

newsletter
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**REGULATION
AND PRACTICE**



Studio
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CONSULENZA
DEL LAVORO E FISCALE

New procedure for the submission of ANF request

INPS, with message no. 1430 of April 5, 2019, provided further clarification on the submission of ANF family check requests for subordinate employees in sectors other than agriculture.

INPS specifies that, from April 1st onwards, ANF requests must be electronically submitted directly to INPS and that as well as via the web portal directly accessible by employees, the request may also be submitted via “Patronati”, and no other intermediary subject may proceed.

2019 audit activities

The National Inspective Authority (INL) published, on April 10, the “Document of vigilance planning for 2019”. The document shows guidelines for the orientation and performance of audits by inspectors.

Main areas for intervention will be, as well as undeclared work and illegal recruitment, an increase in vigilance on fixed-term contracts, including temporary work, following amendments brought by the so-called “Decreto Dignità”.

Quota 100: clarifications on new regulations on early retirement

INPS, with message no. 1551/2019, provided answers to several queries on early retirement.

The following topics have been covered:

- Contribution accrued while receiving the new unemployment treatment (NASpl) is useful towards the calculation of the requisite of 38 years of contribution, but not towards the requisite of 35 years for seniority pension.
This last requisite does not allow periods of illness, unemployment or equivalent conditions (e.g. ASpl, “mini-ASpl” etc.) to be considered as useful towards retirement. In case of pension with cumulation of insurance periods, the requisite of 35 years of accrued contribution must be verified, without including illness and unemployment periods, considering all social contribution paid or credited to pertinent social security institutions;
- For the option of the calculation of “quota 100” pension with the contributive system with cumulation of insurance periods under different institutions the taxpayer, in possession of necessary requisites (less than 18 years of accrued contribution as of December 31, 1995 and 15 years of contribution, of which at least 5 following 1996) under each involved pension institution, must exercise the option with all said institutions;
- APE social pension is not compatible with the possession of a direct pension in Italy or abroad.
As clarified by par. 8 of circular message no. 100:2017, when the percipient of APE social pension becomes recipient of a direct pension treatment, APE social pension is immediately revoked. All this considered, the percipient of APE social pension may become recipient of “quota 100” pension, but as soon as he/she becomes a recipient of “quota 100” pension APE social pension is revoked.
- The status of percipient of a pension different than those contemplated by art. 14, c. 1, Law Decree no. 4/2019 (e.g. Enasarco fund, funds of chartered professions, etc.) doesn't present an obstacle to “quota 100” pension.

Daily breastfeeding leaves are not to be considered for lunch break

The Ministry of Labor, with answer no. 2 of April 16, 2019, pronounced upon the right to lunch break and grant of meal voucher (or canteen service) for employees who use daily breastfeeding leaves as per art. 39, Legislative Decree no. 151/2001.

Specifically, art. 8 of Legislative Decree no. 66/2003 states that, if daily work hours are more than 6, the employee is entitled to a break, in order to recover physical and mental energies and to eat a meal. The legislator's choice to use the term “break” implies, at least logically, the ensuing continuation of work afterwards.

Reason for the break is also related to the employee's needs to recover physical and mental energies and/or eat a meal; a purpose different from that of breastfeeding leaves, aimed at allowing a balance of personal and professional life, granting the

employee mother the right to one or two hours of breastfeeding leave each day within the child's first year of age. Since the right to lunch break is granted to employees whose actual work hours are in excess of 6 and since art. 8, Legislative Decree no. 66/2003 and art. 39, Legislative Decree no. 151/2001 answer radically different rationales, breastfeeding leaves – according to the Ministry – may not be considered for the 6 hours allowing the fruition of lunch break.

Authorization certificate for workers in the entertainment sector: mandatory for freelancers

INPS, with message no. 1612/2019, clarified that companies in the entertainment sector, using the performance or collaboration of freelancers, must always request the authorization certificate, regardless of the duration of the performance. The Institute highlights that the obligation to request said certification always falls on the subject that has a contract with artists and staff, i.e. the employer or committer. If the committer is not coincident with the company or authority where workers are to perform, said company or authority will have to request and keep a copy of the certificate. Failure to comply will result in a fine of € 129 for each day and for each involved worker.