

Italian Employee Welfare Measures

1) What does Employee Welfare mean?

The Employee Welfare is a set of benefits and services offered by the employers, which are not taxed, to support the employees' income and to improve their private and working life.

The main elements of the Employee Welfare are:

- 1) Most of the educational, scholastic, leisure, health and social care or cultural works and services (refer to art. 51 paragraph 2 letter f of the "TUIR");
- 2) Specific services of education, including the associated additional and canteen services, play-centres, summer and winter centres and for scholarships for family members, and care services for aged or non-self-sufficient family members (art. 51 paragraph 2 letter f-bis and f-ter of the "TUIR").

There is now also the possibility to grant the above-mentioned goods and services through paper-based or virtual vouchers (refer to art. 51 paragraph 3-bis of the "TUIR").

2) Normative reference:

2.1 art. 51 paragraph 2 of the "TUIR"

The article 51 paragraph 2 of the "TUIR" says that the following are completely excluded from the tax base:

- 1) Letter-f: *"the use of the works and services granted by the employer voluntarily or according to the contract, agreement or company-rule conditions, offered to **most of the employees or to some categories of employees and to the family members mentioned in the article 12** for the purposes referred to in paragraph 1 of the article 100"*.
- 2) Letter f-bis: *"the sums, the services and the benefits provided by the employer to **most of the employees or to some categories of employees** for the use, by the family members mentioned in the article 12, of the educational and scholastic services also for pre-school age children, including the associated additional and canteen services, as well as for the attendance of play-centres and summer and winter centres and for scholarships for the same family members"*.
- 3) Letter f-ter): *"the sums and the benefits provided by the employer to **most of the employees or to some categories of employees** for the use of care services for aged or non-self-sufficient family members mentioned in the article 12"*.

3) Field of application

3.1 Employees or some categories of employees

The Employee Welfare initiatives can concern all the employees or a specific category of them. By category of employees it is not only meant the category mentioned in the article 2095 of the Civil Code, but any homogeneous group of employees (e.g. it can be composed of all the employees of a company sector, of a shift, etc.).

On this concept there have been many circulars/resolutions:

- Circular of the "Ministero delle Finanze" n. 326/E of 23rd December 1997 which specifies as follows: *"concerning the expression "most of the employees or some categories of employees" it is considered*

that the company procedure has to be referred to all the employees of a certain kind (e.g. all the managers, or all the employees who have a certain level or a certain qualification)".

- Circular of the "Ministero delle Finanze" n. 188/E of 16th July 1998 which specifies that: *"the expression "some categories of employees", used by the legislator, has not only to be considered with reference to the categories mentioned in the Civil Code (managers, workers, etc.), but also to "all the employees of a certain kind" (in this last circular it was specified that also the example "all the workers of the night shift" is appropriate to determine a category of employees with the meaning requested by the legislator since it is enough to avoid in theory to grant ad personam total or partial tax-free benefits/services/payments)".*
- Resolution n.3/E of 8th January 2002 (in the part concerning the theme of the actions offered to "most of the employees"), the "Agenzia" glimpsed an inequality of treatment incompatible with the law in excluding the part-time employees but not also in excluding the fixed-term employees ("excluding the fixed-term employees does not represent a preventing reason to the application of the benefit system")
- Circular n.129/e 12th October 2004 it was stated that *"excluding only the employees working from less than 3 months in the company does not seem actually to create an inequality of treatment among the employees; it can be considered, in fact, that the extremely short period of time taken into account by the system as a condition of access aims to guarantee a real functional integration of the employee in the company".*

3.2 Family members mentioned in the art. 12

Also the family members mentioned in the art. 12 of the "TUIR" can make use of the services.

By family members is meant especially:

- Spouse not legally and effectively separated;
- Children, including recognized natural children, adopted children, foster children and affiliated;
- Any other person mentioned in the article 433 of the civil code who lives with the taxpayer or receives maintenance payments not resulting from decisions of the judicial authority.
In the article 433 c.c. are included, in addition to the people already mentioned, also:
- Parents and, if there are none, the closest ascendants;
- Adoptive people;
- Sons-in-law and daughters-in-law;
- Father-in-law and mother-in-law;
- Brothers and sisters

4) Kind of offered services to most of the employees or to some categories of employees

The article 51, paragraph 2, letter f) of the "TUIR" determines *"the use of the works and services granted by the employer voluntarily or according to the contract, agreement or company-rule conditions, offered to most of the employees or to some categories of employees and to the family members mentioned in the article 12 for the purposes referred to in paragraph 1 of the article 100".*

Among the services mentioned in the art. 100 are included the works and services for educational, scholastic, leisure, health and social care and cultural purposes.

The "Agenzia delle Entrate" (resolution 34/e of 10th March 2004 – n. 26/e of 29th March 2010) clarifies that the works and services provided to the employees and the family members are excluded from the tax base also when they do not concern firms belonging to the company but firms outside the company *"the employee*

will not be involved in the relationship between the company and the service supplier and in particular he/she must not be the beneficiary of the payments made by his/her own company”.

5) Employee Welfare benefit plans

The Employee Welfare benefit plans can be set up in the company at any time and can be for any length of time.

Some examples of Employee Welfare:

- **Art. 51 paragraph 2 letter f of the “TUIR”**

- 1) Fiscal and social security system: tax-free
- 2) Beneficiaries: employees and family members including not fiscally dependent
- 3) Terms of payment: payment in cash is not authorised
- 4) Examples of use (note: the below list is not exhaustive):
 - a) Training and educational course
 - b) Cinema and theatre membership – pay-tv, etc.
 - c) Gym, sports club, ski resort membership, etc.
 - d) Magazine, newspaper subscriptions, etc.
 - e) Journeys
 - f) Exhibition and museum tickets, etc.
 - g) Libraries
 - h) Leisure activities in general (sports events, shows etc.)
 - i) Medical check-ups
 - j) Medical examinations by specialists
 - k) Dental care
 - l) Therapies and rehabilitations

- **Art. 51 paragraph 2 letter f-bis and f.-ter of the “TUIR”**

- 1) Fiscal and social security system: tax-free
- 2) Beneficiaries: employees and family members including not fiscally dependent
- 3) Terms of payment: firms belonging to the company or to outside suppliers – in those cases the monetary reimbursement by the employer of the charges paid by the employee is authorised after providing the appropriate documentation
- 4) Examples of use (note: the below list is not exhaustive):
 - a) Day care services
 - b) Babysitting services
 - c) Enrollment fees and attendance of nursery school, elementary school, secondary school and high school
 - d) University and grad school
 - e) School and university books
 - f) Afterschool or preschool
 - g) Meal tickets for school canteen
 - h) School bus – educational trips
 - i) Charges for attendance of summer and winter camps
 - j) Home care
 - k) Care homes
 - l) Nursing homes (“R.S.A.”)

- **Art. 51 paragraph 3 of the “TUIR”**

- 1) Fiscal and social security system: tax-free if the value of the goods and services does not exceed €258,23 per year
- 2) Beneficiaries: employees
- 3) Terms of payment: goods and services produced by the company or provided by a third party approved by the company
- 4) Examples of use (note: the below list is not exhaustive):
 - a) Food vouchers
 - b) Shopping vouchers
 - c) Fuel vouchers
 - d) Rechargeable mobile phone cards