

Leoni & Partners

HR News

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Highlights of the month

Budget Law 2020: the main updates

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- Contribution deduction for 1st level apprenticeship
- Meal vouchers – limits for tax exemption
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Focus on

New contract work obligations

Highlights of the month

Contribution exemption for young workers

The three-year contribution exemption has been extended, for the period 2019-2020, to the hiring of young workers under 35 years old. The contribution exemption consists in a 50% reduction, for a maximum period of 36 months, of social security contributions to be paid by the employer, excluding INAIL contributions, without prejudice to the maximum 3,000.00 Euro annual limit. To benefit from the contribution exemption, the employer shall either:

- employ through a so-called “contratto a tutele crescenti”, i.e. the new open-ended contract introduced by 2015 labour reform act (Jobs Act).
- convert a fixed-term contract into an open-ended contract.

Contribution exemption for young talents

The terms for the so-called *Bonus eccellenze* incentive have been defined. The incentive, consisting in the exemption from the payment of social security contributions due by employers – excluding INAIL contributions – for a maximum amount of Euro 8,000 per year, is granted to workers who, in the period between 1 January and 31 December 2019:

- hired highly-specialized young workers through an open-ended contract, even on a part time schedule; or
- converted a fixed-term contract into an open-ended contract.

Workers must have obtained, in the period from 1 January 2018 to 30 June 2019, a master's degree with a final result of 110 cum laude (and a weighted average of exams results of at least 108/110) before turning 30 years' old.

Contribution deduction for 1st level apprenticeship

With reference to 2020, for “1st level” apprenticeship contracts – i.e. contracts regulating curricular work experiences aimed at obtaining the high-school diploma or qualification – entered into starting from 1st January 2020, a 100% contribution exemption is granted to employers who hire up to 9 apprentices. The contribution exemption applies for the first three years of contract.

Meal vouchers – limits for tax exemption

Starting from 1st January 2020, meal vouchers are exempt from taxation for a total daily amount of:

- 4.00 Euros for “paper” meal vouchers (previously, 5.29 Euros);
- 8.00 Euros for “electronic” meal vouchers (previously, 7.00 Euros).

The 5.29 Euros limit remains for allowances substituting meal provisions to employees in construction sites, in other temporary working structures or in production units located in places or areas lacking restaurant facilities or services.

Company car for mixed use – Fringe benefit

For vehicles, motorcycles and mopeds granted to employees for mixed use starting from 1st July 2020, the taxation percentage of the fringe benefit changes depending on carbon dioxide emission levels. In particular:

- for vehicles having CO₂ emissions up to 60g/km, taxation is equal to 25% of the amount corresponding to a conventional distance of 15,000 kilometres, calculated basing on the FY cost per kilometre resulting

from ACI national charts;

- for vehicles having CO2 emissions higher than 60g/km and up to 160g/km, taxation is 30%;
- for vehicles having CO2 emissions higher than 160g/km and up to 190g/km, taxation is 40% for 2020 and 50% starting from 2021;
- for vehicles having CO2 emissions up to 190g/km, taxation is 50% for 2020 and 60% starting from 2021.

Extension of paternity leave

For 2020, the following extensions concerning paternity leaves apply. Specifically:

- the duration of the mandatory leave is increased from 5 to 7 days;
- the possibility to use a further day off is provided, prior agreement with the mother and in substitution of the mother, i.e. only if the mother waives one of her mandatory days of leave.

Cut to the tax wedge from July 2020

In the course of the definition of the wider tax reform announced by the legislator, provisions have been allocated in order to reduce employees' tax wedge starting from 1st July 2020. The law should be applied through an implementing decree, which should extend the application of the current "Bonus Renzi" also to incomes up to 4,000 Euros.

The cut to the tax wedge will be presumably realized through a new deduction, which will progressively decrease, up to zero when the income will exceed 40,000 Euros.

Inpatriate workers

The higher exemption of taxable income introduced by the so-called *Decreto Dignità* for inpatriate workers (so-called *Cervelli Rientranti*) – from 50% to 70% in the majority of cases and from 50% to 90% for taxpayers moving their residence to Southern Italy regions – is

now applicable, following the amendments introduced by the Tax Decree at the end of the year, also to workers who moved their residence to Italy starting from 30 April 2019. At the beginning, the higher tax exemption of taxable income introduced by *Decreto Dignità* was applicable only to taxpayers moving their residence in Italy starting from 1 January 2020.

Prevention of undue offsets

In order to strengthen and extend the means available to the Tax Authorities to prevent undue offsets of credits made through F24 forms, it has been established that – with reference to credits accrued since 2019:

- annual or quarterly VAT credit, and
- IRPEF, IRES and IRAP credit higher than annual Euro 5,000 can be offset in the F24 form starting from the tenth day after the filing of the annual tax return or of the application showing the credit.

Basing on the new provisions, IRPEF, IRES and IRAP credits for 2019 cannot be offset starting from 1st January 2020 any more, but rather after the filing of the relevant tax return.

Voluntary early retirement incentive for employees of the publishing industry

In order to support the early retirement of professional journalists registered with the INPGI (the Italian social security institute for journalists), of employees of companies publishing daily newspapers and magazines, and of national press agencies, financial resources have been allocated to allow the enforcement of the redundancy and early retirement provisions included in art. 37, para. 1, letter b) of Law n. 416 dated 05/08/1981. Furthermore, it is provided for that the commencement of a subordinate or freelance employment relationships, or the execution of copyright transfer agreements with journalists who have opted for the voluntary early retirement measures would imply the

withdrawal of the benefit granted. Lastly, in order to encourage the early retirement of employees of the graphical industry, the possibility to access the pension fund has been provided - limited to the four-year period 2020-2023 - for those with at least 35 years of contribution (instead of 38 years).

Limitations to the use of cash

Starting from 1 July 2020 and until 31 December 2021, the transfer of cash and bearer securities in Euro or in a foreign currency, for whatever reason, among different subjects - either individuals or legal entities - cannot be equal to or exceed the total amount of Euro 2,000 (until 31/12/2019 the threshold was equal to Euro 3,000). Starting from 1 January 2022, said threshold will be further lowered to Euro 1,000.



Focus on

New obligations on contracts: updates introduced by the Tax Decree

As already pointed out in our circular letter issued on 16 January, further to the entry into force of Law n. 157/2019, new obligations have been introduced for companies contracting or subcontracting one or more works for an annual amount higher than Euro 200,000 with reference to the payment of Irpef (tax on the income of individuals) withholdings through F24 form, and for principals with reference to the necessary controls to be implemented. Below are the main points of the new regulation.

1. SCOPE OF APPLICATION

The new regulation applies to all withholding agents, who engage a company for the performance of one or more works or services for a total annual amount exceeding Euro 200,000, through contracts, subcontracts, assignments to consortium members, or through other contractual relationships characterised by:

- prevailing use of labour;
- performance of the work or the service at the premises of the principal;
- use of capital goods owned by or in any way attributable to the principal.

The above requirements (work or service concerned by the contract, subcontract, assignment to consortium members or other contractual relationships being worth more than Euro 200,000; prevailing use of labour; performance of the work or the service at the premises of the principal and use of capital goods owned by or in any way attributable to the principal) must be all met concurrently.

Therefore, failure to meet even one of them excludes the application of the new regulation.

2. REQUIREMENTS

One requirement for the application of the regulation is that contracts, subcontracts, assignments to consortium members or other contractual relationships must overall exceed Euro 200,000 per year. Therefore, in order to assess whether such amount is exceeded, all agreements signed in one year between the same parties must be taken into account. Official clarifications are awaited as concerns the definition of the reference period (solar year or calendar year calculating 365 days backward).

To assess whether the use of labour is predominant, as required, the provisions in force for public contracts could be applied for the moment, lacking further clarifications, i.e.: the incidence of labour can be assessed referring to the cost of labour in the contract, when indicated.

Lastly, regarding the place where the work or service is performed and the assets used for the performance of such work or service, it is specified that:

- the premises of the principal are meant as those in any way identified by the principal, i.e. where the activity being the subject of the contract or assignment must be carried out;
- ownership is not relevant for capital goods, as it is sufficient that they are in the principal's availability. In fact, the Law specifies that such goods shall be in any way attributable to the principal.

3. EXCLUSIONS

The scope of the regulation excludes assignees, contracting or subcontracting entities that, as at the last day of the month preceding that in which the monthly deadline for the payment of taxes is provided, meet the following requirements concurrently:

- they must have been working for at least 3 years, be compliant with tax return fulfilments, and have made - in the FYs which the tax returns filed over the last 3-year's period refer to - total tax payments for at least 10% of the revenues and considerations resulting from the same tax returns;
- they must not have unpaid tax payables at collection agencies, nor tax assessment notices, or charge notices registered at collection agencies, related to IRES, IRAP, withholdings and social security contributions, higher than Euro 50,000, whose payment terms have expired and the relevant amounts are still due or no suspension provisions are in force.

4. FULFILMENTS BY ASSIGNEES, CONTRACTING AND SUBCONTRACTING COMPANIES

The assignee, contracting or subcontracting party shall:

- pay tax withholdings (Irpef and surtaxes) relevant to workers directly involved in the performance of the work or service, through a separate payment form for each principal and without any possibility to offset possible credits. To this purpose, the F24 form section requesting the "tax code of joint obligor, heir, parent, tutor, or receiver" shall include the tax code of the principal, specifying the newly established 09 identification code in the proper "identification code" section.

- pay social security contributions and insurance premiums through a separate F24 form, without any further specification;
- deliver to each principal a copy of the proxies for the payment of the F24 form to pay Irpef withholdings within 5 days from the payment due date;
- electronically file (still to be defined by the Revenue Office) to each principal a list of all employees involved in the tender contract, with indication of their Italian tax code, withholdings applied in the previous month with separate indication of those relevant to the work entrusted by the principal, salaries paid and working hours dedicated to the project.

With reference to the methods for splitting the withholdings due to each principal, a first Revenue Office resolution (n. 108/2019) provided for that they should be split basing on objective criteria, such as the number of working hours spent on the specific project. This indication is not comprehensive, as it does not consider other variable factors which can influence the determination of the salary subject to taxation (e.g. paid leaves, sick leaves, leaves under Law 104, ROL - reduced working hours, holidays, etc.) or remunerations accrued in previous periods (such as additional monthly payments or employees' leaving indemnity). Further clarifications are expected on whether these additional payments will also need to be split on each principal, or the amount due can be paid as a lump sum by the contractor. The same question applies to the ways of splitting the payment of withholdings relevant to Irpef tax.

5. PENALTIES

With reference to the penalties applied, it is specified that the assignees, contracting or subcontracting entities:

- in case of failure to apply withholdings to employees, are subject to a fine equal to 20% of the amount not withheld (art. 14 of Legislative Decree n. 471/1997);
- in case of non-paid or insufficient withholdings, are subject to an administrative fine equal to 30% of amounts unpaid or paid after the set deadlines (art. 13 of Legislative Decree n. 471/1997).

6. PRINCIPALS' OBLIGATIONS

The Decree introduced new obligations for principals, in addition to the obligation to request the necessary documentation to the contractor (proxy to pay F24 forms and list of employees involved in the project/service). Specifically, should the contractor or subcontractor - upon expiration of the 5 days following the deadline for the payment of the F24 form (date of delivery of the payment proxy to the principal) and the submission of information required by law - become entitled to receive considerations and (i) not have submitted to the principal the payment proxies and the information on employees working on the project; (ii) failed to pay or have made insufficient payments of tax withholdings, compared to the data resulting from the documents submitted; then the principal will have to:

- suspend, as long as the non-compliance status lasts, the payment of considerations accrued by the assignees/contractor/subcontractor, up to 20% of the total value of the project or service, or for an amount equal to the unpaid withholdings;
- notify the competent local Revenue Office within 90 days.

Should the principal not comply with what set forth by law, it will be required to pay an amount equal to the fine imposed on the

assignee, contractor or subcontractor for the correct determination of withholdings and for their correct application, as well as to pay them promptly with no possibility of offsetting them.

7. EFFECTIVE DATE

The new regulation is effective from 1 January 2020, however the first payments subject to these provisions will be those made in February 2020 (F24 form relevant to January 2020 due by 17 February 2020).

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