Detachment Contracts for Posting U.S. Workers to Italy

For U.S. employers to successfully send employees to Italy—a process called transnational posting—a detachment contract for posting U.S. workers to Italy is required. These contracts are crucial for enhancing the operations of a company's branch or productive unit in a foreign country. By ensuring legal compliance and clearly defining the terms of employment, detachment contracts facilitate employees working within the same company group or at a different entity in the host country. In the case of U.S. workers posted to Italy, the original employer retains responsibility, maintaining the terms of the initial employment contract. This also applies to temporary employment agencies, highlighting the importance of detachment contracts in managing transnational postings effectively.

**For information regarding posting workers to the U.S., check out this article.*

Foundational Principles and Legal Framework in Italy



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e U. S. The Posting of Workers Directive (PWD), introduced in 1996 and updated in

2018, establishes key principles for posted workers in the EU: workers remain

employed by their original company, employment contracts are governed by the home

country’s laws, and host country terms apply if they offer greater protection

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Monitoring and Compliance of Detachment Contracts

The Italian Ministry of Labor and Social Policy established the Monitoring Center in 2019 to oversee compliance with worker posting regulations. The center’s responsibilities include:

- **Monitoring:** Tracking companies and workers involved in postings.
- **Evaluating:** Reviewing working conditions, duration, and sites of detachment.

- **Placement:** Assessing the placement of posted workers and necessary services.
- **Prevention**: Ensuring fair labor practices by monitoring wages, taxes, and contributions.

Long-Term Intra-Corporate Detachment Contracts

For long-term assignments, an Intra-Company Work Permit is required for highly specialized staff, managers, or directors. Conditions include:

- **Employment History:** Minimum six months of prior employment.
- **Corporate Link:** A connection between the Italian and U.S. companies.
- **Education:** University degree required.
- **Permit Details:** Valid up to five years, renewable, with access to healthcare and education, and no Italian language test.



This type of permit is ideal for executives or specialists assigned to Italian subsidiaries, branches, or affiliates within the same business group.

Short-Term Intra-Corporate Detachment Contracts

For shorter assignments, the Intra-Company Transfer Work Permit (ICT) is needed. Conditions include:

- **Employment History:** Minimum three months of prior employment.
- **Corporate Link:** Connection between companies.
- **Education:** University degree required.
- **Permit Details:** Valid for up to three years (managers/specialists) or one year (trainees), renewable, with similar access to services as long-term

permits.

This permit facilitates the temporary transfer of managers and specialists from U.S. companies to their Italian counterparts.

Absence of ICT Permits

Workers not covered by existing ICT Permits must follow these steps:

- **Work Permit:** Filed by the Italian host company.
- **Visa Application:** At the Italian consulate in the U.S.
- **Contract of Stay:** Signed contract or residence permit application.
- **Residence Permit:** Required to legally work in Italy.

Tax Requirements

Tax residency determines tax obligations:

- **Resident Employees:** Taxed on worldwide income.
- **Non-Resident Employees:** Taxed only on Italy-sourced income.
- **Double Taxation Agreements (DTAs):** Prevent or mitigate double taxation, clarifying which country has the primary right to tax income.
- **Expatriate Concession:** Up to 90% tax deduction for eligible expatriates in certain regions, available for the first five years of Italian tax residency.



Social Security Requirements

- **Home Country Registration:** U.S. workers must be registered in the U.S. social insurance system prior to assignment.
- **Notification and Documentation:** Notify the Italian National Social Security Institute (INPS) and request Portable Document A1.
- **Bilateral Agreements:** U.S. employees can retain their home country's social security coverage, avoiding double contributions.

Employment Terms and Working Conditions

Posted workers in Italy are entitled to the same working conditions mandated by Italian law, including:

- Minimum rest periods and maximum working hours.
- Paid annual holidays.
- Full remuneration per Italian National Collective Labor Agreements (CCNLs).
- Health, safety, and hygiene protections.
- Equal treatment regardless of gender.
- Suitable accommodation and expense reimbursement.

With the exception in the construction sector, remuneration and annual holiday requirements are not obligatory when the initial installation or assembly of products by specialized staff members is a vital part of your contract with the partner in the U.S. and your staff is posted for a period of less than 8 days per year.

Informing Posted U.S. Workers and Declaration Obligations

Before the departure, employers must notify posted employees and submit a declaration to the Italian Ministry of Labor and Social Policy if the posting duration exceeds 4 weeks, including:

- Employer and worker details.
- Contact person and workplace address.
- Services provided and detachment duration.
- Liaison contact information.

Additionally, for postings exceeding 12 months (or 18 months with a justified notification to Italy), employers must ensure that posted workers receive all mandatory terms and conditions of employment applicable in Italy, except those related to contract termination or supplementary working pensions.



Employers are obligated to inform the Ministry promptly of any changes or updates related to the detachment contract, and the information must be available upon request during the posting duration.

Enhancing Operations Through Detachment Contracts

Detachment contracts for posting U.S. workers to Italy boosts operational efficiency while adhering to EU Directives and Italian laws, ensuring fair treatment and compliance with labor, tax, and social security regulations. By working with A.L. Assistenza Legale, U.S. companies can successfully manage workforce assignments in Italy and maintain equitable conditions for their employees.