# THE WEEK IN BRIEF

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Extraordinary transactions

# GENERATIONAL TRANSITION

## Tax aspects - Donation of the bare ownership of the majority share - Exemption from gift tax - Condition of control (answer to the Revenue Agency ruling 27.10.2025 no. 271)

The Revenue Agency, in its response to ruling 27.10.2025 no. 271, assessed the applicability of the exemption from gift tax, provided for by art. 3 par. 4-ter of Legislative Decree 346/90, to a donation concerning the bare ownership of a 95% shareholding in an industrial *holding company*.

***Regulatory framework***

It should be noted that Article 3, paragraph 4-ter of Legislative Decree 346/90 (as reformulated by Legislative Decree no. 139/2024 and applicable from 1.1.2025) provides for an exemption from inheritance and gift tax for transfers of companies and shareholdings in favour of the spouse or descendants of the deceased.

In particular, with regard to donations of shares in corporations, the exemption applies:

- "*limited to shareholdings through which control is acquired pursuant to Article 2359, first paragraph, number 1) of the Civil Code or integrated an already existing control*";
- provided that "*the successors in title hold control for a period of not less than five years from the date of the transfer*";

In addition, it is necessary that the successors in title make, at the same time as the submission of the declaration of succession or the deed of gift or the family pact, a specific declaration of commitment to hold control during the five-year observation period.

***The present case***

The case brought to the attention of the Revenue Agency can be represented as follows. Tizia owns 96.3% of the shares of Company A, while her children Tizietta and Tizietto hold shares of 1.85% each.

Company A is an industrial *holding company*, owner of 100% of the shares of Alfa and 18.6% of the shares of Beta, which in turn controls Gamma (74.74%) and Delta (62.22%). Delta also owns 100% Omega. In short, Company A (as illustrated in the text of the question submitted to the Agency) "*carries out management activities of the company Alfa and the subsidiary Beta and, through this, of the indirect subsidiaries Gamme, Delta and Omega*".

Tizia intends to donate to her two children the bare ownership of 95% of the shares of Company A. The donation will have two further peculiarities:

- it will be in favor of the children in co-ownership;
- the deed of gift will include the express agreement whereby the donor will transfer to the donees *"the majority of the voting rights in the ordinary shareholders' meeting of the Company, in order to attribute to the latter the so-called "S.p.A.*

*"de jure control" referred to in art. 2359 par. 1 n. 1) of the Italian Civil Code.*".

***Applicability of the exemption***

The case examined has two elements that could affect the applicability of the exemption:

- firstly, the donees are the two children, therefore, on the one hand, they meet the subjective requirement for exemption, on the other hand, however, the fact that there are two makes it more complicated to meet the requirement of control, given that the donated share is "control" in the hands of the donor (guaranteeing her 50% + 1 of the votes in the shareholders' meeting) but may no longer be so in the hands of the donees, if it were divided among them;
- secondly, the donation has as its object the bare ownership of the shares which, pursuant to art. 2352 of the Italian Civil Code, in principle, does not confer the right to vote which is due, instead, to the usufructuary.

***Joint ownership***

The first question is resolved by making the donation in co-ownership. In fact, as already clarified in circular no. 11/2007 and reiterated most recently in res. 72/2024, the tax relief also applies to

transfers that allow the acquisition or integration of control under the "co-ownership" regime, provided that,

pursuant to art. 2347 of the Italian Civil Code, the rights of the co-owners are exercised by a common representative who has the majority of the votes exercisable at the ordinary shareholders' meeting.

***Bare ownership***

The second critical aspect is solved by inserting a specific agreement in the donation with which the donor gives the children the majority of voting rights, guaranteeing them control by right.

***Special rights of the donor***

The Revenue Agency recognizes that, structured in this way, the donation can enjoy the benefit, since, with the transfer, the donees acquire social control, being able to exercise at least 50% +1 of the votes in the ordinary shareholders' meeting, through the common representative (who is identified as one of the two children/donees).

In this context, the Agency considers irrelevant the fact that the company's articles of association grant the donor (who remains the holder, in addition to the usufruct of 95% of the shares, of a 1.3% share in exclusive ownership) certain particular rights (the right to call the shareholders' meeting, the power of veto over certain decisions and a right to profits), as they "*are not such as to affect the control of law transferred to the children*".

***Holding company***

It is interesting to note that the Revenue Agency, in answering the question, has completely neglected any consideration on the nature of *the holding company whose shares are donated.*

In the past, the Tax Administration, in answer no. 552/2021, had excluded the applicability of the exemption referred to in art. 3 par. 4-ter of Legislative Decree 346/90, with reference to the transfer of 100% of the shares of a *holding company* which in turn holds only a minority stake in the operating company, due to the absence of an actual transfer *of "the family business*".

The fact that, in answer 271/2025, this aspect was not considered, could provide confirmation of the overcoming of that approach, by virtue of the new regulatory formulation of art. 3 co. 4-ter coming out of the Reform of Legislative Decree no. 139/2024.

art. 3 co. 4 ter Legislative Decree 31.10.1990 n. 346
Answer to the Revenue Agency ruling 27.10.2025 no. 271

*Il Quotidiano del Commercialista of 28.10.2025* - "**The donation of bare ownership of shares is exempt if the right to vote is transferred**" - *Mauro*

*Il Sole - 24 Ore of 28.10.2025, p. 19* - "**Holding, transfer of control without gift tax**" - *Busani A.*

*Eutekne Guides - VAT and Indirect Taxes* - "**Donation of Shareholdings**" - *Mauro A.*

## Facilities

# TAX

## Bonus received in 2025 by workers who moved to Greece in 2025 - Repatriation regime - Exclusion (answer to the Revenue Agency ruling 28.10.2025 no. 274)

With the answer to question no. 274/2025, the Revenue Agency returned to the methods of taxation of the sums received as deferred remuneration, also examining their relationship with the "old" regime of repatriates referred to in art. 16 of Legislative Decree 147/2015.

According to the answer, *restricted stock units* (RSUs) and other incentives in kind accrued during the period in which the person was resident in Italy and worked in Italy, but attributed in a subsequent year, in which the worker emigrated abroad and took up residence in the other state, cannot benefit from the benefits.

***Equity incentive plans accrued in 2025***

The case presented to the Agency concerned three employees of an Italian company who had benefited, from 2021 to 2024, from the repatriation regime referred to in art. 16 of Legislative Decree 147/2015 in relation to employment income paid in cash. The company had attributed the following income from share-based incentive plans (*stock options* and similar instruments) to the same employees:

- *Long Term Incentive Plan* (LTIP), awarded in 2022 with expected accrual in 2025;

- *Deferred Bonus Plan*, awarded in 2023 with expected accrual in 2025.

During 2024, the workers had terminated their employment relationship with the Italian company and then transferred their tax residence to Greece.

***Territoriality of income***

The Revenue Agency first of all recalled the internal criteria (Article 23, paragraph 1, letter c) of the Consolidated Income Tax Act) and conventional criteria (Article 15, paragraph 1 of the Italy-Greece Convention) that ensure Italy the right to subject these emoluments to taxation in the hands of the non-resident, since these are elements of deferred remuneration referable to work carried out in the territory of the State; the connection with Italy must in fact be assessed with reference to the *vesting period* (i.e., the period of accrual of the right) and not with reference to the period of receipt of income (period in which the persons had become resident abroad), which instead represents the period in which such income is materially subject to taxation.

This approach is in line with the clarifications provided by the Agency in relation to the so-called "Tax Authorities". *Achievement bonus* .

With the answer to question no. 126/2023, in particular, the Tax Administration had specified that these fees are taxable in Italy (exclusively) for the portion referring to the service performed in Italy and the person was resident there, and in the other State (again exclusively) for the portion of the income referring to the service performed in that State, of which the person had assumed residence; this regardless of the residence of the person paying the fees (otherwise severance pay and other similar allowances, for which the internal territoriality criterion is represented by the residence of the payer, for the generality of other employment income it is found in the place where the service is performed).

***Exclusion from the regime for repatriates***

Answer no. 274/2025 decided to deny the benefits of the repatriation regime by recalling a passage of the Revenue Agency circ. no. 33/2020 (§ 7.9) which excludes the use of the scheme in relation to a *bonus* accrued in the last year of its application, but received in subsequent years. The refusal was based on the assumption that the aforementioned *bonus* was paid in a tax period in which the repatriated had exited, at the end of the five-year period, from the preferential regime.

In the opinion of the Tax Authorities, this would be a situation that can be superimposed on the one in question, which would justify the impossibility of benefiting from the benefit, even if the allocation of the shares is attributable to the work previously carried out in Italy.

***Critical aspects***

Answer no. 274/2025 refers to a situation of employees who left the regime due to the lack of the requirement of residence in Italy but whose income, looking at the period of accrual, would in principle have been eligible for tax relief, because it referred to years still included in the five-year period eligible for tax relief; the Agency, as mentioned above, however, valued the mere data related to the receipt of sums, a circumstance that testified for the denial of the benefit for the fees in question.

art. 16 Legislative Decree 14.9.2015 n. 147

Answer to the Revenue Agency ruling 28.10.2025 no. 274

*Il Quotidiano del Commercialista of 29.10.2025* - **"Stock options excluded from the repatriate regime if paid to the non-resident"** - *Course - Odetto*

*Il Sole - 24 Ore of 29.10.2025, p. 44* - **"Former expatriates, no to the bonus on equity incentives"** -

*Tamburro Italia Oggi of 29.10.2025, p. 27* - **"Bonus impatriati, tax in Italy"** - *Stancati*

*Eutekne Guides - Direct Taxes* - **"Regime of repatriates"** - *Course L.*

## Work

## SUBORDINATE EMPLOYMENT

### Individual dismissal - Dismissal for just cause - Extra-work conduct - Disciplinary relevance (Cass. 27.10.2025 no. 28367)

The Cass. 27.10.2025 n. 28367 held that the disciplinary dismissal ordered against the worker who, despite

the presence of medical prescriptions advising against certain physical efforts, with consequent limitations in the performance of work, outside working hours carried out

at the same time the activity of *personal trainer*.

***The concrete case***

The worker had been deemed suitable, by the competent company doctor, for a specific task with some physical limitations, namely the limitation of the manual handling of loads above shoulder height and the limitation of the manual handling of loads weighing more than 18 kg.

Despite this, in the non-work environment, he carried out the activity of *personal trainer* registered with the Italian Weightlifting Federation (FIPE).

Due to the performance of this extra-work activity and the limitations imposed by the competent doctor in the performance of the work activity, the company had initiated disciplinary proceedings against him, accusing him of carrying out activities and training incompatible with the aforementioned requirements.

The worker was then dismissed for just cause.

***Disciplinary relevance of extra-work conduct***

The judges of legitimacy, in deeming the dismissal legitimate, specified that the obligations incumbent on the worker do not concern only the correct performance of the main service, but extend to include compliance with the general principles of fairness and good faith pursuant to art. 1175 and 1375 of the Italian Civil Code.

It follows that the worker, outside the workplace, may not engage in conduct that harms the moral and material interests of the employer or such as to compromise the relationship of trust with the same.

Failing this, the non-work conduct carried out may also justify the notice of disciplinary dismissal, it being sufficient that such conduct has an objective repercussion on the performance of the activity or on the employer's reliance on the exact future performance of the service.

The suitability to justify the employer's termination of non-work conduct must in fact be assessed from the point of view of the compromise of the fiduciary bond that characterizes the employment relationship, regardless of the extent of any economic damage produced.

***Lawfulness of dismissal***

The Supreme Court held that the non-occasional performance of the activity of *personal trainer* by the employee, in consideration of the limitations imposed by the company doctor, constituted a behavior seriously in contrast with the obligation of loyalty and with the duties of fairness and good faith, resulting in an irreparable compromise of the company's trust in the future correct execution of the employment relationship.

Article 2119 of the Italian Civil Code

*The Accountant's Daily of 28.10.2025* - **"If physical limitations are prescribed for incorrect work, be a personal trainer"** - *Gianola*

Cass. Labour Section 27.10.2025 no. 28367

*Il Quotidiano del Commercialista of 6.1.2021* - **"Extra-work conduct can justify withdrawal"** - *Gianola*

*The Accountant's Daily of 18.8.2023* - **"The just cause of withdrawal is possible even for non-work conduct"** - *Capra Quarelli*

*Eutekne Guides - Work* - **"Individual dismissal - Disciplinary dismissal"** - *Gianola G.*

## SOCIAL SECURITY

### Concessions - Contribution for working mothers for the year 2025 - New features of Legislative Decree 95/2025 (so-called Omnibus Decree) - Applications - Instructions (INPS circ. 28.10.2025 no. 139)

With the circ. 28.10.2025 n. 139, INPS illustrated the discipline of the so-called "Tax Authority". *2025 mothers'* bonus *pursuant to* Article 6 of Decree-Law 95/2025, providing operational indications for the submission of applications.

In fact, art. 6 of Decree-Law 95/2025 provided:

- the postponement from 2025 to 2026 of the partial contribution reduction introduced by art. 1 co. 219 of Law no. 207/2024;

- the introduction for 2025 of a contribution of a variable amount in relation to the months of work, which will be

disbursed by INPS at the request of the interested party.

***Recipients***

The mothers' bonus is intended for female workers:

- holders of an employment relationship, public or private, with the exclusion of domestic work relationships. Employment *relationships for the purpose of administration and intermittent workers are also* included in the bonus;
- self-employed persons enrolled in autonomous compulsory social security schemes, including the occupational pension funds referred to in Legislative Decree no. 509/94 and Legislative Decree no. 103/96 and the INPS separate management referred to in art. 2 co. 26 of Law 335/95.

The *bonus* excludes holders of corporate offices and entrepreneurs who are not registered with the compulsory general insurance and its substitutive, exclusive and exempt forms.

***Requirement regarding the number of children***

Female workers must comply with the requirement relating to the number of children (adopted children or children in pre-adoptive foster care are included, but children for whom parental responsibility has ceased are excluded).

Workers must be mothers of:

- two children, the youngest of whom is under 10 years of age;
- or three or more children, the youngest of whom is under 18 years of age.

The requirement relating to the number of children belonging to the worker's family unit must exist on 1.1.2025 or must be completed by 31.12.2025.

If the requirement is completed after 1.1.2025, the mother' s *bonus* is due from the month in which the requirement is completed. The death of the child or the exclusive custody of one or more children to the father does not produce any forfeiture of the right.

***Economic requirement***

To access the *bonus* , it is necessary that the sum of income from work, self-employed or employed, relevant for the purposes of calculating taxes for the year 2025 is equal to or less than 40,000.00 euros.

***Permanent employees with at least three children***

For working mothers with three or more children, the mother's bonus is not recognized for the months in which there is, even partially, an open-ended employment relationship (being able to benefit from the total exemption of the IVS quota pursuant to Article 1, paragraph 180 of Law 213/2023).

On this point, INPS specifies that, in the event of the transformation of an employment relationship from a fixed-term to an open-ended one, the right to the mother's bonus ceases as of the month in which the employment relationship is transformed.

***Bonus amount***

The benefit is equal to € 40.00 per month (not taxable for tax and social security purposes and irrelevant for ISEE purposes).

INPS has clarified that the *mothers' bonus* is due:

- only in the months of validity of the employment relationship, with the exception of periods of suspension;
- for the months of registration with the Reference Fund or Fund in the year 2025 for self-employed workers;
- for periods of actual work pertaining to the year 2025 for self-employed workers enrolled in the INPS separate management.

***Question***

The application must be submitted through the institutional website *www.inps.it*, or through *the Contact Center*
Multichannel or patronage institutes.

Applications must be submitted by 9.12.2025 (40 days from the date of publication of the circular), or by 31.1.2026 for workers for whom the requirements are perfected after 28.10.2025.

***Disbursement of the bonus***

The monthly payments due from 1.1.2025 until the month of November are paid in December 2025, in a

single solution, when the monthly payment relating to the same month of December 2025 is settled.

Therefore, the mothers' bonus will be paid:

- in December 2025, compatibly with the date of submission of the application;
- by February 2026 if the application is submitted in time not useful for the disbursement of December 2025 and, in any case, by 31.1.2026.

art. 6 co. 2 DL 30.6.2025 n. 95
art. 6 DL 30.6.2025 n. 95
INPS Circular No. 139 of 28.10.2025

*Il Quotidiano del Commercialista of 29.10.2025* - **"Applications for the mother's bonus are underway"** - *Silvestro*

*Il Sole - 24 Ore of 29.10.2025, p. 47* - **"New bonus for mothers, applications by 9 December"** - *Maccarone - Pizzin*

*Italia Oggi of 29.10.2025, p. 30* - **"The new mothers' bonus is coming"** - *Cirioli*

*Eutekne Guides - Social Security* - **"INPS - Contribution for women workers with children"** - *Silvestro D.*

## Special sectors

# COMPUTER SCIENCE

### Artificial intelligence - Uncritical use of artificial intelligence for the drafting of judgments - Defects in reasoning - Violation of the duties of impartiality and independence of the magistrate (Criminal Court of Cassation no. 25455 of 10.7.2025 and Criminal Court of Cassation no. 34481 of 22.10.2025)

Art. 15 of Law 132/2025, in force since 10.10.2025, regulates the use of artificial intelligence systems in the judicial field. In particular, the law deals with delimiting the boundaries within which the use of AI systems is allowed both with regard to judicial activity proper and with regard to collateral activities.

***Prohibition of the use of AI systems attributable to predictive justice***

Paragraph 1 of art. 15 of Law 132/2025 establishes that in cases of use of AI systems in judicial activity, decisions relating to:

- the interpretation and application of the law;
- the evaluation of facts and evidence;
- to the adoption of measures.

The legislator aims, therefore, to avert the risk that the performance of activities that constitute the fundamental and most sensitive core of judicial activity properly so called may legitimately escape the control of human intelligence.

***Permitted uses of AI systems***

Article 15 paragraph 2 of Law 132/2025 allows the use of AI systems to:

- the organisation of services relating to justice;
- the simplification of judicial work;
- ancillary administrative activities.

The same provision entrusts the Ministry of Justice with the regulation of the uses of AI systems for the aforementioned purposes.

***Relationship with the EU framework on AI***

The solutions adopted by Article 15, paragraphs 1 and 2 of Law 132/2025 appear consistent with the provisions of EU Regulation 2024/1689 (so-called "Legislative Decree 2024/2025*").AI Act*), to which national legislation is intended to be added as a subordinate source. Specifically, recital 91 of the European regulation:

- on the one hand, notes that AI systems intended to be used by a judicial authority in the search for and interpretation of facts and law and in the application of the law to a concrete set of facts should be classified as 'high-risk';

- on the other hand, considers that the same classification should not be extended to AI systems intended for "*purely ancillary administrative activities, which do not affect the effective administration of justice in individual cases, such as the anonymisation or pseudonymisation of decisions, documents or judicial data, communication between staff, administrative tasks*".

***Prohibition of drafting judgments through the uncritical use of AI***

Already with reference to cases prior to the entry into force of L. 132/2025, the Supreme Court had the opportunity to stigmatize the uncritical use of *the outputs* obtained through the interrogation of AI systems by of the magistrates, for the purpose of drafting the motivation underlying the decision-making measures.

***Principles affirmed by the Supreme Court***

The Supreme Court, with judgment no. 34481, stated - in the context of a broader investigation into the legitimacy of the motivation of judicial measures *per relationem*, i.e. through the copy-paste technique - that, although the use of computer systems in the drafting of the aforementioned measures can be looked upon favorably for its facilitating potential, extreme attention must be paid to the risk "*(today exponentially increased by the bursting onto the scene of artificial intelligence) that the judge draws on the arguments of his decision, abdicating the duty to bring his ineradicable and irreplaceable evaluative moment and making the in-itself of his third and impartial being fail*".

In the previous judgment of 10.7.2025 no. 25455, the Supreme Court annulled the contested ruling of the Court of Appeal, as it was supported by deficient and erroneous reasoning for reference to non-existent jurisprudential precedents and falsely imputed to the judges of legitimacy. Strictly speaking, this second ruling of the Supreme Court does not expressly refer the citation of non-existent precedents (or inaccurate in the number reported) to the improper use of AI systems by the territorial Court. However, it is likely that the flaws in the reasoning highlighted above are the result of the uncritical transposition of the results of research conducted through the use of AI systems.

***Duty to verify the results of case law research conducted with AI***

The CSM, as part of the "Recommendations on the use of artificial intelligence in the administration of justice" of 8.10.2025, stated that the use of AI by the magistrate for the purpose of searching jurisprudential databases "*may present high risk profiles if the output generated is used as an exclusive or prevalent basis in the formation of the judge*'s conviction". For a correct and constitutionally compatible use of artificial intelligence in the judicial field, it is therefore necessary:

- on the one hand, that the results obtained are always subjected to the critical scrutiny of the magistrate;
- on the other hand, that the jurisprudential databases made available to the judge guarantee a complete, non-discriminatory and up-to-date database, or provide for forms of control and supervision by the judiciary in the phase of selection, classification and updating of judgments.
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art. 15 L. 23.9.2025 n. 132

*Il Quotidiano del Commercialista of 30.10.2025* - **"The uncritical use of artificial intelligence for the drafting of judgments is prohibited"** - *Novella*

Cass. Pen. 22.10.2025 n. 34481

Cass. Pen. 10.7.2025 n. 25455

*Il Quotidiano del Commercialista of 3.10.2025* - **"AI systems attributable to "predictive justice" are prohibited in judicial activity"** - *Novella*

# Read Highlights

FISCAL

REVENUE AGENCY PROVISION 20.5.2025 NO. 225394

## FISCAL

TAX LAW IN GENERAL - SIMPLIFICATIONS - Use of the online services of the Revenue Agency and the Revenue Agency-Collection - Single delegation to intermediaries - Implementing provisions - Amendments

In implementation of art. 21 of Legislative Decree no. 1 of 8.1.2024, with provv. Revenue Agency 2.10.2024 no. 375356 the contents and procedures relating to the single delegation to intermediaries for the use of the online services of the Revenue Agency and the Revenue Agency-Collection have been defined.

This provision amends the aforementioned provision of 2.10.2024, in relation to:

- electronic signature to be affixed to the proxy communication file;
- duration of the transitional regime for proxies activated before the date of availability of the new features.

*Delegate services*

The taxpayer can delegate all or some of the following online services:

- consultation of one's tax drawer;
- one or more services related to electronic invoicing/electronic fees, namely: consultation and acquisition of electronic invoices or their electronic duplicates; consultation of data relevant for VAT purposes; registration of the electronic address; electronic invoicing and storage of electronic invoices; accreditation and census of devices;
- acquisition of ISA data and data to determine the proposal for a two-year arrangement with creditors;
- online services of the reserved area of the Revenue Agency-Collection.

*Delegable subjects*

The aforementioned services can only be delegated in favour of intermediaries authorised to electronically transmit declarations, registered with the Entratel service, with the exception of the services of "electronic invoicing and storage of electronic invoices" and "accreditation and census of devices", which can also be delegated to other parties.

The delegation may be granted to a maximum of two intermediaries.

*Communication of the proxy to the Revenue Agency*

For the purposes of activation, the data relating to the conferral of the proxy must be communicated to the Revenue Agency:

- directly by the taxpayer, through a specific web function made available in his reserved area of the Agency's website;
- or by the delegated intermediary.

The delegated intermediary may communicate the data by transmitting an xml file digitally signed by the taxpayer or signed by the taxpayer with the advanced electronic signature (AES) process based on the certificate contained in the Electronic Identity Card (CIE) or by using digital certificates, even if not qualified, in compliance with the provisions of the technical specifications. In the latter case, the transmission of the file takes place after signature also by the intermediary, with its own digital signature.

The intermediary can also communicate the delegation by providing its clients with a web service that uses a particular advanced electronic signature process, the requirements of which are described in a special agreement between the intermediary and the Revenue Agency.

*Obligation to use the digital signature or the CIE FEA*

Following the amendments made by this provision, if the taxpayer is a person holding a VAT number or a subject, other than a natural person, not holding a VAT number, the data relating to the conferral of the proxy are communicated by the delegated intermediary, through the transmission of an xml file signed by the taxpayer himself or by the legal representative exclusively:

- with a digital signature;
- or with the advanced electronic signature (FEA) based on the certificate contained in the Electronic Identity Card (CIE).

*Duration of the delegation*

The delegation expires on 31 December of the fourth year following the year in which it was conferred, without prejudice to the possibility of early revocation or waiver.

*Transitional provisions*

Delegations activated before the date of availability of the new features are effective until the day of their original expiry and in any case no later than 28.2.2027 (term thus extended by this provision, compared to the previous deadline of 30.6.2026).

If a new proxy is communicated to an intermediary for whom a previous proxy is still effective, the latter is considered to have been revoked at the same time.