

## Lavoro irregolare nei servizi alla persona: quali strade per uscirne?

(continua da p. 7)

Credevo che per chi utilizza l'aiuto domestico in nero il movente principale sia la snellezza del rapporto informale. Mi fai tante ore alla settimana, e ti pago tanto per ogni ora e nella paga oraria ti calcolo anche festività, ferie, trattamento di fine rapporto, ... Risparmio forse qualche cosa sul versamento dei contributi di mia competenza, se non li abbiamo conteggiati nella paga oraria e che comunque potrei scaricare dalle tasse, ma soprattutto risparmio tante ore d'impegno per la gestione di questo rapporto o le spese vive di un consulente.

Da parte del collaboratore domestico i motivi d'interesse possono essere diversi: non perdere l'eventuale cassa integrazione, gli assegni familiari riscossi dal coniuge, il buon posto in graduatoria per la casa popolare, la riduzione della retta per l'asilo o la scuola dei figli, evadere i doveri fiscali, ...

Ma, se i vantaggi possono essere bilanciati tra le due parti i rischi credo lo siano molto meno. Mi spiego con un esempio.

Il collaboratore chiede e ottiene di lavorare in nero. Una volta cessato il rapporto si rivolge al sindacato. Il sindacalista che lo segue rifiuta il tentativo di conciliazione obbligatorio all'Ufficio del lavoro, sostenendo che di fronte al magistrato il suo assistito otterrà di più. In Tribunale l'avvocato del "datore di lavoro" gli dice che il giudice sembra già orientato a dare ragione all'ex collaboratore, la parte più debole, naturalmente, e non all'anziano invalido, o alla madre di famiglia che lavora anche fuori, che in questo caso non è un lavoratore degno anche lui di tutela. Conviene quindi conciliare e pagare quanto richiesto, per evitare di soccombere alla grande in giudizio. E se quanto richiesto non si discosta molto da quanto già offerto all'Ufficio del lavoro, in più ci sono gli onorari degli avvocati, le spese, e le tante e tante ore perse.

Forse, ed è la mia proposta, consentendo un rapporto estremamente snello, dove i vari adempimenti di competenza del collaboratore fossero posti in capo ad esso, o a un suo fiduciario riconosciuto, e non in capo a chi, avendo bisogno di essere assistito, si trova per legge a dover assistere il suo assistente, avremmo una parte che ha un minimo interesse ad instaurare un rapporto di lavoro irregolare. E non ho parlato dei rischi di possibili incidenti sul lavoro.

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Nella prossima lettera vorrei centrare l'attenzione sulle difficoltà e le incomprensioni che incontra il piccolo imprenditore (artigiano, professionista, commerciante, ...) nel portare avanti la propria attività. Intanto raccomando la lettura del libro di Luigi Furini, *Volevo solo vendere la pizza. Le disavventure di un piccolo imprenditore*, Garzanti, Milano 2007, euro 14,00 (presentato sul N. 89/2007 di Prisma, a pagina 3), merita veramente.

## Irregular jobs in the field of personal services: which ways to get out?

**T**he Second Eures Report on tax evasion in Italy places the strongest blame on teachers of private classes: 79.4% of those interviewed stated that they do not receive official bills or receipts from them. Not far behind are babysitters and caretakers (with an evasion rate of 72.9%) and domestic help (65.4%).

Amongst the four employment groups observed (personal services, artisans/craftsmen, professionals and businesspeople), it was businesspeople, perhaps due to the more exacting oversight they are subject to, which were found to be in more frequent compliance with tax law.

Meanwhile, nine out of ten Italians want a stronger fight against tax evasion: 70% of interviewees rated the government's performance in this area as insufficient with 47.5% calling it "little" and 22.5% "not at all" effective, as compared with 30% who held the opposite opinion.

In this my first letter, I would like to discuss off-the-books work in the field of personal services and the fiscal and tax evasion it entails, and conclude with a modest proposal which I would be grateful to hear our readers' opinions about.

Informal work relationships come about due to collusion between the parties, or when the stronger party abuses its power. As we cannot assume, however, that in personal services the stronger party is always the employer (e.g. an elderly and perhaps disabled person, working mothers, etc.), I would like to discuss those cases in which both parties consider it to their sufficient advantage to engage in an illegal work relationship. Here, it is necessary to drastically reduce the advantage to one of the parties in order to obtain the virtuous behavior of both.

I believe that for those who make use of under-the-table domestic help, the principal motive is the simplicity of the work relationship. You work so many hours a week, and I pay you so much per hour, and in the hourly rate I include in for holidays, days off, severance payment, etc.

I save perhaps something over the deductions I would otherwise have to make, if I haven't fully accounted for them in the hourly wages and which in any event would be tax-deductible, but I especially save many hours of work in handling all the

paperwork or the costs of having a consultant handle it.

The motive for the domestic employees may be different: not to lose out on unemployment benefits, family assistance received by one's spouse, a high eligibility ranking for public housing, personal tax evasion, etc.

Nevertheless, if the advantages are balanced between the two parties, the risks are much less so. Let me explain with an example.

A worker asks to and is able to work informally. Employment concluded, he/she goes to his/her union. The union representative who follows his/her case refuses the Labor Office's attempt at obligatory mediation with the argument that his client will win more in court. In

Court, the "employer's" lawyer advises his/her own client that the judge appears to be leaning towards ruling naturally in favor of the worker, the weaker party, and not the invalid elderly person or the working mother, who in this case is not also a worker in need of protection. The best thing to do then is to come to an agreement and pay what the worker requests in order to avoid the even-larger payout of any judgment. And even if the

amount requested is not so much different from what was originally proposed, there are always the legal fees and costs, and the hours and hours of time wasted.

Perhaps, and herein lies my proposal, by allowing for streamlined work relationships, where the worker (or an authorized trustee) were to be responsible for his/her own legal and fiscal obligations, and not someone in need of assistance who becomes required by law to assist his/her own assistant, we would have one party with much less of an interest in an informal employment situation. And I haven't even spoken of the risks of possible on-the-job accidents.

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In my next letter I would like to focus my attention on the difficulty and misunderstandings that the small-size entrepreneur faces in his/her work. Until then, I recommend Luigi Furini's book *Volevo solo vendere la Pizza. Le disavventure di un piccolo imprenditore* (I Only Wanted to Sell Pizza: The Misadventures of a Small Entrepreneur), Garzanti, Milan 2007, euro 14,00 (presented in N. 89/2007 of Prisma, p. 3). It is definitely worth the read.

