INPS contributions of S.r.l. shareholders in the traders' scheme: conditions for registration, debit notices and undistributed profits

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The shareholder of an S.r.l. may receive from INPS notice of a ex officio registration in the scheme for persons carrying on commercial activities (Gestione commercianti) and, subsequently, a debit notice for contributions relating to several years, with civil penalties and interest. The debit notice has the value of an enforceable instrument: if it is not paid within sixty days of notification, the collection agent may proceed to enforcement, while the time limit for an opposition before the labour court is forty days. The economic risk concerns both the shareholder who works in the company, when the contribution base is determined in a contestable manner, and the shareholder, including a director, who performs no working activity in the company.

The case law of the Supreme Court has long made clear that registration does not arise from the mere status of shareholder or from the mere office of director, and that the burden of proving the relevant conditions lies on INPS. In fifteen judgments of the Labour Division filed between 16 and 25 September 2026 and in a consistent order of 20 October 2026, the Supreme Court (Corte di cassazione) has also excluded from the contribution base profits produced by the company and not distributed, in the absence of an option for tax transparency. INPS's instructions, which predate these decisions, do not appear to have been amended.

Why a prior check is useful

Reconstructing the position before the Institute formulates its claim makes it possible in particular to:

- establish whether the conditions for registration actually exist and, if they do not, gather in good time the documents that describe the activity actually carried on;
- calculate the contribution base according to INPS's instructions and according to the Supreme Court's principle, measuring the exposure and the risk of challenge;
- avoid having to prepare the defence in the forty days alone that are available for opposition to the debit notice;
- limit, where possible, the incidence of civil penalties and interest, which increase with the time elapsed from the original due date.

Conditions for registration of the S.r.l. shareholder

The obligation to register is governed by Article 1(203) of Law 662 of 23 December 1996, which replaced the first paragraph of Article 29 of Law 160 of 3 June 1975. For the shareholder of an S.r.l., who is exempt from the requirement of full liability for the business, particular weight is given to the organisation or direction of the business predominantly with his or her own work and that of family members, and to personal participation in the company's work with the character of habitualness and prevalence, in addition to the holding of licences, authorisations or registrations where required.

The obligation does not arise from the mere status of shareholder or from the mere office of director. The case law of the Supreme Court connects it to the shareholder's participation in the company's work with the character of habitualness and prevalence; a mere contribution of capital, without working activity in the company, does not give rise to it. The principle is recalled by Cass., Labour Division, judgment no. 25377 of 16 September 2026, with a reference to Cass., Labour Division, 24 September 2019, no. 23790 and 19 August 2024, no. 22901. According to Cass., Labour Division, order no. 1759 of 27 January 2021, the status of shareholder of a company with share capital, who participates in the

corporate purpose through the contribution of capital, is not in itself indicative of the carrying on of a direct commercial activity in the business.

As to the content of the requirements, Cass., Labour Division, judgment no. 4440 of 21 February 2017 and judgment no. 5690 of 7 March 2017 require a material participation, in terms of time and income, in the company's operating activity, assessed in a relative and subjective sense: by reference to the working activities performed by the shareholder within the company's objects, net of the activity carried on as director, and not by comparison with the other factors of production of the business. Cass., Labour Division, order no. 19273 of 19 July 2018 is in the same sense.

Consistently, profits arising from a mere shareholding in a company with share capital in which the shareholder performs no working activity do not enter the taxable base of a person who is registered in the scheme on other grounds. INPS expresses the same view, referring to Circular 84 of 10 June 2021, in Circular 62 of 27 May 2026.

Whether the requirements of habitualness and prevalence are met is a question of fact, to be reconstructed by reference to the activity actually carried on by the shareholder in the company. The documentation available is relevant both at the stage of assessment by the Institute and in any subsequent proceedings.

A shareholder-director who does not work in the company

The office of director and the company's work operate on distinct legal planes. According to Cass., Labour Division, order no. 10426 of 2 May 2018, the shareholder-director of an S.r.l. who participates in the company's work with the character of habitualness and prevalence is required to register in the traders' scheme; if the person confines himself or herself to carrying on the activity of director, registration is only in the separate scheme under Article 2(26) of Law 335 of 8 August 1995, in relation to the fees received for the office. The first activity is directed to the realisation of the corporate purpose; the second to the performance of the company contract, through the functions of management, impetus and representation.

The same decision makes clear that participation in the company's work may also consist in an organisational and directing activity, of an intellectual nature, provided it is distinct from the functions of the office. The distinction therefore requires a concrete examination: convening the general meeting, preparing and signing the draft financial statements with the assistance of advisers, and legal representation fall, as a rule, within the functions of the management body; the direct and continuous management of purchases, sales or of day-to-day operations may instead be an indication of company work, to be assessed in the particular case: relations with customers and suppliers and supervision of the progress of the business have been attributed, in some cases, to the functions of the director (Cass. order no. 1759/2021) and, in others, to company work (Cass. no. 5690/2017).

In practice the following are relevant, by way of example:

- operational delegated powers conferred on employees, collaborators or third parties and their actual exercise;
- the entrusting of the accounts and of administrative formalities to external professionals;
- the frequency of and the reasons for the shareholder's presence at the company's premises;
- the shareholder's other working activities, to which the assessment of prevalence is to be referred.

A shareholder who resides or works predominantly abroad

Residence abroad does not, of itself, exclude the contribution obligation in Italy, which depends on the performance of company work in the Italian company. The carrying on, in another State, of a principal and continuous working activity is however a relevant factual element: since prevalence is measured against the whole of the shareholder's working activities, a foreign activity that is prevalent in terms of time and income, together with a presence in Italy limited to the formalities of the office, makes habitual and prevalent participation in the company's work difficult to make out.

The coordination framework depends on the State in which the other activity is carried on:

- in relations with the States of the European Union, of the European Economic Area and with Switzerland, Regulation (EC) No 883/2004 subjects the person to the legislation of a single State (Article 11). For a person who carries on self-employed activities in more than one State, the State of residence is competent if a substantial part of the activity is carried on there, otherwise the State in which the centre of interests is located; for a person who is an employed worker in one State and self-employed in another, the State of the employed activity is competent (Article 13(2) and (3)). If the applicable legislation is that of another State, contributions to the traders' scheme are not due. The determination is requested from the institution of the State of residence (Article 16 of Regulation (EC) No 987/2009), and the portable document A1 issued by the competent institution binds INPS until it is withdrawn or declared invalid by the institution that issued it (Article 5 of Regulation No 987/2009; Court of Justice of the EU, 6 September 2018, C-527/16), save in cases of fraud;
- in relations with the United Kingdom, from 2021 the Protocol on Social Security Coordination of the Trade and Cooperation Agreement between the EU and the United Kingdom applies (INPS, Circular 71 of 27 April 2021);
- with the other non-EU States bound to Italy by a bilateral social security convention, the rules of the individual convention apply, and they do not always cover self-employed workers;
- with non-EU States with no convention or agreement, no coordination mechanism operates: the obligation in Italy is assessed under Italian law alone, and contributions paid abroad may be relevant as evidence of the activity carried on, not as a ground for exemption.

The updated list of non-EU States that have a convention with Italy is published by INPS. The documentation of the foreign activity (certificates of tax residence, professional registrations, tax returns and attestations of contributions paid in the other State) should be prepared, with a translation where necessary, before any dispute.

The burden of proof on INPS

In proceedings concerning registration in the traders' scheme, INPS must prove the facts constituting the contribution obligation, and in particular the shareholder's personal

participation in the company's work with the character of habitualness and prevalence. In order no. 23337 of 15 August 2025, given in relation to a general partner of a limited partnership (s.a.s.), the Court restated that the mere status of shareholder is not sufficient, that the burden of proof lies on the Institute, and that the tax return does not, of itself, reverse the burden of proof.

A ex officio registration founded only on data from the Companies Register, on the composition of the shareholding body or on tax returns therefore does not, by itself, prove the performance of company work. The shareholder nevertheless has an interest in offering precise contrary elements, including by witness evidence, given that the court assesses the body of the evidence as a whole.

Debit notice: opposition and suspension

Under Article 30 of Decree-Law 78 of 31 May 2010, sums due to INPS are collected by a debit notice with the value of an enforceable instrument, which contains a demand for payment within sixty days of notification. In the event of non-payment or late payment, civil penalties and additional sums are calculated up to the date of payment (Article 30(13) of Decree-Law 78/2010), in the amount provided for by Article 116(8) of Law 388 of 23 December 2000.

Opposition on the merits before the labour court is allowed within forty days of notification, under Article 24(5), (6) and (7) of Legislative Decree 46 of 26 February 1999, applicable to the debit notice by effect of the reference in Article 30(14) of Decree-Law 78/2010. In the course of the first-instance proceedings the court may suspend enforcement for serious reasons; the application is as a rule founded on the strength of the grounds of opposition and on the prejudice arising from compulsory collection. The order of suspension is to be notified to the collection agent.

The time limit is mandatory: once the forty days have expired, the contribution claim can no longer be contested on the merits, even when the lack of an obligation to register is established in different proceedings (Cass., Labour Division, order no. 25694 of 22 September 2026). Expiry does not, however, change the limitation period of the claim (Cass., Joint Divisions, no. 23397/2016). From 1 January 2027 the rules in Article 24 are transferred to Article 131 of the consolidated law approved by Legislative Decree 33 of 24

March 2025, also applicable to the debit notice by virtue of the coordination provision in Article 242 of the same consolidated law.

A working shareholder who also holds the office of director

The shareholder who performs working activity in the company may also hold the office of director with remuneration. Article 12(11) of Decree-Law 78 of 31 May 2010 gave an authentic interpretation of Article 1(208) of Law 662 of 23 December 1996, to the effect that the criterion of the prevalent activity does not apply to relationships for which registration in the separate scheme is provided. The provision therefore allows the two social-security positions to coexist, when their respective conditions are met.

The taxable base, the rates and the formalities of the separate scheme relating to the director's fee, and the position of a director who is not a shareholder, require a separate check.

Taxable base: the rules and INPS's instructions

The contribution is due first of all on the annual minimum income. For the excess, Article 3-bis of Decree-Law 384 of 19 September 1992 measures the contribution by reference to the whole of the business income declared for IRPEF purposes for the year concerned.

For the shareholder of an S.r.l., INPS Circular 62/2026, in the paragraph devoted to the taxable income of box RR, indicates as the base, in addition to any amount declared as business income, the part of the company's business income corresponding to the share of profits, or the share of income attributed to the shareholder in the case of transparency. The circular refers to the clarifications in Circular 102 of 12 June 2003. It does not expressly mention undistributed profits; the criterion indicated nevertheless disregards distribution and corresponds to the reading applied by the Institute before the decisions of September 2026.

The principle stated by the Supreme Court in 2026

In judgment no. 25377 of 16 September 2026 and in the other decisions of the Labour Division filed on 16, 17, 21 and 25 September 2026 (nos. 25377-25383, 25465-25467, 25628-25630 and 25780-25781), the Court held that the S.r.l. shareholder required to register in the traders' scheme pays the contribution on the part of the company's business income attributed to him or her and declared by him or her for IRPEF purposes. Order no. 27343 of 20 October 2026 followed the same reasoning.

According to the Court, the company's income is attributed to the shareholder, and may be declared by the shareholder for IRPEF purposes, only on the receipt of profits or on the company's option for the transparency regime in Articles 115 and 116 TUIR. In the absence of those conditions, the income remains attributable to the company, which is subject to IRES, and does not enter the shareholder's contribution base.

The following elements also appear from the reasons of judgment no. 25377/2026:

- profits set aside to reserve, in the absence of an option for transparency, fall outside the taxable base above the minimum;
- the failure to distribute profits is not, of itself, an indication of an avoidance purpose, and may depend on different business reasons;
- contributions measured by reference to the minimum remain due;
- the burden of proving the attribution of income to the shareholder, by reason of receipt of the profits or of the company's option for transparency, lies on INPS.

The costs of the proceedings were shared in view of the novelty and complexity of the issues.

Conditions and limits of the approach

The principle operates together with two conditions: the profits must not have been distributed and the company must not have opted for tax transparency. Where the option is in place, the income is attributed to the shareholder in proportion to his or her share

independently of distribution and enters the contribution base. The receipt of profits is, according to the Court, the other condition that determines the attribution of income to the shareholder; the measure of the base in the event of a distribution nevertheless remains to be defined (see below).

Some points remain open. The decisions do not specifically define the measure of the base in the event of a partial distribution of profits, nor the coordination with the manner of taxation of dividends received by an individual, which are as a rule subject to a final withholding tax and are not reported in the IRPEF return (Article 27 of Presidential Decree 600 of 29 September 1973). Those aspects require an assessment related to the individual position.

The Court's approach does not have automatic effects on the Institute's instructions. As at 9 November 2026 there are no INPS circulars or messages that amend the indications in Circular 62/2026. Determining contributions according to the Supreme Court's principle, otherwise than in accordance with those instructions, therefore entails the risk of payment demands by the Institute and of the resulting dispute, in which the taxpayer's position will have to be supported on the basis of the conditions indicated above. The choice requires a documented reconstruction of the resolutions on profits, of the distributions made and of any option for transparency.

The conditions, time limits and procedures for any applications for a refund of contributions paid in the past on undistributed profits require a specific examination, without uniform outcomes or deadlines being assumed.

2026 figures and due dates of the traders' scheme

INPS Circular 14 of 9 February 2026 indicates for 2026 the following values relating to principals and assisting family members (coadiuvanti/coadiutori):

Item	2026 value
Annual minimum income	EUR 18,808.00
Rate up to EUR 56,224.00 of income	24.48%

Item	2026 value
Rate on the portion of income exceeding EUR 56,224.00	25.48%
Annual contribution on the minimum	EUR 4,611.64 (EUR 4,604.20 for IVS and financing of the indemnity for cessation of the commercial activity, plus EUR 7.44 for maternity)
Income ceiling for a person registered with effect before 1 January 1996 or with contribution seniority at that date	EUR 93,707.00 (maximum IVS contribution EUR 23,314.31)
Income ceiling for a person without that seniority, registered from 1 January 1996	EUR 122,295.00 (maximum IVS contribution EUR 30,598.53)

The ceilings are individual limits, referring to each person operating in the business and not to the business as a whole; the ceiling of EUR 122,295.00 is not capable of being apportioned on a monthly basis. According to Circular 14/2026, contributions on the minimum are paid on the due dates of 18 May, 20 August and 16 November 2026 and 16 February 2027. According to Circular 62/2026, contributions on the portion exceeding the minimum follow the due dates for income taxes: 2025 balance and first 2026 advance by 30 June 2026, or by 30 July 2026 with the 0.40% surcharge, and second 2026 advance by 30 November 2026.

INPS makes available, with free and anonymous access from 3 July 2026, the simulator for calculating the contributions of artisans and traders. The simulator applies the Institute's criteria and does not, of itself, incorporate an assessment of the effects of the Court's decisions.

Elements to be examined in the individual case

An assessment of the shareholder's position requires, in short:

- a check of the conditions for registration, by reference to the activity actually performed in the company and to its habitualness and prevalence compared with the shareholder's other working activities, including those carried on abroad;

- the distinction between working activity in the company and the office of director, with a separate examination of any obligations towards the separate scheme;
- for the shareholder who works in another State, identification of the applicable coordination regime (EU regulation, bilateral convention or absence of agreements);
- a reconstruction, for each period, of the resolutions on the allocation of profits, of the distributions made and of any option for transparency;
- a comparison between the base determined according to INPS's instructions and that resulting from the Supreme Court's principle, with an indication of the risk of challenge;
- where a debit notice has been issued, computation of the forty-day time limit and an assessment of the grounds for a possible application for suspension;
- the supporting documentation, having regard to the burden of proof on the Institute.

References from 2027

From 1 January 2027 the transparency regime of Articles 115 and 116 TUIR is governed by Articles 124 and 125 of the consolidated law approved by Legislative Decree 117 of 19 June 2026, as also indicated by judgment no. 25377/2026. From the same date opposition against the entry on the roll of claims of social-security institutions is governed by Article 131 of Legislative Decree 33 of 24 March 2025, which takes up Article 24 of Legislative Decree 46/1999 and applies to the debit notice by virtue of Article 242 of the same consolidated law.

Legal sources, administrative practice and case law

- Article 1(203) of Law 662 of 23 December 1996.
- Article 2(26) of Law 335 of 8 August 1995.
- Article 3-bis of Decree-Law 384 of 19 September 1992, converted into law by Law 438 of 14 November 1992.
- Article 12(11) and Article 30 of Decree-Law 78 of 31 May 2010, converted into law by Law 122 of 30 July 2010.

- Article 24 of Legislative Decree 46 of 26 February 1999; from 1 January 2027, Article 131 and Article 242 of the consolidated law approved by Legislative Decree 33 of 24 March 2025.
- Article 116(8) of Law 388 of 23 December 2000.
- Regulation (EC) No 883/2004 on the coordination of social security systems (Articles 11 and 13) and Regulation (EC) No 987/2009 laying down the procedure for implementing it (Articles 5 and 16).
- Court of Justice of the EU, 6 September 2018, C-527/16.
- Presidential Decree 917 of 22 December 1986, TUIR: Article 115 and Article 116; from 1 January 2027, Articles 124 and 125 of the consolidated law approved by Legislative Decree 117 of 19 June 2026.
- Article 27 of Presidential Decree 600 of 29 September 1973.
- INPS Circular 14 of 9 February 2026 and the related INPS news item.
- INPS Circular 62 of 27 May 2026.
- INPS simulator for calculating the contributions of artisans and traders and the related news item.
- INPS, Circular 71 of 27 April 2021 (United Kingdom).
- INPS, non-EU States that have a convention with Italy.
- Cass., Labour Division, judgment no. 4440 of 21 February 2017; judgment no. 5690 of 7 March 2017; order no. 10426 of 2 May 2018; order no. 19273 of 19 July 2018; order no. 1759 of 27 January 2021; order no. 23337 of 15 August 2025.
- Cass., Joint Divisions, no. 23397/2016; Cass., Labour Division, order no. 25694 of 22 September 2026.
- Cass., Labour Division, judgment no. 25377 of 16 September 2026, and contemporaneous decisions nos. 25378-25383, 25465-25467, 25628-25630, 25780-25781 of 2026; order no. 27343 of 20 October 2026.

Further reading and contacts

The frequently asked questions develop the main queries. It is advisable that the check of the conditions for registration and of the contribution base be carried out before notification of a debit notice or, in any event, within the time limit for opposition. For a review of the position and of the documentation, the contact page of Fidinam & Associati Multidisciplinare S.t.A. s.r.l. is available.

Dedicated FAQ

INPS contributions of S.r.l. shareholders: FAQ

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Sources verified as at 9 November 2026.