

# Labour regulations

## A digest of recent news

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### INTRODUCTION

Our January issue focuses on the most relevant measures brought by the **2024 Budget Law** (1), including such as a relevant reduction of pension contribution duties for certain employees, new regulations on parental leave, on the taxability of benefits in kind and performance bonuses, and the introduction of a new subsidy for self-employed workers. **New regulations for "inpatriate" employees**, applicable from 2024, are also examined.

### 2024 BUDGET LAW: MOST RELEVANT LABOUR AND TAX-RELATED REGULATIONS

#### Exemption from pension contribution duties for employees (par. 15)

The partial exemption from the obligation to pay the employee's share of pension contribution duties is applied, by way of exception, for the entire year 2024, at the rate of:

- **6 percentage points** «provided that the taxable salary, measured on a monthly basis for thirteen monthly payments, does not exceed the monthly amount of EUR 2,692.00, net of the 13th month instalment». Therefore, should salary paid in any month in 2024 exceed the aforementioned limit of EUR 2,692.00 gross, the exemption will not apply for that month,
- **7 percentage points** in the event that the employee's 'taxable salary', measured on a monthly basis for thirteen months, does not exceed the monthly amount of EUR 1,923.00, net of the 13th month's salary. The exemption will not apply whenever monthly salary exceeds the aforementioned limit of EUR 1,923.00 in any given month.

**Pension benefits** will be calculated with ordinary criteria and won't be negatively affected by this measure.

#### Exemption from social contribution duties for female employees with children (par. 180-181)

For the pay periods **between January 2024 and December 2026**, female employees under a **permanent employ-**

**ment** relationship and with at least **three children** are entitled to the exemption from the payment of their share of mandatory pension contribution.

The exemption is applicable up to a maximum of EUR 3,000.00 per year and ceases when the employee's youngest child turns eighteen.

The exemption is not applicable for domestic workers.

**On an experimental basis, mothers of two children** may also benefit from the above-mentioned exemption from contributions for 2024, until the youngest child turns ten.

**Pension benefits** will be calculated with ordinary criteria and won't be negatively affected by this measure.

#### Parental leave (par. 179)

As from 13 August 2022, each working parent is individually entitled to three months of parental leave, non-transferable to the other parent, up to the child's twelfth birthday, with an allowance equal to 30% of salary. Parents are also entitled, alternatively, to a further period of leave of a total duration of three months, with the same 30% allowance (Article 34, paras. 1, first sentence and 3 of Legislative Decree no. 151/2001 and Article 2, par. 1, lett. i) of Law Decree no. 105/2022).

With regard to the **period of non-transferable parental leave, for the year 2024** it is provided that the allowance payable for two of the total six months shall amount to 80% of salary. This **more favourable criterion** for determining the allowance applies provided that:

- the leave is taken before the child's sixth birthday,
- the leave is related to a child in respect of whom maternity or, alternatively, paternity leave (2) ended after 31 December 2023. (3)

As of 2025, the allowance for these two months of non-transferable parental leave will amount to:

- 80% of salary for the first month, and
- 60% for the second month.

The remaining period of parental leave - transferable or non-transferable - is covered by the ordinary 30% allowance.

#### Benefits in kind: temporary exemption limit (par. 16-17)

**For the 2024 tax period only** - and as an exception to the ordinary exemption limit of EUR 258.23 (4) - it is determined that the following benefits will **not contribute to forming taxable income within the overall limit of EUR 1,000.00**:

(\*) Starting from January 2023, and on a monthly basis until December, we will publish several articles on labour and employment law in Italy, with specific focus on news and current events, but without disregarding subjects and topics that - while not undergoing relevant amendments or improvements - may be useful knowledge for international employers.

Our focus will insist on providing more than a simple number of mere notions, but rather a compendium of usable

knowledge, allowing employers to pursue HR policies and strategies that are not only fully compliant with - but also set to take full advantage of - current domestic regulations.

(1) Law 27 December 2023, no. 213.

(2) Chapters III and IV, Legislative Decree no. 151/2001.

(3) Art. 34(1), Legislative Decree no. 151/2001.

(4) Art. 51(3) of the Consolidated Income Tax Act (TUIR).

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- the value of goods granted, and services rendered, to employees,
  - the sums disbursed or reimbursed to such workers for the payment of household utilities (water, electricity and/or natural gas), for home rental expenses, or covering the interest on the mortgage relating to their home.
- For the year 2024, the aforementioned limit is raised to **EUR 2,000.00 for employees with dependent children**. (5)

It should be noted here that a child is considered a dependent if he or she is under 25 years of age and has an income - gross of deductible expenses - not exceeding EUR 4,000.00; this income limit is reduced to EUR 2,840.51 if the child is over 25 years of age.

The measure is also recognised if the children are born out of wedlock, adopted or in foster care.

The exemption scheme is applied by the employer:

**a)** on condition that the employee concerned declares to the employer that he or she is entitled to said higher threshold, specifying the child's tax code,

**b)** after informing trade union representatives, where present.

## Substitute tax on performance bonus (par. 18)

In perfect continuity with the provisions for 2023, for performance bonuses paid in 2024, the **reduction of the substitute tax rate on personal income tax and regional and municipal surcharges** from 10% to 5% is confirmed. (6)

It is understood that 'result bonus' is, in this context, a sum of variable amount, the payment of which is linked to increases in productivity, profitability, quality, efficiency and innovation, measurable and verifiable, and indicated in the collective agreement - local or territorial - signed with union representatives.

Said substitute tax is applied within the **limit of EUR 3,000.00 gross per year**.

## ISCRO allowance (par. 142-155)

Effective from January 2024, **self-employed people enrolled in the INPS separate management scheme** are entitled to the «special income and business continuity allowance» (ISCRO).

ISCRO is **paid by INPS** to regular self-employed workers who meet the following **requirements**:

**a)** not being a direct pensioner or accruing pension with other forms of compulsory social security,

**b)** not being recipient of the 'inclusion allowance' ('*assegno di inclusione*'),

**c)** having earned, in the year prior to the submission of the application, income from self-employed work lower than 70% of the average income from self-employed work earned in the previous two years,

**d)** having declared, in the year preceding the submission of the application, an income not exceeding EUR 12,000.00, annually re-evaluated based on the change in the ISTAT consumer price index compared with the previous year,

**e)** being up to date with compulsory social security contribution,

**f)** having held, upon submission of the application, a VAT registration number that has been active for at least three years for the activity that gave rise to registration with the current social security system.

The requirements referred to in letters *a)* and *b)* above must be maintained the period covered by ISCRO.

In the application, which must be submitted by the worker to INPS electronically by 31 October of each year of entitlement, the income generated for each year of interest must be self-certified.

ISCRO, **equal to 25% on a half-yearly basis, of the average income from self-employed work declared** by the applicant in the two years preceding the year in which the application is submitted, is payable from the first day following the date of submission of the application. It is paid for six months and does not involve the crediting of notional pension contribution.

The amount granted cannot in any case exceed the **maximum limit** of EUR 800.00 per month and cannot be lower than EUR 250.00 per month.

These income limits are adjusted annually based on the change in the ISTAT consumer price index.

ISCRO:

- cannot be claimed in the two-year period following the one in which the benefit starts being granted,
- constitutes taxable income,
- is subject to the participation of the recipient in professional refresher courses.

Moreover, the termination of the VAT registration during the period of payment of the allowance implies the immediate termination of the allowance.

In order to support the financial burdens that have to be borne for the recognition of the measure under review, an increase in the contribution rate for the calculation of pension benefits (7) equal to 0.35 percentage points has been provided for as from 2024.

## NEW TAX SYSTEM FOR "INPATRIATE" EMPLOYEES

On 29 December 2023, Legislative Decree No. 209/2023, setting forth rules for the implementation of the tax reform on international taxation, came into force.

Specifically, Art. 5 of said legislative decree introduces, with reference **to workers who transfer their tax residence to Italy** as from the **2024 tax period**, a new facilitating tax regime, whose legal mechanism significantly differs from the regulatory framework outlined by Art. 16 of Legislative Decree No. 147/2015 and in force until the 2023 tax period.

Preliminarily to the examination of the special tax regime applicable to inpatriate employees as from the 2024 tax period, it should be noted that, on the subject of tax residence of natural persons, Article 1 of the same legislative decree replaced, as from 1 January 2024, **Article 2, c. 2**

(5) Art. 12(2), TUIR.

(6) Art. 1(182), Law No. 208/2015.

(7) Art. 59(16), Law No. 449/1997.

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of **Presidential Decree No. 917/1986** (TUIR), establishing that «for the purposes of income tax, persons who for the greater part of the tax period, also considering fractions of a day, have their residence pursuant to the Codice Civile or domicile in the territory of the State or are present therein are considered residents. For the purposes of the application of this provision, domicile means the place where the person's personal and family relationships are primarily developed. Unless proven otherwise, persons registered for the greater part of the tax period in the registers of the resident population shall also be deemed to be resident».

**Art. 5(1) of Legislative Decree No. 209/2023** establishes that income from employment and equivalent, including income from self-employed work produced in Italy by workers who have transferred their residence to Italy pursuant to Art. 2 of the Consolidated Income Tax Act (TUIR) contribute to the formation of **taxable income** to the extent of **50 per cent** of their amount within the overall **annual limit of EUR 600,000.00**.

Workers may benefit from the favourable tax regime provided that they meet the **subjective requirements** listed below:

**1) having not been resident in Italy** for income tax purposes during the **three tax periods preceding** the transfer of residence. Italian citizens registered with AIRE, as well as those who may be considered resident in another State under a bilateral convention against double taxation, are considered resident abroad.

It is also provided that, where workers perform their work in Italy in favour of **i) the same entity** under which they were employed during the period spent abroad before the transfer of residence or **ii) an entity belonging to the same group**, the minimum requirement for residence abroad is equal to:

- **6 tax periods**, if the worker has not previously been employed in Italy in favour of the same entity or of an entity belonging to the same group,
- **7 tax periods**, if the worker, prior to his or her transfer abroad, had been employed in Italy in favour of the same entity or of an entity belonging to the same group.

Entities are deemed to belong to the same group if **i)** there is a direct or indirect control relationship between them or **ii)** they are subject to common control, whether direct or indirect, exercised by another person; (8)

**2) being committed to maintaining their tax residence in Italy for at least four years;**

**3) possessing a high level of qualification or specialisation**, by:

- having a higher education qualification issued by the competent authority in the country where it was obtained certifying the completion of a course of higher education lasting at least three years and the relevant higher vocational qualification, as falling within levels 1, 2 and 3 of the ISTAT classification of professions CP 2011 and subsequent amendments, attested by the country of origin and recognised in Italy (9) or

- meeting the requirements for practising regulated professions. (10)

Without prejudice to the overall annual limit of EUR 600,000.00, income produced in Italy by the impatriate worker who meets the subjective requirements listed above is considered **taxable income within the even more favourable ceiling of 40% of its amount** in the following cases:

- the worker has transferred tax residence to Italy with a **minor child**;
- a child was born to the worker during the year of application of the special tax regime or, during that year, the worker **adopted a minor child**.

This even more favourable tax regime applies:

- from the tax year in progress at the time of the birth or adoption and only for the residual year of use of the special tax regime,
- provided that the minor child is resident in Italy.

The favourable tax regime is applicable for the tax **year in which the transfer of tax residence is performed and in the four following tax years**.

If the tax **residence is not maintained** for at least 4 tax years, the worker forfeits the right to benefit from the special tax regime and the competent authorities recover the lower taxes paid, including the relevant accrued interest.

The special tax regime is applicable for **3 additional tax years** in the event the worker who transfers his registered residence in the year 2024 **has become the owner** by 31 December 2023 - and, in any case, within the 12 months preceding the transfer - **of a residential property unit used as his principal residence in Italy**. In the further three years of application of the favourable tax regime, the income generated in Italy contributes to the formation of the overall income limited to 50 per cent of its amount.

**Article 5, par. 9 of LD No. 209/2023 repeals**, as of 29 December 2023:

- article 16 of Legislative Decree No. 147/2015, and
- article 5, c. 2-bis of Decree-Law No. 34/2019 regulating the exercise of the option for the application of the more favourable special tax regime in force as of 1 May 2019 by Italian workers registered with AIRE or citizens of another EU Member State who transferred their tax residence to Italy before 31 December 2019 and who, as of such date, were already beneficiaries of the tax regime set forth in the aforementioned Article 16 of Legislative Decree No. 147/2015 in the arrangement in force as of 30 April 2019. However, the tax regime set forth in Article 16 of Legislative Decree No. 147/2015 and the aforementioned provisions contained in Decree-Law No. 34/2019 **still apply with respect to workers who, by 31 December 2023:**

**a)** have transferred their registered residence to Italy or

**b)** have entered into a sports employment contract.

With regard to the special tax regime for **teachers and researchers who transfer their residence to Italy**, the discipline set by Article 44 of Decree-Law No. 78/2010 (11) is confirmed.

(8) *Codice Civile*, Art. 2359(1).

(9) Art. 1(1)(a), Legislative Decree no. 108/2012.

(10) Legislative Decree no. 206/2007.

(11) Converted into law, with amendments, by Law No. 122/2010.