RSM PALEA LAURI GERLA

Associazione professionale di Studio Palea, Studio L4C, Studio Gerla Associati

TAX NEWS

2017 – 10

RSM

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FOCUS ON TAX AND ACCOUNTING TOPICS

Tax effect of the waiver to TFM

(Italian Revenue Agency, resolution no. 124 of October 13th, 2017)

The tax regime for the "End-of-mandate Indemnity" (TFM) was the subject of repeated analysis and in-depth analysis in the past, especially with regard to the deductibility of periodical provisions, as well as in relation to the "certain date" to be attributed to the act establishing the right to indemnity.

With last October's resolution, the Tax Authorities have addressed this issue from a different point of view, investigating the tax consequences of the TFM *waiver* by the directors, TFM previously allocated by the company.

In the case in question, the directors of a S. r. l. (i.e. limited liability company) - some of them are company's shareholders, others not- waived the share of TFM accrued, against a transfer transaction, to a third party, of the majority of the participation in the company: the waiver was related to the willingness to capitalize the company.

The analysis carried out by the Tax Authorities concerned both the tax consequences for the company and for the waiving director, as well as the case studies of the directors- shareholders, as well as those of the directors and non- shareholders.

Waiver of TFM by directors-shareholders

In such a case, article no. 88 paragraph 4-bis, of the TUIR, (i.e. Consolidated Law on Income Tax) is applicable, which defines a single IRES treatment for waivers of receivables made by shareholders.

On the basis of this rule, the non-operating profit associated with the waiver, by the shareholder, to his own credit (waiver carried out with the intention of *capitalizing* the company) is not relevant, from a tax point of view, for IRES purposes within the limit of the tax value of the credit waived.
If, instead, the waiver to the credit is caused by a "donation" will, the non-operating profit would be, in the opinion of the Tax Authorities, entirely taxable.

From a *documental* point of view, pursuant to the aforesaid art. 88, paragraph 4-bis of the TUIR, the shareholder, by means of a specific substitute declaration of the notary deed, informs the investee company of the *tax value* of the waived credit; in the absence of such communication, the tax value of the credit is assumed to be zero.
Resolution no. 124 states on this point that since there are receivables for TFM due to *natural persons not carrying out a business activity*:

- in principle, there is no difference between the tax value of waived receivables and their nominal value, so the investee company does not have to subject the non-operating profit to IRES (i.e. corporate income tax;
- the shareholder does not need to inform the investee company about the tax value of the receivables to be waived," since it is not possible to verify those distortions - due to the lack of coincidence between the nominal value of the receivables and their tax value (for example, due to the effect of write-down) - that the legislator intended to avoid and that are identifiable only in the presence of a business activity".

The director-shareholder who waived his TFM is subject to a taxable income.

The reason given to justify this taxation lies both in the will to avoid tax jumps (deriving from the lack of IRES taxation of the company's non-operating profit generated) and in the possibility to apply the theory of the "legal collection" (advocated by the tax authorities and endorsed by some judgements of the Court of Cassation).

On the basis of this theory, in fact, *the waiver to receivables related to income to be acquired through cash taxation* requires the (legal) collection of the credit and therefore the obligation to tax the related amount: in other words, paraphrasing some passages of one of the recent Court of Cassation's rulings on the subject, the legal collection presupposes that there is the possibility for the waiving shareholder to tax the credit, even if this receivable is not *collected materially*, but is *achieved and used*, through the waiver, in favor of the company.

Waiver to the TFM by directors- non-shareholders

In this case, the provision of article 88, paragraph 4-bis of the TUIR (referring to the receivables from *shareholders*) does not apply and the company benefiting from the waiver will therefore tax the amount of the non-operating profit corresponding to the amount of the TFM provisions deducted over time. The justification for such treatment is set out in article 88, paragraph 1 of the TUIR, on the basis of which revenues or other income earned against expenses, losses or charges deducted in previous years are considered as non-operating profits.

In order to avoid duplications or tax jumps, no taxable income will be generated for the director being a natural person.

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The access of the Tax Authorities to the company always requires a final report

(Court of Cassation, judgment no. 24636 of October 19th, 2017)

For some time now, tax regulations have provided for a series of "procedural rules" to be applied during a tax audit at the taxpayers' seat, aimed at establishing and enhancing a "good climate" of dialogue between the tax authorities and taxpayers and also aimed at limiting the recourse to litigation only for the necessary cases.

Among the provisions applicable to these protections, there is the one (contained in art. 12 of the "Taxpayers' bill of rights ", Law no. 212/2000) regarding the obligation to draw up, at the end of the assessment activities "on the field ", a PVC (i.e. official tax audit report): this document highlights the summary of the observations made by the person who carried out the audit, in order to allow the Office to evaluate the issue of a related deed of assessment, and also in order to allow the taxpayer to produce observations within 60 days after the issue of PVC.

In the present case, during a tax audit carried out on a given tax year, "spontaneous declarations" by the taxpayer had emerged concerning the tax burden of a different year. At the end of the inspection activities, only one PVC was issued, referring to the year formally audited.

However, two separate tax assessment documents followed, the second of which related to the year "reported" by the taxpayer, but for which no PVC had been issued.

In the dispute that arose in relation to the assessment of the year for which no PVC was issued, the taxpayer complained about the illegality of this act, since it was necessary to put forward a specific claim that could possibly be opposed by the tax payer (already) in the procedural phase. The tax authorities took the opposite view: according to them there was no breach of the right of defense, since the taxpayer could in any case exercise its full right of defense within the judicial proceedings.

The Court of Cassation has ruled that the guarantee for the taxpayer, established by the aforementioned Taxpayers' bill of rights, must ordinarily be observed by the Tax Authorities.

This is because, whenever information relevant from the point of view of the tax authorities is acquired from the taxpayer, the need to safeguard- already in the pre-trial phase – the taxpayer's right to ignore, oppose or even clarify what emerged from the assessments cannot be questioned.

And this, the judges argue, "precisely because of the state of particular vulnerability in which the taxpayer finds himself, which is thus adequately safeguarded with the possibility of exposing any useful defense in the delaying term".

In application of this principle, the Office, which intended to return to taxation income relating to this additional year, should therefore have challenged the results at the end of its audit, after the issue of the PVC, in order to allow the taxpayer to exercise his prerogatives even during the preliminary contradictory phase.

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New clarifications on Split Payment

The Circular No. 27/E of the Italian Revenue Agency dated November 7th ,2017, clarified some operational aspects regarding the split payment, focusing in particular on the new features introduced by the Italian Decree Law no. 50 of April 24th, 2017, by the Italian Ministerial Decree of June 27th, 2017 and by the Ministerial Decree of July 13th, 2017 set out below. This topic has also been the subject of an in-depth analysis in the Tax News 2017/6.

It is shall be reminded that the split payment system in force since July 1st ,2017, introduced by the Stability Law 2015, provides that VAT charged on invoices for purchases of goods and services made by reliable entities such as Public Administrations (hereinafter PA), companies controlled by them and companies listed on the FTSE MIB of the Italian Stock Exchange, is paid directly to the Tax Authorities by buyers and no longer by the supplier.

Details regarding the identification of the parties to whom the split payment rules is applicable

The circular makes reference to those subjects to whom it is mandatory to issue invoices with the application of the split payment, subject to different variations in recent months: in particular, two macro categories are identified, that one of the subjects falling within the concept of PA and that one of subsidiaries and that one of listed companies included in the FTSE MIB index of the Italian Stock exchange, specifying that, with regard to the subjective scope of application of the rule, the clarifications given in Circular 1/E dated February 9th, 2015 must be considered to have been exceeded.

In particular, it is pointed out that, following the amendments made by the Decree Law no. 50/2017, all the PAs - registered with the **IPA (Index of Public Administrations)**, with the sole exception of the "**Public Service Managers**", which can be found on the website www.indicepa.gov.it- towards which the suppliers are required to issue invoices in an electronic format, are included in the split payment scope.
In this regard, the Tax Authorities point out that the Accreditation to IPA, mandatory for the PAs receiving the electronic invoice, derives from the initiative of the same parties. Therefore, if the PA buyer has not requested the IPA accreditation, and has not notified the supplier of the application of the discipline in question, it will be subject to sanctions.

The split payment also applies to the **listed companies included in Italian Stock Exchange's FTSE MIB index**, identified on the effective date of Decree Law no. 50/2017 published on the website of the Finance Department of the Italian Ministry of Economy and Finance, as well as all companies controlled by the central and local Public Administrations. In order to identify them, it is necessary to make reference to the lists published, in their final and correct version, on October 31st ,2017, available on the following link:

http://www.finanze.it/opencms/it/fiscalita-nazionale/Manovra-di-Bilancio/Manovra-di-Bilancio-2017/Scissione-dei-pagamenti-d.l.-n.50_2017-3-Rettifica-elenchi-definitivi/.

The Circular also specifies that, pursuant to art. 5 ter, paragraph 2, of the Italian Ministerial Decree of June 27th, 2017, **for transactions invoiced in 2018 and in subsequent years**, the regulations in question will apply to companies controlled by the PA or listed at the FTSE MIB, included in the lists as at September 30th of the previous year, published definitively on the website of the Finance Department of the Italian Ministry of Economy and Finance by November 15th of the previous year.

If, during the course of a tax year, by September 30th, there are changes that involve the *inclusion* of a new company in the aforesaid lists, the split payment rules for that company will be applicable to transactions invoiced from January 1st of the following year. From the same date, split payment will no longer apply to companies *excluded* from the lists for loss of requirements by September 30th.

If the same changes above occur after September30th, the split payment rules will be applied and/or non-applied from January 1st of the second following year.

Irrelevance of Certificates issued by the PA

The Circular points out that, following the final publication of the lists containing the precise indication of the subjects included in the scope of application of the split payment, it is no longer useful for the supplier to request the certificate as per paragraph 1 quater of art. 17 ter of the Italian Presidential Decree no. 633/1972. In fact, any certification made by the PA, or Company, must correspond to what is indicated in the same lists. Otherwise, if it is in contrast with the contents of the final lists, it shall be deemed to have no legal effect.
Therefore, in order to identify the recipients of the split payment rule, the taxpayer will have to refer only to the public administration lists registered with the IPA and with the lists published on the MEF website.

Application of the split payment to professional income

It is confirmed that, following the repeal of paragraph 2, as per article 17 ter of the Italian Presidential Decree 633/1972, starting from July 1st, 2017, fees for professional services subject to withholding tax as a deposit or tax are also subject to the split payment mechanism.
The Circular in question specifies that the supply of goods or services rendered to employees (e. g.: board and lodging for employee trip) in the interest of the employer (PA and Company), are *excluded* from the application of the split payment when the invoice is issued and addressed to the same employee of the PA, or Company, as the same one refers to transactions made in favour of the employee even though in the interest of the PA or Company. In the above cases, when the invoice has been issued and is in the name of the Public Administration or Company, the rule governing the split payment become applicable.

Advance payment of tax collectability

The Tax Authorities point out that the decree of the Italian Ministry of Economy and Finance of June 27th, 2017, similarly to the previous regulation, establishes that the tax relating to the supply of goods and services becomes payable when the payment of the consideration is carried out. However, it allows PAs and companies purchasing goods and services to advance the collectability of the tax at the time of receipt, i. e. when the purchase invoice is registered.
The choice for early payment can be made in relation to each invoice received/registered through the taxpayer's conclusive behavior.

The new ways for paying VAT

Another news indicated by Circular no. 27/E concern the ways in which PA and companies purchasing goods and services can make the payment, in favor of the Tax Authorities, of the VAT due under the mechanism of split payments.
In particular, these subjects may cumulatively pay the VAT due by means of F24 form by no later than the 16th day of the month following the one in which the tax becomes collectable (without the possibility of offsetting and using a tax code established for that purpose), or may carry out:

- daily cumulative payments for invoices for which the tax has become collectable day by day;
- separate payments for each invoice for which the tax has become collectable.

Alternatively, the public administrations and companies purchasing goods and services can transfer the tax due to the periodic liquidation, with the possibility of recording the purchase invoices in the purchase

register, but also in the register of invoices and payments provided for in articles 23 and 24 of the Italian Presidential Decree No. 633/1972.

Determination of the VAT payment on account

The public administration and the companies required to apply the split payment, as specified in the explanatory report to the Decree of June 27th, 2017, while making the **VAT payment on account**, determined according to one of the methods provided for by current regulations (historical, forecasting or actual), must take into account the tax paid on the purchases due directly to the Tax Authorities as a result of the split payment regulations.
In particular, the taxpayers who pay the tax separately will have to make a further payment to take into account the tax subject to the split payment mechanism. Otherwise, for those who record invoices in the sales and purchase registers, the VAT payment on account will be calculated on a total figure which already includes the tax subject to the same mechanism.
Finally, as explained in the explanatory report to the Decree, only for the year 2017, if the historical method is applied:

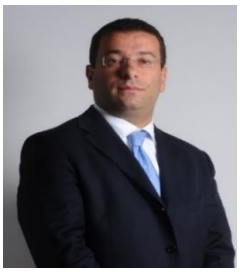
- the PA and the Companies that separately pay the tax due pursuant to art. 17-ter of the Italian Presidential Decree no. 633 of 1972, will have to make a further payment on account, determined on the basis of the amount of the tax due derived from the split payment that became collectable in November 2017, or, in the event of quarterly liquidation, in the third quarter of 2017.
- the Public Administration and Companies which record invoices in the register as per articles 23 or 24 of the Italian Presidential Decree no. 633 of 1972, pursuant to paragraph 1 of article 5 of the Italian Ministerial Decree, shall determine the payment on account on the basis of the calculation as defined for the category of taxpayers to which they belong (monthly, quarterly, etc.); to this basis the amount of tax that has become collectable shall be added according to the provisions on the split payment in November 2017 for taxpayers with monthly liquidation, or, in the case of quarterly liquidation, in the third quarter of 2017.

No correction for mistakes from July to today

Finally, the Italian Tax Authorities clarifies that the parties obliged to apply the Split payment who have wrongly issued invoices with the ordinary regime after July 1st, 2017 and up to November 7th 2017, date of publication of the Circular in question, shall not have to make any changes, provided that the tax has been paid.

Instead, starting from the publication of the Circular no. 27, the suppliers will have to regularize the invoices issued with incorrect application of the ordinary VAT, or erroneous indication of the split payment by issuing a note of variation and a new accounting document.

For further information, please contact:



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DEADLINES – NOVEMBER 2017

- this list is not comprehensive of all tax deadlines; the most recurrent administrative deadlines have been omitted

- From January 1st, 2014, the compensation limit has increased from Euro 516.456 to Euro 700.000.
  Please remind the following limitations applicable to compensations:

  - in terms of VAT
  - in terms of taxes on income and IRAP
  - in the presence of tax debts entered on the tax roll and expired for amounts exceeding Euro 1,500

Thursday 30th

Payments on account

The carrying out by natural persons of the second payment on account (or single instalment) of IRPEF for 2017 as set out in the 2017 tax return

In order to determine whether or not the IRPEF payment on account for 2017 is due, it is necessary to check the amount indicated in the section "difference" within the 2017 tax return form: if this amount does not exceed € 52 no payment on account is due, while if it is higher, the payment on account is due at 100% of its amount.
Please note that the payment on account thus determined must be carried out:

- in a lump sum by November 30th, 2017, if the amount due is lower than € 257,52:

- in two instalments, if the amount due exceeds € 257.52, of which:

  - the first one, for the amount of 40% by June 30th, 2017;
  - the second one, for the remaining amount 60%, by November 30th, 2017.

If the taxpayer forecasts a lower tax to be paid in the next tax return, he may determine the payments on account to be made on the basis of that lower tax ("forecast method")..

For the subjects involved, by the above date the second payment on account related to the "flat tax", substitute taxation on income from real estate lease or the various substitute taxes for IRPEF (e. g. IVIE-IVAFE) should also be made).

Second payment on account (or single instalment) of IRES by the parties required to fill in the Income 2017 form for corporations with tax period corresponding to the calendar year

The payments on account of IRES for 2017 are made in 2 instalments, provided that the payment to be made does not exceed € 103; in fact, if the amount of the "difference" section does not exceed this amount, the payment must be made in a single instalment by November 30th ,2017.
The percentage of the payment on account is determined at 100% of the amount indicated in the "difference" section of the 2017 Income return; if the amount indicated in this section does not exceed the amount of € 20.66, the IRES payment on account is not due.
40% of the payment on account due shall be paid on expiry of the first instalment and the remaining

amount on expiry of the second instalment.
The payment shall be made, respectively:

- for the first instalment, within the deadline for the payment of the balance due on the basis of the return for the previous tax year, taking into account that this first instalment may be paid within the thirtieth day following the normal due date, increasing the amounts to be paid by 0.40% as interest due;

- for the second instalment, in November, with the exception of the one due by subjects whose tax period does not coincide with the calendar year, who pay this instalment by the last day of the eleventh month of the same tax period.

Please note that if the option for *national or worldwide tax consolidation is exercised*, only the consolidating company is required to pay the payment on account.

Also for IRES subjects the rule, according to which the taxpayer who forecasts a lower tax to be declared in the next tax return, can determine the payments on account to be made on the basis of this lower tax, shall apply.

IRAP payment on account

The IRAP payment on account for the tax period in progress as at December 31st, 2017 is due for the amount of 100% of 2016 IRAP.

Allocation of assets to shareholders – payment term of the 1° installment t for the substitute tax

With reference to the favorable legislation (art. 1, paragraphs 115 to 120, Italian Law no. 208 of December 28th, 2015, *extended to 2017* by art. 1, paragraph 565, of the Italian Law no. 232/2016) which allowed allocating certain company assets to the shareholders or to transform commercial companies into non-commercial partnership, within the above deadline the first instalment (equal to 60% of the total) of the substitute tax due shall be paid.

The second instalment, as balance, must be paid by June 16th, 2018.

Scrapping of tax bills and tax litigations – instalment payment

With reference to the two forms of amnesty mentioned above, and in the case of an option for instalment payment, by the above date the payments of the amounts due (depending on the instalment plan chosen) shall be carried out.

FOCUS ON EMPLOYMENT

(IN COLLABORATION WITH DE LUCA & PARTNERS AND HR CAPITAL IN MILAN)

DID YOU KNOW THAT ...

The dismissal of a compulsorily employed worker can be voided?

Dismissal due to personnel reduction or dismissal for justified objective reasons exercised against a compulsorily employed worker, pursuant to Art. 10, paragraph 4, of Law No. 68/1999, **can be voided** if, at termination of the employment relationship, the mandatory quota pertaining to the remaining employed workforce is not met.

JUDGEMENT OF THE MONTH

Ancillary criteria for the qualification of a labor relationship as employment

The Court of Cassation, with judgement No. 23846 filed on 11 October 2017, intervened on the **qualification** of a self-employment relationship as employment. In the specific case, the Court of Cassation stated that **subjugation to managerial and disciplinary power cannot be an exclusive criterion** to determine whether employment is or is not occurring. This is because, **based on the type of task** assigned to the worker and the **context** in which the service is carried out, other characteristics pertaining to the relationship must also be assessed. In ruling, the Court of Cassation followed a consolidated trend on the basis of which, if it is not possible to use as the sole criterion the subjugation of the employee to the managerial, organisational and disciplinary power [of the employer], it is possible to make use of **distinctive ancillary criteria** such as: (i) **continuity and duration** of the relationship; (ii) methods of **remuneration payment;** (iii) **work time regulations**; (iv) existence of a **self-organization power** of the employee. And in this case, it was clear that, contrary to the adopted *nomen iuris*, (a) the work was carried out on company premises, according to predetermined work schedules and subdivided into shifts established by the employer; (b) the services were performed according to a timetable which the workers, once accepted the shift, had to respect; (c) in the event of unavailability, the workers were required to give prior notice to the employer; (d) they had no personal equipment and did not incur any financial risk, since their remuneration was guaranteed; (e) the worker who was unable to go to work had to inform in advance. Specifically, in this context, the Court stated that **the absence of disciplinary power could not *per se* lead to the denial of an employment relationship**, with particular reference to **standardised services**, subjected to continuous checks and direct corrective measures which leave little room for its implementation.

CASE LAW

Disciplinary proceedings: The employer is not obligated to submit corporate documentation

The Court of Cassation, with judgement No. 23408 filed on 06 October 2017, stated that there is **no obligation** for the employer when initiating disciplinary proceedings against one of its employee responsible for a breach to **make available** to him/her the **corporate documentation** on which the dispute is based. This is because, as part of a disciplinary proceedings, **the employer is obligated to provide the documentation for consultation** only if so **requested by the accused employee**, in accordance with the principles of correctness and good faith which are at the base of the performance of a typical employment relationship. There are situations where this process is the only one that allows the individual worker to be fully aware of the charges brought against him/her and to justify

himself/herself in the best possible way. However, these situations are not always present, since the worker may have been informed in detail about his or her shortcomings or the worker may wish not to justify himself/herself. And it is specifically on the basis of these assumptions that the Court of Cassation established that **the validity of the measure taken is not voided** at the outcome of a disciplinary proceeding by the employer's decision not to show the corporate documentation on which the alleged fault of the employee is based, **since such documentation has not been requested by the employee**.

Change of residence not notified: notification at the old address is valid

The Court of Cassation, with judgement No. 22295/2017, ruled that **notification of dismissal** of a worker sent by registered letter to the employee's **old address of residence is valid** if he/she **failed to communicate the change of residence within the terms referred in the National Collective Bargaining Agreement (CCNL).** In this specific case, the employer, having realised during the process that a change of address had occurred for the concerned employee, subsequently sent to the employee's new address a second notice of dismissal. The Court as well as the Court of Appeal declared void the second dismissal notice, since it occurred after the 6-day deadline established by the National Collective Bargaining Agreement (CCNL) for the sector, and declared irrelevant the first dismissal since it was sent to the wrong address. The Court of Cassation did not share the same opinion. The latter, referring to the provision of the national collective bargaining agreement (CCNL) according to which **workers are required to communicate any changes in residence and domicile**, stated that this provision "imposes, also in compliance with the principle of good faith and correctness which governs the employment relationship, that the worker must communicate **in writing** any subsequent changes in residence or domicile in order to **promptly inform** the employer of the address where he/she can be found". Consequently, according to the Court opinion, the first dismissal had to be deemed as validly notified to the employee, since assumption of knowledge of such correspondence would have occurred for the employee.

Top manager and substitutive allowance for vacation days

The Court of Cassation, with judgement No. 23697, filed on 10 October 2017, confirmed the consolidated case law trend according to which a **top manager**, who, even if having the power of self-assigning the vacation period, does not exercise such power, is entitled only to a **substitutive allowance for vacation days** for the current year, unless he/she proves that he/she was not be able to take the leave for **exceptional and objective** company needs. In particular, the Court of Cassation clarified that the substitutive allowance for any vacation day is based, on the one hand, on the principle of the annual inalienability of a vacation period as established by Directive 2003/88/EC and Legislative Decree No 66/2003 and, on the other hand, in the general civil protection established in the contractual liability, which, however, assumes that failure to meet the mandatory regulation on annual vacation leave by the employee is attributable to the employer. Specifically, in reference to the aforementioned liability, the Court of Cassation stated that the **employer's contractual liability** must be considered **mitigated** in the case of a top manager, since a top manager has the power to self-assign a leave in full autonomy, without suffering any limitation by the employer. From this it follows that in the event of a dispute regarding a top manager failure to use vacation leave, the employer shall prove that the top manager was able to choose time and methods for enjoying the leave autonomously and shall prove that the missed vacation period can be attributed to objective corporate needs.

Dismissal ordered for those who copy confidential corporate data is legitimate

The Court of Cassation, with judgement No. 25147/2017, stated that **dismissal of an employee who copies confidential corporate data on a personal pen drive, without the employer authorisation, is legitimate**, even if this **information is not disclosed to third parties**. This is because the violation of contractual duties also occurs when a particular conduct, even if it does not result in actual damage, **has intrinsic potential to become detrimental to the interests of the employer**. The Court deemed the dismissal legitimate since the conduct contested to the employee was to be considered as censurable pursuant to the provisions of Article 52 of the CCNL for the chemical sector applied in the company. Specifically, the aforesaid article includes among the cases punishable by dismissal: theft, voluntary damage to corporate assets and theft of drawings, tools and sheets owned by the company. According to the Court of Cassation, the **simple copying** of data falls within these cases, having identified in the behaviour of the worker a **conscious conduct**, respect to which the lack of IT measures by the employer to protect the data was completely irrelevant.

PRACTICE

The renewal of the National Collective Bargaining Agreement (CCNL) for small and medium businesses has been ratified

The **renewal of the National Collective Bargaining Agreement (CCNL) for small and medium sized metalworker and plant installation businesses** signed on 4 July by the Unionmeccanica Confapi and the Fiom-Cgil, Fim-Cisl and Uilm-Uil trade unions has been ratified. The contract, whose official signature occurred on 21 October, was signed following the employees' consultations occurred on 24 and 25 July and will involve 360,000 workers, 34,000 of whom employed by small and medium-sized businesses in the metalwork sector. The agreement will **last four years** and **the increase in minimum wages** will be calculated on the basis of the inflation of the Consumer Price Indices starting from 1 November 2017, **with a gross lump sum of 80 Euros**, for workers hired since 1 July 2017, and **it will be included in the remuneration of October 2017.** Among others, it was established that the following would apply: (i) starting from **1 January 2018** a payment of EUR 60 for **supplementary health care**; (ii) **a payment of EUR 150 in 2018** (effective from March), **2019 and 2020** (effective from January of each of these years) **as a "flexible benefit"**; and (iii) **payment by employees not registered with the union of an extraordinary membership fee** of Euro 35 for the negotiation activity carried out. The agreement requires that the employer affixes on the notice board an announcement about the request of this membership fee which shall be withheld with the remuneration of February 2018 concerning which all non-registered employees must express their opinion by 15 December 2017.

Tax relief for life-work balance is under-way

The Ministry of Labour and Social Policies, by decree dated 12 September, defined the criteria and methods of use of financial resources assigned to private sector employers that may have established in their company collective bargaining agreements provisions for balancing the professional and private life of employees. This is a tax relief issued to implement article 25 of Legislative Decree No. 80/2015, which entrusts to the parties a useful tool to give value to the role of second level bargaining. In particular, the decree establishes payment of the benefit to employers that (i) have signed and filed corporate collective bargaining agreements (also in the case of territory-specific collective bargaining agreements) **including measures for balancing** work and private life that are **innovative and ameliorative respect to what is already established by the national collective bargaining agreements or by the regulations in force** or (ii) that established in their corporate collective

bargaining agreements, the **extension or integration of measures already included in previous corporate collective bargaining agreements.** The measures must concern parenthood, forms and methods of organisational flexibility and corporate welfare interventions. In order to be eligible for the tax relief, the related application must be submitted electronically to INPS **by 15 November** for agreements filed by 31 October 2017, for the resources allocated for the current year, and **by 15 November 2018 for agreements filed by 31 August 2018**, for the resources allocated for 2018.

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