

newsletter
DECEMBER 2017

CASE LAW



Studio
Arlati Ghislandi

CONSULENZA
DEL LAVORO E FISCALE

Joint liability of the customer also in subcontracting

Corte Costituzionale, no. 254/2017

Corte Costituzionale, with judgement no. 254 of December 6th, 2017, stated that joint liability of the customer for salary and social contribution also applies to employees of companies working as subcontractors

Work during public holidays: employee's consent necessary

Corte di Cassazione, no. 27948/2017

Corte di Cassazione, with judgement no. 27948 of November 23rd, 2017, stated that the employee's consent is necessary for work during holidays. Motivated company needs, that the employer will need to show in court, are also required

Settlement agreement: when social contribution duties don't apply

Corte di Cassazione, no. 27933/2017

Corte di Cassazione, with judgement no. 27933 of November 23rd, 2017, confirms that sums due to the employee, within a settlement upon termination of employment, are not connected with the prior employment relationship and, therefore, are not to be made subject to social contribution duties.

Taxes on TFR for Swiss residents

Corte di Cassazione, no. 27773/2017

Corte di Cassazione, with judgement no. 27773 of November 22nd, 2017, confirmed that sums paid as TFR by an Italian employer to a Swiss resident are taxable in Switzerland, if work is performed there.

IRPEF income tax reimbursements: limitation period applies also in case of undue tax

Corte di Cassazione, no. 18089/2017

Corte di Cassazione, with order no. 18089 of July 21st, 2017, observed that undue taxes are subject to the limitation periods set by tax regulations, regardless of the reason why they're undue. Said principle also applies, e.g., in case of misinterpretation or application of tax laws, divergence with EU laws or new retroactive regulations.