

## SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 64

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### WEEKLY ITALIAN LABOUR UPDATES

**"Employee's option for welfare services instead of variable remuneration payment is not employment income, but only if said provision is executed in a company agreement."**

#### **Refusing medical exam is just cause for dismissal**

An employee who refuses to undergo a medical examination organised by their employer in order to determine their suitability to be assigned new work duties is just cause for dismissal. A medical examination for suitability in the event of a change of duties is prescribed by law (Art. 41 of Legislative Decree 81/2008) and an employer has every right to request their employee do so. A recent case saw an employee refuse a medical examination on the basis that they considered their new duties to be a demotion. However, the Supreme Court ruled that the employee should have undergone the examination and then brought an action before the Labour Court to have the alleged demotion ascertained.

*Supreme Court 13/07/2022 no. 22094*

#### **Equating disability leave to illness is discriminatory**

For the purposes of calculating performance bonuses, absences attributable to disability leave (both one's own and that of the person being cared for) are considered workdays pursuant to Article 33 of Law 104/1992. An employer who – when determining bonuses – equates such leave as absence from work due to illness or accident is guilty of discrimination. Disabled employees and carers are more likely to need to be absent from work, therefore limiting their opportunity to receive a performance bonus constitutes discriminatory conduct.

*Court of Appeal Turin 14/06/2022 n. 212*

#### **Companies can offer employment to recipients of citizenship income**

Under Law no. 91 of 15/07/2022 of the Aid Decree-Law, employers will be able to directly propose a suitable job offer to recipients of citizenship income. If the job offer is rejected, this must be communicated to the relevant employment centre. If a second (suitable) job offer is rejected, then the individual loses their monthly allowance.

*Conversion Law 15/07/2022 no. 91*

## **Tax-free fuel voucher amid rising costs**

The Revenue Agency has clarified that the €200 fuel voucher introduced by Decree-Law 21/2022 is fully deductible from business income even if it is distributed to employees as a gift rather than through a company agreement. The purpose of the measure is to compensate employees for higher costs resulting from the increase in fuel prices. For purpose, 'fuel' includes petrol, diesel, methane, LPG and recharging electric cars. Employees can claim the voucher until 12 January 2023, which can still be used after that date.

*Revenue Agency, Circular 14/07/2022 no. 27*

## **Criminal offence for citizenship income recipients to not report paid work**

A recipient of citizenship income who fails to notify the INPS that they have started paid work is committing a criminal offence and can face up to three years imprisonment under Article 7, paragraph 2, Law 26/2019. The offence exists even if the work in question was not regulated – the key factor being that they have received payment for said work.

*Supreme Court, Criminal section, 04/07/2022 no. 25306*

## **Access to impatriate tax regime for second five-year period**

Impatriate employees cannot access the relevant favourable tax regime for a second five-year period if the required taxes they have paid are less than the amount due. Such employees are, however, entitled to recover any excess amounts they might have paid.

*Revenue Agency, Answer to Question 18/07/2022 no. 383*

## **Sole director cannot be also an employee**

A formally employed individual cannot also be the sole director of a limited company as they cannot report to themselves and there is no subordinate relationship between them and a senior figure.

*Supreme Court 21/06/2022 No. 20040*

## **Omitting information on supply of manpower contracts is anti-trade union conduct**

An employer who evades their obligation to provide its internal trade union representatives with detailed information on the number and duration of all manpower contracts, as well as the number and qualifications of all affected employees, is liable for anti-trade union conduct. Article 36 of Legislative Decree 81/2015 (Consolidated Text on Employment Contracts) places an obligation on user companies to inform the RSA or RSU (i.e. work council) of the details of supply of manpower contracts on an annual basis. The Tribunal of Bologna held that the conduct of a company that refused to communicate this information constituted anti-trade union behaviour and ordered them to post the relevant information on all company offices and publish them in major national newspapers.

*Court of Bologna, Judge Marchesini, 10/06/2022*

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