



HOW TO HIRE MY FIRST EMPLOYEE IN ITALY

MAIN LEGAL STEPS TO FOLLOW TO HIRE A FIRST EMPLOYEE

Every employee working in Italy falls under the scope of Italian employment law, regardless of the presence of a permanent establishment in this country.

National bargaining contracts, employee protection rules, employment schedules, working time regulations and employment equality legislation are therefore applied to the employment relations.

It is first of all mandatory to check if the employee is authorized to work in Italy, especially when he is not of Italian nationality. It is always wise to refer to bilateral treaties between employee's country of origin and Italy to determine if the employee can benefit from the secondment regime and stay on the payroll of the foreign parent company.

Secondment rules can apply; however most of the times having an Italian employee may mean having to set up an Italian entity (representative office, branch or subsidiary) to fulfill local obligations.

The following items should be fulfilled prior to the employment of the first individual:

1. Negotiate the contract, including:
 - a role and a gross yearly salary;
 - commission plans / bonuses (if any);
 - fringe benefits (if any).
2. Register the foreign entity with
 - the Italian chamber of commerce;
 - the social security authorities;
 - the national compulsory insurance authorities.
3. Register the employee with the national employment authorities, at the latest one day prior to work commencement.
4. Perform any additional registration (that may be mandatory depending on the law and on the collective bargaining agreement):
 - Supplementary pension schemes;
 - Tuition funds;
 - Health insurance.

The mere fact of having an employee in Italy implies that the company will have to act as their tax withholder, and pay their income taxes to the Italian state.

Social Security payments are substantial – the percentage of dues reaches some 30% of the salary – and other items weigh indirectly on employment costs, such as the accrual of a leaving indemnity or vacation time in general.

Some of the peculiarities of our payroll lay in the following agenda:

1. The gross salary, and the proportions between company cost, gross salary and net salary;
2. Thirteenth and fourteenth "month" salary;
3. The leaving indemnity;
4. Withholding tax payments;



5. The social role of Social Security;
6. Dirigenti (i.e. cadres), quadri (i.e. middle-management), impiegati (white collars) e operai (blue collars).
7. Vacation time;
8. Treatment of sickness.

DESIGN AND CONTENTS OF AN EMPLOYMENT CONTRACT

All employment contracts fall under the provisions of a national bargaining contract, that regulates the general principles of employment and varies according to the cluster of activity / market in which the company operates. There are more than 300 different national bargaining contracts, each with specific regulatory peculiarities. They are only available in Italian, registered with the National Economy and Labour Council (i.e.: CNEL), and are normally some hundred-page legalese-written booklets.

Employees can be hired full-time, part-time, or on term contracts (if conditions apply) or for an indefinite and unlimited period of time (which is the normal regime of employment).

Each employment relation will then have to be integrated by individual negotiations between parties, to regulate start dates, salary level, ad personam incentives and bonuses, special conditions.

The main items to be defined in an individual negotiation are:

- a. Identification of the parties
- b. Place of work
- c. Start date
- d. Duration (temp or perm)
- e. Trial period
- f. Role and level (category) of the employment
- g. Yearly gross salary
- h. Vacation time
- i. Notice period

If any of the above items has been defined on a national bargaining contract level (for instance, minimum wage, or trial period), modifications to such clauses can only happen in the direction of most favorable conditions for the employee.

CAN SOMEBODY DO BUSINESS FOR ME AND NOT BE AN EMPLOYEE?

While it is possible to do business with an independent third-party contractor, it is not advisable to do so when such relation conceals employment under the shroud of an external consulting label.

Inspections are often started to understand the role of external contractors in an organization and to understand if their contracts should be reclassified to in fact reflect employment relations.

This happens to the so-called "one-client-only consultants", and these contracts are often prepared in order to avoid the strict employment rules in terms of duration, termination, vacation, sick leave, maternity leave and leaving indemnity accruals.

Whilst it is not illegal per se, such contracts must be carefully evaluated in order to avoid possible future claims from the consultant when the relationship is over.