1 of DPR 131/1986. This last provision establishes that the competent office, if it believes that the properties subject to transfer have a market value higher than that declared or the agreed price, shall proceed, with the same deed, to the correction, as well as to the settlement of the higher tax along with interest and penalties.**

Art. 22, Law 13.12.2024, n. 203 Art. 35, co. 22, DL 4.7.2006, n. 223 Il Quotidiano del Commercialista, February 19, 2025 - "Mediator's commission with optional indication in the deed" - Novella

MINISTRY OF LABOR AND SOCIAL POLICIES DM 16.1.2025 TAX DIRECT TAXES - EMPLOYEE INCOME - INCOME DETERMINATION - Work performed abroad - Approval of conventional salaries for 2025

This DM determines the amount of conventional salaries, as referred to in Article 4, co. 1 of DL 31.7.87, n. 317, converted by Law 3.10.87, n. 398, applicable in 2025 to employees working abroad.

Tax Relevance For tax purposes, conventional salaries are considered, instead of those actually received, for the calculation of taxes owed by employees who meet the following conditions, pursuant to Article 51, co. 8-bis of TUIR:

- They are fiscally resident in Italy;
- They perform their work abroad continuously and as the exclusive object of the employment relationship, even if hired by a foreign employer or if the performance is carried out in multiple foreign states;
- They stay abroad for more than 183 days over a period of 12 months, even “spanning” two calendar years.

Article 1, co. 98 of Law 30.12.2024, n. 207 (2025 budget law) established that the provisions of Article 51, co. 8-bis of TUIR are interpreted to include in their application also income from employment performed abroad continuously and as the exclusive object of the relationship by employees who, over a period of 12 months, stay in the foreign state for a period exceeding 183 days, returning to Italy at their domicile once a week.

The regulation in question does not apply, however:

- To employees on a business trip;
- If the employee performs their work in a state with which Italy has entered into an agreement to avoid double taxation that provides for the taxation of employment income solely in the foreign country;
- To public employees;
- To employees working in an economic sector not provided for in the decree in question.

Contribution Relevance For contribution purposes, conventional salaries are relevant for calculating the contributions owed for mandatory insurance for Italian workers, citizens of other EU member states, and non-EU workers holding a valid residence permit and a contract of employment in Italy, sent by their employer to perform activities abroad:

- In non-EU countries where no social security agreements are in effect;
- Or in states with social security agreements, regarding insurance not covered by existing agreements.

With ruling 6.9.2016, n. 17646, the Court of Cassation stated that if there are agreements that allow for maintaining insurance coverage in Italy for workers, deviating from the criterion of territoriality, employers must use the actual salaries paid to workers abroad as the parameter for determining the taxable base for contributions, as the equivalence of the definition of employee income for tax and social security purposes is not applicable. In this case, the use of conventional salaries applicable for tax purposes, according to co. 8-bis of Article 51 of TUIR, is not compatible because:

- This paragraph introduces the temporal discrimination of 183 days, linked to the concept of “tax residence” of individuals under Article 2, co. 2 of TUIR, but is meaningless when transposed into the social security field, where the concept of “residence” does not matter;
- Considering this provision applicable for social security purposes would create an unjustified disparity of treatment between workers subject to the Italian social security regime who stay abroad for periods longer or shorter than that indicated, as well as compress public revenues, to the detriment of the social security position of employees.

Prorating by Days Conventional salaries can be divided into 26 days in the case of hiring, terminations of employment, or transfers to and from abroad that occur during the month.

Contribution Regularizations In light of the delay with which the decree in question was issued, INPS Circular 18.2.2025, n. 43 clarified that employers can regularize contribution payments related to the months of January and February 2025:

- By May 16, 2025;
- Without additional costs.