

newsletter
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CASE LAW



Studio
Arlati Ghislandi

CONSULENZA
DEL LAVORO E FISCALE

Hire of employees enrolled in mobility lists and fruition of double social security relief

Corte di Cassazione, 22 May 2018, no. 12554

Corte di Cassazione, with judgement no. 12554 of 22 May 2018, pronounces itself upon relief (no longer applicable) for the hire, with a permanent contract, of employees enrolled in mobility lists

(ex art. 25, c. 9, Law no. 223/1991) and for employees, hired again after a certain period, for whom the employer already took benefit for the fixed-term hire of employees enrolled in mobility lists (ex art. 8, c. 2, Law no. 223/1991).

The double incentive is only applicable for the transformation in a permanent contract of an initial fixed-term employment contract, and not for two distinct hires.

Compensation for damage: fiscal treatment

Ctr. Lombardia, 26 February 2018, no. 886

With judgement no. 886 of 26 February 2018, the Regional Tax Commission of Lombardia ruled upon the tax treatment of sums paid to a Dirigente upon termination of employment in presence of hardships for the employee.

Only if the sum determined as settlement is paid in substitution of salary the amount is to be deemed taxable.

On the contrary, sums are not taxable if the agreement restores personal damage sustained by the employee due to the anticipated termination.

It is the taxpayer's duty to prove that the earned settlement is related, entirely or partially, to said elements.

Social contribution upon untaken holidays

Corte di Cassazione, order no. 13473 of 29 May 2018

Corte di Cassazione, with order no. 13473 of May 29, 2018, pronounces upon the treatment of untaken holidays for social security contribution purposes.

Specifically, it has been clarified that the employer must pay social contribution also on the settlement of untaken holidays, since said sum is to be considered as salary.

Secondment to Turkey: criteria for the calculation of social contribution

Corte di Cassazione, no. 13674 of 31 May 2018

With judgement no. 13674 of 31 May 2018, Corte di Cassazione pronounced on the applicability of conventional salaries (art. 51, c. 8-bis TUIR) as basis for calculation of social contribution for employees seconded to Turkey between 2006 and 2008.

The Court specifies that in cases such as this, when Italy and the foreign Country have an agreement on the applicable law for the calculation of social contribution, it is not allowed to use conventional salaries, since this would provoke a contribution evasion with INPS and a pension damage to the employee.

Commuting injury and reduction of INAIL allowance

Corte di Cassazione, no. 12566 of 22 May 2018

With judgement no. 12566 of 22 May 2018, joint sections of Corte di Cassazione have solved a contrast upon the obligation to deduct from the amount due to an employee victim of a commuting accident the amount that INAIL had determined due to permanent inability.

The joint sections determined that sums paid by INAIL for the victim of the road accident as annuity must be deducted from the compensation due to the victim by the responsible subject, even if INAIL cannot bring action against the responsible subject any longer.

Unconverted fixed-term contract due to failure to submit communication

Corte di Cassazione, no. 12559 of 22 May 2018

Corte di Cassazione, with judgement no. 12559 of 22 May 2018, pronounced upon consequences of failure to also communicate requests for new hires to local trade unions, pursuant to contingency clauses. Failure to comply is not cause of unlawfulness of fixed-term contracts.