

REQUIREMENT TO PRIOR REPORT OCCASIONAL SELF-EMPLOYED WORKERS

NEWSLETTER NO. 01/2022



On 20 December 2021, Law no. 215 of 17 December 2021 was published in the Italian Official Journal. It converted into law, with amendments, Decree Law no. 146 of 21 October 2021 which introduced effective 21 December 2021 a new reporting requirement aimed to serve as “monitoring and fight against forms of avoidance of regulations” in the employment of occasional self-employed workers. On 11 January 2022, by Note ref. 29/2022, the National Labor Inspectorate (hereinafter “NLI”) defined operating instructions for employers that need to comply with such requirement. Instructions are summarized below.

13 JANUARY 2022

REQUIRED PARTIES

The new requirement affects only employers that operate in the capacity as entrepreneurs.

SCOPE OF APPLICATION

The report involves occasional self-employed workers as defined in art. 2222 of the Italian Civil Code, meaning workers that undertake “to carry out, against a consideration, works or services, with prevailing own work and with no link of subordination to the employer”, tax-wise qualified under sundry income pursuant to art. 67, para. 1 letter I) of the Italian Income Tax Act (“TUIR”), to which no reporting obligation to the Labor Center (Unilav) applies.

In addition to subordinate employment, the following forms of work are excluded:

- continuous and coordinated contractual relationships, as defined in art. 2, para. 1, of Leg. Dec. no. 81/2015 (so-called “co.co.co”), which were already subjected to prior reporting;
- “occasional services” set up and regulated pursuant to art. 54-bis of D.L. no. 50/2017 (managed through the “family record”), which already trigger specific reporting requirements and relationship management obligations;
- Intellectual professions falling under art. 2229 of the Italian Civil Code and, in general, all independent business carried out on a habitual basis and subjected to VAT regulations. However, if the actual works/services do not match the business exercised under VAT regulations, they will fall under the scope of application of the reporting requirement under review;
- Professional or occasional employment, intermediated by digital platforms, for which DL 152/2021 (so-called “PNRR”) already introduced a specific reporting requirement.





HOW TO REPORT

The report will need to be made with the same operating procedures (i.e., SMS or email) applicable to reports that employers send for intermittent workers (article 15, para. 3, Leg. Dec. no. 81/2015).

Pending the update of the relevant IT application by the Ministry of Labor, the report will need to be made by sending an email to a dedicated email account made available by each local office of the Labor Inspectorate (see Annex 1), based on the place of work, and the email must be sent before the work starts.

CONTENTS OF THE REPORT

The contents of the report, which may be entered directly in the body of the email (so, without attaching other documents) needs to include at least the following information, lacking which the report will be regarded as not sent:

- Data of the employer and of the self-employed worker;
- Place of work;
- Brief description of the business;
- Work start date and expected timeframe by which works or services may be considered completed (e.g., 1 day, 1 week, 1 month). If works or services are not completed by the indicated timeframe, a new report will need to be sent;
- Amount of the fees, if this has been determined upon engagement.

Any sent reports may be cancelled and the data indicated in them may be modified before the self-employee starts work.

Any mistakes that do not jeopardize the possibility of identifying the parties to the relation, the start date of the works or services, or the place of work cannot howsoever result in considering the report not sent.

DEADLINES

The reporting obligation concerns relationships that started after the effective date of the regulation (21 December 2021) or, even if started before such date, still in progress on the date of issue of NLI Note no. 29/2022 (11 January 2022).

Accordingly, for all employments in progress on 11 January 2022 and relationships that started on or after 21 December 2021 and that already terminated, the reporting deadline is 18 January 2022.

For relationships that started after 11 January 2022, reports need to be sent before the start of the occasional self-employed workers' services, as possibly stated in the engagement letter.

PENALTIES IN THE EVENT OF FAILURE TO REPORT

Like in the case of intermittent workers, a non-criminal penalty applies in the event of reporting failure or late reporting ranging from €500 to €2.500 per occasional self-employed worker.

The warning procedure in art. 13 of Leg. Dec, no. 124 of 2004 does not apply to the penalty.

More than one penalty may be inflicted where non-performed reporting requirements concern more than one worker and may also apply where the relationships extends beyond the period initially set in the report and the employer failed to send a new report.



CONTACT US

We invite you to speak with your contact professional within the Firm for any further explanation

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