

LP ADVISORY

NEWSLETTER 05/2026

06.03.2026



IN THIS EDITION

1. INPS Treasury Fund – changes provided for in the 2026 Budget Law

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INPS Treasury Fund – changes provided for in the 2026 Budget Law

To all clients

Introduction

The 2026 Budget Law stipulates that, as of 01/01/2026, employers who reach or exceed (or have reached or exceeded) the threshold of 50 employees in the years following the start of their business, taking as a reference the annual average number of workers employed, are required to pay the accrued and provisioned severance pay (TFR) contributions to the INPS Treasury Fund. This obligation also applies to employers who reach or exceed (or have reached or exceeded) the threshold of 50 employees in the years following the commencement of their business, calculated on the basis of the annual average number of employees in the calendar year preceding the relevant pay period.

Limited to the two-year period 2026 and 2027, the obligation does not apply if, in the same calendar year, the number of employees is less than 60.

Furthermore, with effect from 01/01/2032, the payment obligation will also extend to employers with 40 or more employees, without prejudice to the above reference to the annual average of employees calculated for the calendar year preceding the year in question.

For the period 2028-2031, the ordinary size requirement of at least 50 employees, as already established under the general provisions governing the transfer of severance pay (TFR) to the Treasury Fund, shall continue to apply.

The obligation to pay provisions to the Treasury Fund, upon meeting the above size requirements, applies in all cases where the worker does not participate in a supplementary pension scheme. In such cases, the severance pay accruing shall continue to be governed by Article 2120 of the Italian Civil Code, and the relevant amounts must be paid to the Treasury Fund.

INPS, in Circular No. 12 of 05/02/2026, issued the first administrative and operational guidelines regarding the changes made to the Treasury Fund regulations introduced by the Budget Law, which are summarised below.

1. Scope of application and subjective requirements

All private employers, with the exception of domestic employers, privatised public bodies and public economic entities, are required to pay contributions to the Treasury Fund, limited to employment relationships governed by common law and, therefore, subject to the provisions of Article 2120 of the Civil Code.

In the case of corporate transactions (e.g., acquisition of a business unit or merger) or contract transfer: if the staff are transferred to an employer who is obliged to make the payment, the latter must also pay the contribution to the Treasury Fund for these workers, starting from the pay period in progress on the date of the transfer.

If the staff previously employed by an employer subject to the obligation to pay into the Treasury Fund are transferred to an employer who is not obliged to pay, the new employer is required to pay the contribution exclusively for the transferred employees and solely for the period following the transfer.

Employers who, for workers employed abroad (regardless of the existence of social security agreements and the social security regime applied), set aside severance pay in accordance with Article 2120 of the Civil Code, including by virtue of more favourable contractual provisions, are likewise subject to the contribution obligation.

Where the employer meets the size requirements set out in the current legislation, the accrued severance pay not allocated to supplementary pension schemes must be transferred to the Treasury Fund in accordance with the ordinary procedure. The obligation to pay severance pay to the Treasury Fund also applies to workers who are not first-time employees and who do not participate in supplementary pension schemes. In such cases, severance pay accruing remains governed by Article 2120 of the Civil Code, with the obligation to pay the relevant severance pay contributions to the Treasury Fund, where the employer meets the size requirements set out in the legislation.

2. Size requirement and determination criteria

The size requirement shall be determined on the basis of the annual average number of employees in the previous calendar year in relation to the year of the pay period in question. It should be noted that, in administrative practice, the reference period the calendar year, namely from 1st January to the 31th December.

Therefore, the contribution to the Treasury Fund is due if, at the end of the previous calendar year:

Period	No. of employees
2026-2027	60 employees
2028-2031	50 employees
From 2032	40 employees

In this regard, it should be noted that the temporal references contained in the provision in question must be interpreted as referring to the relevant pay period and corresponding provisions, whereas the size requirement is always verified by reference to the previous calendar year (by way of example, for the pay period starting in January 2026 and related provisions, the annual average number of employees in service in the year 2025 – 1st of January until 31 December 2025).

Therefore, if an employer does not reach the size threshold for 2025 (i.e. an annual average of less than 60 employees), they are not required to contribute to the TFR for 2026. However, if during 2026 they reach the size threshold set out in the provision in question, the above obligation will arise for the pay period starting in January 2027, as the calculation will be based on the average number of employees for 2026.

Any subsequent reductions in the workforce shall not affect the payment obligation. The annual average number of employees must be calculated by taking into account only the months of actual activity of the employer, excluding from the calculation any periods of suspension of business activity.

For the purposes of the calculation, all workers engaged under an employment contract with the same employer must be included, irrespective of the type and hours of work, including part-time workers.

The latter, regardless of the type of contract (horizontal, vertical or mixed), are calculated in proportion to the hours worked, adding up the individual hours on a monthly basis and comparing them to the hours worked by a full-time worker, rounded up to the nearest whole number for fractions/more than half of the normal hours.

For the purposes of calculation, employers who meet the above size requirement must submit a specific declaration to the Institute, including by electronic means, using the form entitled 'SC34'.

In any event, the Institute shall carry out the necessary checks.

3. Calculation of the monthly amount to be paid to the Treasury Fund

For the purposes of determining the monthly amount to be paid into the Treasury Fund, the monthly remuneration used for severance pay purposes must be taken into account for each employee concerned, referring to the relevant pay period.

The portion of severance pay accrued during the period is determined by applying a rate of 7.41 % (1/13.5) to the remuneration, in accordance with the provisions of Article 2120 of the Civil Code. The 0.50 % contribution must be deducted from the amount thus determined. The 0.50 % contribution continues to be shown and paid together with other compulsory social security contributions, without prejudice to the possibility of making the relevant adjustment at the end of the year, where necessary.

4. Effective date of the obligation to pay the contribution to the Treasury Fund

The payment of severance pay contributions to the Treasury Fund must be made by employers on a monthly basis, using the same methods and timetable as for the payment of compulsory social security contributions. Therefore, payment must be made by the 16th day of the month following the pay period to which the accrued severance pay contribution refers.

5. Compensatory measures

The transfer of accrued severance pay to supplementary pension schemes or to the INPS Treasury Fund entitles the employer to specific compensatory measures, already provided for by current legislation:

Compensatory measure	Compensation %	Reference law
Exemption from contributions to the Severance Pay Guarantee Fund in proportion to the amount of severance pay transferred: 1. to supplementary pension schemes; 2. to the INPS Treasury Fund.	0.20 % – 0.40 % for industrial executives	Art. 10, Legislative Decree No. 252/2005
Additional INPS contribution exemption in proportion to the accrued severance pay transferred	0.28 %	Art. 8, Decree Law No. 203/2005, converted into Law No. 248/2005

6. Previous periods

Companies that started operating in 2025 and meet the requirement of having at least 50 employees during the same year are required to pay the severance pay accrued for previous months, starting from the date of commencement of operations.

Companies established prior to 2025 and which reach the size limit of at least 60 employees in that year are required to pay severance pay contributions from 01/01/2026.

Employers may fulfil their obligation to pay severance pay contributions to the Treasury Fund by 16/05/2026.

7. Benefits paid by the Treasury Fund

Benefits paid by the Treasury Fund continue to be governed by INPS Circular No. 70 of 03/04/2007.

7.1. Settlement of severance pay

The payment of severance pay (calculated and revalued annually in accordance with the usual procedures provided for in Article 2120 of the Italian Civil Code) and the related advances in accordance with the usual procedures provided for in Article 2120 of the Italian Civil Code, with reference to the amount accrued by the employee as of 01/01/2007, are paid by the Treasury Fund.

The employee submits a request for severance pay or any advances to the employer, who pays the benefits due, including the portion attributable to the Fund.

In the monthly report for the month in which the severance pay is paid, companies shall adjust the severance pay amounts corresponding to the payments to the Treasury Fund, against the contributions due, in the following order of priority: 1) contributions due to the Treasury Fund; 2) in the event of insufficiency, compulsory contributions due to the Institute (IVS contributions and other minor contributions).

In any case, the adjustment in the monthly report of the sums advanced by the employer on behalf of INPS (ANF, sickness and maternity benefits, etc.) remains unchanged, even if the report itself, as a result of these sums, shows a credit balance for the company.

7.2. Settlement of advances on severance pay

Advances on severance pay are calculated on the entire value of the severance pay accrued by the employee, adding the employer's share to that due to the Fund. The above advances are paid in full by the employer or employ, primarily drawing on the amounts accrued by virtue of the provisions made up to 31/12/2006. In cases where the total amount of the advance exceeds the amount accrued with the employer, the employer also pays the

remaining amount to be charged to the Fund, except for any adjustment to be made in the same manner as described above.

7.3. Insufficiency of contributions due to social security institutions

If the total amount of benefits payable by the Fund that the company is required to pay during the month (as a final benefit or advance payment) exceeds the total amount of contributions due to the Fund and social security institutions in the declaration for the month of payment, the Fund shall be required to pay the entire amount of the benefits requested.

In the latter case, the employer is required to immediately notify the Fund of the shortfall, and the Fund will, within thirty days, pay the worker the amount of the benefit for which it is responsible.

The Firm remains available for any further clarification or assistance.



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