

“COVID-19” EPIDEMIOLOGIC EMERGENCY

TAX MATTERS

The epidemiologic emergency due to the outbreak of “COVID-19”¹ in our country affects, *inter alia*, tax matters.

Following the entry into force of Law Decrees No. 9 of March 2, 2020, No.11 of March 8,2020, No.18 of March 17 (so called Law Decree “Cura Italia”) and No.23 of April 8, 2020 (so called Law Decree “Liquidità”) , the Law Decree No.34 of May 19, 2020 was published in the Official Gazette No.128 (so called Law Decree “Rilancio”, hereinafter “Decree”) and entered into force on the day of its publication (*i.e.*, May 19, 2020). The Decree sets forth “*Urgent measures in the field of health, support for work and the economy, as well as social policies linked with the Covid-19 epidemiological emergency*”.

Among the measures adopted by the Decree with regard to tax matters, it is worth mentioning Section VI, entitled “*Tax measures*”. Besides, the Decree provides for tax measures in other sections, which will be further analysed below.

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¹ Covid-19 is the acronym for the respiratory disease due to the new coronavirus. Such acronym is the combination of “Corona”, “Virus”, “Disease”, as well as 2019 as year of identification. The virus has been labelled “Severe Acute Respiratory Syndrome 2” or “SARS-CoV-2”. Further information are available on the institutional website of the Ministry of Health: <http://www.salute.gov.it/>



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1. Support measures for companies and the economy

1.1. Regional tax on productive activities (“IRAP”) payment provisions

Article 24 of the Decree provided that companies and self-employed persons, respectively, with a volume of revenues or compensations not exceeding €250 million in the previous tax period (*i.e.*, 2019), are not required to pay:

- IRAP balance payment due for the tax period in progress as at December 31, 2019,
- first instalment² of the IRAP advance payment due for the tax period subsequent to the current one as at December 31, 2019 (*i.e.*, 2020).

² Equal to 40% or 50% for persons who carry out economic activities for which the summary tax reliability indexes (“ISA”) have been approved and who declare revenues or compensations not exceeding the limit established, for each index, by the relevant decree of approval of the Minister of Economy and

The amount corresponding to the first instalment of the advance payment shall in any case be excluded from the calculation of the balance payment due for 2020, up to the amount of the first instalment calculated using the historical method or the forecast method, whichever is the lower.

This is without prejudice to the obligation to make advance payments for the 2019 tax period.

It is also provided that this provision does not apply to:

- banks and other financial intermediaries,
- insurance companies,
- Administrations and
- Public bodies.

Finally, please note that the provisions of Article 24 of the Decree apply in accordance with the limits and conditions set out in the European Commission Communication of March 19, 2020 C(2020) 1863 final "*Temporary framework for State aid measures to support the economy in the current COVID-19 emergency*", and following amendments.

1.2. Non-refundable aid

In order to support persons affected by the epidemiological emergency "Covid-19", Article 25 of the Decree provided for a non-refundable aid in favour of:

- persons engaged in business activities and self-employment,
- persons engaged in agricultural or commercial activity, even if carried out in the form of a cooperative company,

who are registered for VAT purposes.

The aid belongs to:

- persons who had revenues or compensations not exceeding €5 million in the previous tax period (*i.e.*, 2019) and
- provided that the amount of the turnover and fees of April 2020 is less than 2/3 of the amount of the turnover and fees related to April 2019³.

In order to correctly determine the above amounts, reference shall be made to the date on which the sale of goods or provision of services was carried out.

Finance, and for persons who participate in companies, associations and businesses pursuant to Articles 5, 115 and 116 of the Italian Tax Code ("ITC").

³ For persons who started business on or after 1 January 2019 and for persons who, since the onset of the disaster, have their fiscal domicile or operational headquarters in the territory of municipalities affected by the aforementioned events whose states of emergency were still in place on the date of the declaration of the state of emergency COVID-19, the aid is due even in the absence of the aforementioned requirement of a drop in turnover/revenues.

The amount of the aid granted is determined by applying a percentage⁴ to the difference between the amount of turnover and fees related to April 2020 and the amount of turnover and fees related to April 2019.

If the conditions abovementioned are met, the aid shall in any case be recognised for an amount not less than €1,000 for natural persons and €2,000 for persons other than natural persons.

It is also provided that the aid will be paid by the Italian Tax Authorities by means of direct crediting of a bank or postal account in the name of the beneficiary and:

- is neither taxable for income taxes purposes nor for IRAP purposes,
- it does not detect for the purposes of calculating the ratio between a) revenues and income which are taxable or not because they are excluded and b) the total amount of all revenues and income for the purposes of the deductibility of the interests pursuant to Article 61 of the ITC and expenses and other negative components pursuant to Article 109, paragraph 5, of the ITC.

Interested parties are required to submit an application to the Italian Tax Authorities within 60 days from the date of commencement of the telematics procedure in accordance with a measure to be issued *ad hoc* by the Director of the Italian Tax Authorities.

They are in any case not eligible for the aid:

- persons whose activity ceased on the date of submission of the application,
- the public entities referred to in Article 74 of the ITC,
- financial intermediaries and holding companies referred to in Article 162-*bis* of the ITC,
- persons who already receive the indemnities referred to in Articles 27 and 38 of the Law Decree “Cura Italia”, converted, with amendments, by Law No. 27 of 2020,
- employees and professionals enrolled in the compulsory social security institutions under private law as per Legislative Decrees No.509 of 1994 and No.103 of 1996.

1.3. Capital strengthening of medium-sized companies

Article 26 of the Decree has provided for the capital strengthening, by means of capital increases, leading, through an increase in equity, to the absorption of the unavoidable operating losses in 2020 of the:

- joint-stock companies,
- partnerships limited by shares,
- limited liability companies, even simplified,

⁴ The percentage is equal to: a) 20% for persons with revenues or compensation not exceeding €400,000 in the tax period prior to the date of entry into force of the Decree; b) 15% for persons with revenues or compensation exceeding €400,000 and up to €1 million in the tax period prior to the date of entry into force of the Decree; c) 10% for persons with revenues or compensation exceeding €1 million and up to €5 million in the tax period prior to the date of entry into force of the Decree.

- cooperatives,
- European companies pursuant to Regulation (EC) No. 2157/2001,
- European cooperatives pursuant to Regulation (EC) No. 1435/2003,

having their registered office in Italy, properly constituted and registered in the commercial register which:

- had revenues between €5 and €50 million⁵ in the 2019 tax period or between €10 and €50 million in the case of the "*Fondo Patrimonio PMI*" for the subscription of bonds or debt securities,
- due to the COVID-19 epidemiological emergency, have suffered in the two-month period March-April 2020, an overall reduction of no less than 33% in revenues⁶, compared to the two-month period March-April 2019,
- after the entry into force of the Decree and by December 31, 2020, have deliberated and implemented a capital increase against payment and fully paid-in it⁷.

The tax benefit deriving from the capital increase consists of:

- a tax credit⁸ of 20% in favour of investors⁹, natural persons and legal entities, with a maximum investment ceiling of €2 million. The shareholding resulting from the cash contribution made must be maintained until December 31, 2023. Furthermore, the distribution of reserves, of any kind, before that date by the transferee company entails the forfeiture of the benefit and the obligation of the taxpayer to return the amount deducted, together with legal interests;
- a tax credit¹⁰ in favour of the transferee company equal to 50% of the losses for the year 2020 exceeding 10% of equity, gross of the losses themselves and up to

⁵ In the case of companies belonging to a group, reference is made to the value of revenues on a consolidated basis, at the highest degree of consolidation, not taking into account revenues earned within the group.

⁶ See previous footnote.

⁷ In the case of the "*Fondo Patrimonio PMI*" for the subscription of bonds or debt securities, the capital increase may not be less than €250,000.

⁸ The tax credit is neither taxable for income taxes purposes nor for IRAP purposes, it does not detect for the purposes of calculating the ratio between a) revenues and income which are taxable or not because they are excluded and b) the total amount of all revenues and income for the purposes of the deductibility of interests pursuant to Article 61 of the ITC and expenses and other negative components pursuant to Article 109, paragraph 5, of the ITC. It may be used in the tax return relating to the tax period in which the investment is made and in subsequent tax returns until its use ends, as well as by offsetting, without the annual limits ordinarily provided for, from the tenth day following the day on which the tax return relating to the period in which the investment is made is submitted.

⁹ Excluded from the benefit are (i) companies that directly or indirectly control the transferee company, (ii) are subject to common control or (iii) are associated with it or (iv) are controlled by it. On the other hand, included are: (i) investments made in permanent establishments in Italy of companies with registered offices in Member States of the European Union or countries belonging to the European Economic Area and (ii) investments made through stocks or shares of collective investment funds resident in Italy or in Member States of the European Union or countries belonging to the European Economic Area that invest more than 50% in the share capital of the transferee companies.

¹⁰ The tax credit can be used for offsetting purposes, without the annual limits ordinarily provided for, from the tenth day following the day on which the tax return relating to the period in which the investment is made is submitted. In addition, it is neither taxable for income taxes purposes nor for IRAP purposes, it does not detect for the purposes of calculating the ratio between a) revenues and income which are taxable or not because they are excluded and b) the total amount of all revenues and

30% of the capital increase. The distribution of reserves, of any kind, before January 1, 2024 by the transferee company entails the forfeiture of the benefit and the obligation to return the amount granted, together with legal interests.

In order to benefit from the tax credit, the following conditions must be met by the transferee company:

- as at December 31, 2019 did not fall within the category of firms in difficulty,
- comply with social security contributions and taxes payments,
- comply with building and urban planning regulations, work, accident prevention and environmental protection,
- not belonging to companies that have received and not repaid illegal or incompatible State aids,
- non-recurrence of the impeding conditions set out in Article 67 of Legislative Decree No. 159 of September 6, 2001 (so called "*Antimafia*" Code),
- the directors, shareholders and the beneficial owner have not been definitively convicted in the last five years of offences committed in violation of the rules for the repression of evasion of income and value added taxes,
- only in the case of the "*Fondo Patrimonio PMI*" for the subscription of bonds or debt securities, the number of employees must be less than 250 people.

The following shall be excluded from the application of Article 26:

- financial intermediaries and holding companies referred to in Article 162-*bis* of the ITC,
- insurance companies.

The above mentioned tax benefits may be cumulated with each other and with any other aid measures, by any person granted, provided that they fall within the "*Temporary framework for State aid measures to support the economy in the current COVID-19 emergency*" referred to in the Communication of the European Commission, para. 3.1.

In any case, the total gross amount of the measures must not exceed, for each applicant company, €800,000 or €120,000 for companies operating in the fisheries and aquaculture sector and €100,000 for companies operating in the primary production of agricultural products.

Finally, within 30 days of its entry into force, the Article 26 provided for the adoption of an implementing decree by the Ministry of the Economy and Finance by which the criteria and methods of application and use of the tax credit would be established.

1.4. Tax credit for rentals of buildings for non-residential use and lease of the going concern

Article 28 of the Decree provided in favour of:

income for the purposes of the deductibility of interests pursuant to Article 61 of the ITC and expenses and other negative components pursuant to Article 109, paragraph 5, of the ITC.

- persons engaged in business, art or profession, with revenues or compensations¹¹ not exceeding €5 million in the tax period prior to the date of entry into force of the Decree (*i.e.*, 2019), who have suffered a decrease in turnover or compensations of at least 50% in March, April and May¹² 2020 compared to the same month of the previous tax period,
- non-commercial entities, including third sector entities and civilly recognised religious bodies,

a tax credit of 60%¹³ of the amount of the rent, leasing or concession paid in March, April and May¹⁴ 2020 and referred to buildings for non-residential use intended for the conduct of industrial, commercial, craft, agricultural or tourist activities or for the habitual and professional exercise of self-employed activity¹⁵.

The above mentioned tax credit is available in the tax return for the tax period in which the expenses are incurred, or it can be used for offsetting purposes, without the general and special limits ordinarily provided for, after the payment of the rentals. Furthermore, it is neither taxable for income taxes purposes nor for IRAP purposes, it does not detect for the purposes of calculating the ratio between a) revenues and income that are taxable or not because they are excluded and b) the total amount of all revenues and income for the purposes of the deductibility of interest pursuant to Article 61 of the ITC and expenses and other negative components pursuant to Article 109, paragraph 5, of the ITC.

The person entitled to the tax credit, instead of using it directly, can opt for the assignment to ,alternatively,:

- the lessor,
- the grantor or
- credit institutions and other financial intermediaries.

¹¹ No reference is made to the volume of revenues and compensations recorded in the previous tax period for hotels and farmhouses.

¹² For tourist facilities with only seasonal activity is commensurate with each of the months of April, May and June.

¹³ In case of service agreements for complex services or lease of going concern, including at least one property for non-residential use intended for the performance of industrial, commercial, craft, agricultural or tourist activities or for the habitual and professional exercise of self-employment, the tax credit shall be 30% of the relevant rentals.

¹⁴ See footnote No.12.

¹⁵ For non-commercial entities, including third sector entities and civilly recognised religious bodies, reference is made to the rental, leasing or concession of buildings for non-residential use intended for the performance of institutional activity.

Table 1 – Summary of support measures for companies and the economy

SUPPORT MEASURES FOR COMPANIES AND THE ECONOMY				
Object	Recipients	Tax benefit and method of calculation	Persons excluded from the benefit	Other information
IRAP balance payment due for 2019 and first instalment of the IRAP advance payment due for 2020 are not due	-Companies -Self-employed persons, respectively, with a volume of revenues or compensation not exceeding €250 million in the previous tax period (i.e., 2019)		-Banks and other financial intermediaries -Insurance companies -Administrations -Public bodies	
Non-refundable aid	Persons engaged in: -business activities -self-employment activity (with revenues or compensation not exceeding €5 million in the previous tax period) -agricultural or commercial activities who are registered for VAT purposes ↓ provided that the amount of the turnover and fees of April 2020 is less than 2/3 of the amount of the turnover and fees related to April 2019	The aid due is: -equal to 20%, 15% or 10% to be applied to the difference between the amount of turnover and fees related to April 2020 and the amount of turnover and fees related to April 2019 -in any case recognised for an amount not less than €1,000 for natural persons and €2,000 for persons other than natural persons	-Persons whose activity ceased on the date of submission of the application -The public entities referred to in Article 74 of the ITC -Financial intermediaries and holding companies referred to in Article 162-bis of the ITC -Persons who already receive the indemnities referred to in Articles 27 and 38 of the Law Decree “Cura Italia”, converted, with amendments, by Law No. 27 of 2020 -Employees and professionals enrolled in the compulsory social security institutions under private law as per Legislative Decrees No.509 of 1994 and No.103 of 1996	-The aid is neither taxable for income taxes purposes nor for IRAP purposes, it does not detect for the purposes of calculating the ratio deductibility of the interest pursuant to Article 61 of the Italian Tax Code (“ITC”) and Article 109, paragraph 5, of the ITC - Submission of the application to the ITA within 60 days from the date of commencement of the telematics procedure in accordance with a measure to be issued ad hoc by the Director of the Italian Tax Authorities -Direct crediting of a bank or postal account in the name of the beneficiary
Capital strengthening of medium-sized companies	-Joint-stock companies, -Partnerships limited by shares -Limited liability companies, even simplified -Cooperatives -European companies pursuant to Regulation (EC) No. 2157/2001 -European cooperatives pursuant to	- Tax credit of 20% in favour of investors, natural persons and legal entities, with a maximum investment ceiling of €2 million; - Tax credit in favour of the transferee company equal to 50% of the losses for the year 2020 exceeding 10% of equity, gross of the losses themselves and up to 30% of the capital increase.	-Financial intermediaries -Holding companies -Insurance companies	-The tax credit is neither taxable for income taxes purposes nor for IRAP purposes, it does not detect for the purposes of calculating the ratio deductibility of the interest pursuant to Article 61 of the Italian Tax Code (“ITC”)

	<p>Regulation (EC) No. 1435/2003</p> <p>properly constituted and registered in the commercial register</p> <p style="text-align: center;">↓</p> <p>-With revenues between €5 and €50 million in the 2019 (between €10 and 50 in the case of “Fondo Patrimonio PMI”)</p> <p>-With an overall reduction of no less than 33% in revenues of March-April 2020 compared to March-April 2019</p> <p>-Which have deliberated and implemented a paid-in and fully paid-in capital increase</p>			and Article 109, paragraph 5, of the ITC
Tax credit for rentals of buildings for non-residential use	<p>-Persons engaged in business, art or profession</p> <p>-Non-commercial entities, including third sector entities and civilly recognised religious bodies for buildings for non-residential use intended for the performance of institutional activities</p>	Tax credit equal to 60% of the rental paid in March, April and May 2020, related to buildings for non-residential use intended for the conduct of industrial, commercial, craft, agricultural or tourist activities or for the habitual and professional exercise of self-employed activity	<p>Persons engaged in business, art or profession with:</p> <p>-revenues or compensation not exceeding €5 million in 2019 (No reference is made to the volume of revenues and compensation recorded in the previous tax period for hotels and farmhouses) and,</p> <p>-with a decrease in turnover or compensation of at least 50% in the reference month compared to the same month of the previous tax period</p>	<p>-The tax credit can be used for offsetting purposes after the payment of the rentals</p> <p>-The person entitled to the tax credit, instead of using it directly, can opt for the assignment to:</p> <p>-the lessor</p> <p>-the grantor or</p> <p>-credit institutions and other financial intermediaries</p>

2. Tax measures

2.1. Tax credit for the adaptation of work environments

Article 120 of the Decree provided for a tax credit of 60% of the expenses incurred in 2020 (up to a maximum of €80,000) in relation to the measures necessary for the application of health regulations and containment measures against the spread of the COVID-19 virus, in favour of:

- persons carrying out business, art or profession activities in places open to the public indicated in Annex 1 of the Decree¹⁶,
- associations, foundations and other private entities, including Third sector entities.

Measures that can be facilitated include:

- the renovation of changing rooms and canteens,
- the creation of medical spaces, entrances and common areas,
- the purchase of security furniture, as well as
- investments of an innovative nature, such as the development or purchase of tools and technologies relating to the performance of work and the purchase of equipment for temperature control of employees and users.

Tax credit is:

- cumulative with other facilitations for the same expenses, however within the limit of the expenses incurred,
- usable in 2021 only for offsetting purposes¹⁷, or
- assignable to credit institutions and other financial intermediaries, with the option of subsequent assignment of the receivable.

2.2. Assignment of tax credits recognised by measures issued to deal with the emergency by COVID-19

Article 122 of the Decree provided for the possibility, until December 31, 2021, for the person entitled to tax credits:

- for shops and stores referred to in Article 65 of the Law Decree "Cura Italia", converted, with amendments, by Law no. 27 of April 24, 2020,
- rentals of buildings for non-residential use and lease of the going concern pursuant to article 28 of the Decree,
- for the adaptation of work environments pursuant to article 120 of the Decree,
- for the sanitation of work environments and the purchase of protective equipment pursuant to article 125 of the Decree,

to opt for the assignment, even partial, of the same to other parties, including credit institutions and other financial intermediaries.

The assignees of the aforesaid receivables may also use them for offsetting purposes in the F24 Form and neither the limit of use of €250,000 per year nor that relating to offsets of €1 million is applied. The portion of the tax credit not used in the year cannot be:

- used in subsequent years,
- asked for refund.

¹⁶ By way of example and not exhaustive: bars, restaurants, hotels, theatres and cinemas.

¹⁷ Without the annual use limit of €250,000 for off-settable receivables or the general limit for offsets of €1 million.

2.3. Tax credit for the sanitation of work environments

Article 125 of the Decree has provided in favour of:

- persons engaged in business activities, arts and professions,
- non-commercial entities, including Third sector entities and civilly recognised religious bodies,

a tax credit equal to 60% (up to a maximum tax credit of €60,000 for each beneficiary and up to a total limit of €200 million for 2020) of the expenses incurred in 2020 for:

- the sanitation of the work environments in which the work and institutional activity is carried out and the tools used in the context of such activities,
- the purchase of personal protective equipment¹⁸ and other devices to ensure the health of workers and users¹⁹.

The tax credit is:

- usable in the tax return for the tax period in which the expense was incurred, or
- for offsetting purposes in the F24 Form.

The above mentioned tax credit is neither subject to the limit of €250,000 per year, nor to the limit on offsets of €1 million. Furthermore it is neither taxable for income taxes purposes nor for IRAP purposes.

2.4. Extension of the deadlines for resuming collection of suspended payments

Articles 126 and 127 of the Decree further extended the deadlines²⁰ for resuming collection of the payments related to:

- withholding taxes on income from employment and similar activities,
- withholdings in respect of the regional and municipal surtaxes,
- VAT,
- social security and welfare contributions as well as
- premiums for compulsory insurance.

The provisions in question relate to the payments of:

- persons carrying on business activities, arts or professions, with registered office, operating headquarters or domicile in Italy, who recorded revenues or remunerations not exceeding €50 million in the previous tax period, and who suffered a decrease in turnover or remunerations of at least 33% in March and April 2020 compared to the same months of the previous year;

¹⁸ By way of example: masks, gloves, visors and goggles, protective suits and footwear, complying with the essential safety requirements of the European legislation.

¹⁹ By way of example: detergents and disinfectants, thermometers, thermoscanners, decontaminating and sanitizing carpets and trays, complying with the essential safety requirements of European legislation, barriers and protective panels, including any installation costs.

²⁰ Provided for by Articles 18 and 19 of the Law Decree "Liquidità" and Articles 61 and 62 of the Law Decree "Cura Italia".

- persons carrying on business activities, arts or professions, with registered office, operating headquarters or domicile in Italy, who recorded revenues or remunerations in excess of €50 million in the previous tax period, and who suffered a decrease in turnover or remunerations of at least 50% in March and April 2020 compared to the same months of the previous year;
- persons carrying on business activities, arts or professions, with registered office, operating headquarters or domicile in Italy, who have undertaken the exercise of the business, art or profession after March 31, 2019;
- non-commercial entities, including Third sector entities and civilly recognised religious bodies that carry out institutional activities of general interest not in a business capacity²¹;
- persons²² having their fiscal domicile, registered office or operating headquarters in the provinces of Bergamo, Brescia, Cremona, Lodi and Piacenza, who suffered a decrease in turnover or fees of at least 33% in the months of March and April 2020 compared to the same months of the previous year, regardless of the volume of revenues in the previous year;
- the withholding taxes referred to in articles 25 and 25-bis of Presidential Decree No.600 of 1973 not applied by the withholding agents on revenues and compensation (received between March 17, 2020 and May 31,2020) earned by professionals with revenues or compensation not exceeding €400,000 in the tax period prior to March 17, 2020²³ (i.e., 2019) having their registered office or domicile in Italy and without personnel expenses;
- certain categories²⁴ particularly affected by the economic effects of the COVID-19 emergency (tourist accommodation activities, associations and sports clubs, operators of lottery receptions, lotteries and betting, managers of restaurants and bars, spas, kindergarten managers, bus and railway station managers, etc);
- persons carrying on business activities, arts or professions, with registered office, operating headquarters or domicile in Italy, who recorded revenues or compensation not exceeding €2 million in the previous tax period (i.e., 2019);
- persons carrying on business activities, arts or professions, having their fiscal domicile, registered office or operating headquarters in the provinces of Bergamo, Brescia, Cremona, Lodi and Piacenza, regardless of the volume of revenues or compensation received²⁵.

In particular, it is envisaged that these payments will be made:

- as a lump sum by September 16, 2020,²⁶ or
- in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without the application of penalties and interest.

Refund of what has already been paid out is not provided.

²¹ There is no provision for the extension of VAT payments for such persons.

²² Only the extension of VAT payments for April and May 2020 is provided for these persons.

²³ Date of entry into force of the Law Decree "Cura Italia".

²⁴ For these categories, only the extension of the payments related to withholding taxes on income from employment and similar activities, social security and welfare contributions and premiums for compulsory insurance for March and April 2020 is envisaged.

²⁵ For these entities, only the extension of the payment of VAT due between March 8 and March 31, 2020 is provided.

²⁶ Instead of the previously provided June 30, 2020.

2.5. Tax justice and unified contribution provisions

Article 135 of the Decree provided for the suspension from March 8 to May 31, 2020 of:

- the terms provided for the calculation of the penalties to be imposed in the event of late payment or failure to pay, in whole or in part, the unified contribution referred to in Article 16 of Presidential Decree No. 115 of May 30, 2002 ("TUSG"),
- the deadline provided for in Article 248 of the TUSG concerning the call for payment of the unified contribution.

In addition, with regard to the procedures to be followed for the conduct of "distance hearings" both public and in chambers in the tax proceedings:

- the use of the remote connection for the parties to the proceedings, judges and administrative staff is ordered,
- the manner and timing of requesting a "distance hearing" are regulated.

Table 2 – Summary of the new terms for tax and social security contributions payments

PAYMENTS SUSPENSION							
Type of subjects	Conditions	Withholding taxes and regional and municipal surtaxes		Social security and welfare contributions and compulsory insurance premiums		VAT	
		Suspension	Payment date	Suspension	Payment date	Suspension	Payment date
Persons carrying on business activities, arts or professions, with registered office or domicile in Italy, who recorded revenues or remuneration not exceeding €50 million in the previous tax period	Decrease in turnover or remuneration of at least 33% in March and April 2020 compared to the same months of the previous year	April-May 2020	As a lump sum by September 16, 2020, or in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest	April-May 2020	As a lump sum by September 16, 2020, or in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest	April-May 2020	As a lump sum by September 16, 2020, or in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest
Persons carrying on business activities, arts or professions, with registered office or domicile in Italy, who recorded revenues or remuneration in excess of €50 million in the previous tax period	Decrease in turnover or remuneration of at least 50% in March and April 2020 compared to the same months of the previous year	April-May 2020	As a lump sum by September 16, 2020, or in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest	April-May 2020	As a lump sum by September 16, 2020, or in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest	April-May 2020	As a lump sum by September 16, 2020, or in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest

Persons carrying on business activities, arts or professions, with registered office or domicile in Italy, who have undertaken the exercise of the business, art or profession after March 31, 2019	N/A	April-May 2020	As a lump sum by September 16, 2020, or in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest	April-May 2020	As a lump sum by September 16, 2020, or in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest	April-May 2020	As a lump sum by September 16, 2020, or in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest
Non-commercial entities, including third sector entities and civilly recognised religious bodies that carry out institutional activities of general interest not in a business capacity	N/A	April-May 2020	As a lump sum by September 16, 2020, or in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest	April-May 2020	As a lump sum by September 16, 2020, or in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest	N/A	-
Persons carrying on business activities, arts or professions, having their fiscal domicile, registered office or operating headquarters in the provinces of Bergamo, Brescia, Cremona, Lodi and Piacenza) (regardless of the volume of revenues in the previous year)	Decrease in turnover or fees of at least 33% in the months of March and April 2020 compared to the same months of the previous year	N/A	-	N/A	-	April-May 2020	As a lump sum by September 16, 2020, or in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest
Persons carrying on business activities, arts or professions, having their fiscal domicile, registered office or operating headquarters in the provinces of Bergamo, Brescia, Cremona, Lodi and Piacenza) (regardless of the volume of revenues in the previous year)	N/A	N/A	-	N/A	-	Between March 8 and March 31, 2020	As a lump sum by September 16, 2020, or in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest
Persons carrying on business activities, arts or professions, with	N/A	April-May 2020	As a lump sum by September 16, 2020, or	April-May 2020	As a lump sum by September 16, 2020, or	April-May 2020	As a lump sum by September 16, 2020, or

revenues or compensation not exceeding €2 million in the previous tax period			in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest		in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest		in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest
Certain categories particularly affected by the economic effects of the COVID-19	N/A	Until April 30, 2020	As a lump sum by September 16, 2020, or in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest	Until April 30, 2020	As a lump sum by September 16, 2020, or in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest	March 2020	As a lump sum by September 16, 2020, or in a maximum of 4 equal monthly instalments, with payment of the first instalment by September 16,2020, without penalties and interest
Professionals, having their registered office or domicile in Italy, with revenues or compensation not exceeding €400,000 in the previous tax period	Without personnel expenses	Revenues and fees received between March 17 and May 30, 2020	As a lump sum by June 30, 2020, or in a maximum of 5 equal monthly instalments, with payment of the first instalment by June,2020, without penalties and interest	N/A	-	N/A	-

3. Measures for tourism and culture

3.1. Exemptions from IMU municipal tax for the tourism sector

Article 177 of the Decree has provided for the exemption from the first instalment relating to IMU 2020 for the:

- buildings used as bathing establishments (sea, lake and river) and spas,
- buildings falling under cadastral category D/2 (hotels and guest houses),
- farmhouses, holiday villages, youth hostels, mountain huts, sea and mountain huts, short-stay accommodation, self-catering accommodation, holiday homes and apartments, bed & breakfasts, residences and campsites, provided that the owners are also the managers of the relevant activities.

Please note that the provisions of Article 177 of the Decree apply in accordance with the limits and conditions set out in the Communication of the European Commission of

March 19, 2020 C(2020) 1863 final "*Temporary framework for State aid measures to support the economy in the current COVID-19 emergency*", and following amendments.

4. Other tax measures

4.1. Extension of the recalculation of the purchase cost of land and non-traded equity investments on regulated markets

Article 137 of the Decree has provided for the possibility, through the payment of a substitute tax, to revalue the purchase value of:

- non-traded equity investments²⁷ on regulated markets, and
- land for building and agricultural use,

with reference to assets held as at July 1, 2020.

The substitute tax rate is 11%. It may be spread over a maximum of 3 equal annual instalments, starting on September 30, 2020, and interest at a rate of 3% per annum shall be due on the amount of the instalments following the first instalment, to be paid at the same time.

In addition, drafting and oath of appraisal must be carried out by the aforementioned date of September 30, 2020.

4.2. Remittance in terms and suspension of payment of the amounts requested following the automated and formal verification of the tax returns

Article 144 of the Decree has provided for the remittance in terms of taxpayers to make payments due between March 8 and May 18, 2020, including instalments in progress, and relating to the amounts requested by means of:

- communications of the results of the control referred to in Articles 36-*bis* and 36-*ter* of Presidential Decree No. 600 of 1973 and in Article 54-*bis* of Presidential Decree No. 633 of 1972,
- communications of the results of the liquidation with regard to income subject to separate taxation.

In addition, the same payments due between May 19 and May 31, 2020 will be suspended.

The aforementioned suspended payments may be made:

- as a lump sum by September 16, 2020 or
- in 4 equal monthly instalments starting from September 2020 and ending on the 16th of each month, without the application of penalties and interests.

²⁷ Held by individuals and partnerships.

Finally, there shall be no refund of what has already been paid.

4.3. Suspension of the offsetting between tax credit and registered debt

Article 145 of the Decree provided that, in case of disbursement of tax refunds during 2020, the offsetting referred to in Article 28-ter of Presidential Decree No. 602 of 1973 between:

- tax credits claimed for refund and
- registered debts,

would not apply.

4.4. Increase in the annual limit of tax credit that can be offset using the F24 Form

Article 147 of the Decree, limited to the year 2020, increased, from €700,000 to €1 million, the limit on tax credits and contributions that can be offset as well as refundable on tax account, pursuant to Article 17 of Legislative Decree No. 241 of 1997.

4.5. Suspension of payments of amounts due following tax settlements, conciliation agreement, adjustment and winding-up and of the recovery of tax credits

Article 149 of the Decree extended to 16 September 2020 the payment deadlines, expiring in the period between March 9 and May 31, 2020, of the sums due following:

- tax settlements, pursuant to Article 7 of the Legislative Decree No.218 of 1997,
- conciliation agreement, pursuant to Articles 48 and 48-bis of the Legislative Decree No.546 of 1992,
- mediation agreement, pursuant to Article 17-bis of the Legislative Decree No.546 of 1992,
- winding-up acts following the attribution of the cadastral value, pursuant to Article 12 of the Law Decree No.70 of 1988 and Article 52 of Presidential Decree No.131 of 1986 and Article 34, para. 6 and 6-bis, of the Legislative Decree No.346 of 1990,
- winding-up acts following the failure to register rental agreements and other agreements, pursuant to Articles 10,15 and 54 of Presidential Decree No.131 of 1986,
- deeds of recovery, pursuant to Article 1, para. 421, of Law No.311 of 2004,
- liquidation notices issued in the event of failure to pay or late payment of the registration tax, pursuant to Presidential Decree No.131 of 1986, of taxes pursuant to Article 33, para. 1-bis, of Legislative Decree No.346 of 1990, of the gift tax, of the substitute tax on loans pursuant to Presidential Decree No.601 of 1973, of the insurance tax pursuant to Law No.1216 of 1961.

With regard to the notification of the first appeal before the Tax Commissions the final deadline related to:

- the aforementioned acts and
- the acts that can be settled pursuant to Article 15 of the Legislative Decree No.218 of 1997,

and for which the payment deadlines expired between March 9 and May 31, 2020, is also extended to September 16, 2020.

It is also specified that the above extensions shall also apply to instalments due between March 9 and May 31, 2020 in relation to:

- the deeds that can be paid in instalments according to the provisions in force (acquiescence, settlement, mediation, conciliation) and
- defining institutes pursuant to Articles 1,2,6 and 7 of Law Decree No.119 of 2018.

The aforementioned extended payments may be made, without the application of penalties and interests:

- as a lump sum by September 16, 2020 or
- in 4 equal monthly instalments starting from September 2020 and ending on the 16th of each month.

Any sums already paid during the extension period shall not be refunded.

4.6. Extension of the period of suspension of the Collection Agent's activities

Article 154 of the Decree extended from May 31 to August 31, 2020 the final deadline²⁸ of the period of suspension of the payment of the loads entrusted to the Collection Agent.

It is also provided that, with regard to the deferment plans in place on March 8, 2020 and the acceptance measures issued with reference to the requests submitted up to August 31, 2020, the debtor's forfeiture of the instalments granted by the Collection Agent and the other effects linked with such forfeiture are determined in the event of non-payment of 10 instalments, even if not consecutive, instead of the 5 instalments previously provided.

Non-payment, insufficient or late payment of the instalments related to settlement through the following institutes:

- “*Saldo e stralcio*”, expiring on March 31, 2020,
- “*Rottamazione Ter*”, expiring on February 28, 2020,

do not trigger the ineffectiveness of the above said settlement, if the taxpayer makes the full payment within December 10, 2020²⁹.

Finally, the preclusion of the possibility to request new deferments of payment of debts related to settlement declarations and facilitated definitions has been removed, for which, as at December 31, 2019, the ineffectiveness of the definitions was determined as the applicant has not then paid the amount due.

²⁸ Already provided by Article 68 of the Law Decree “Cura Italia”.

²⁹ However, the "tolerance" period of 5 days referred to in Article 3, paragraph 14-*bis*, of Law Decree No. 119 of 2018 does not apply to this last term.

4.7. Extension of deadlines in order to facilitate the gradual recovery of economic and social activities

Article 157 of the Decree provided that the acts following the activities of:

- assessment,
- challenge,
- enforcement of penalties,
- recovery of tax receivables,
- liquidation,
- rectification and liquidation,

for which the statute of limitation expires between March 8 and December 31, 2020, are issued no later than December 31, 2020 and notified no earlier than January 1, 2021 and until December 31, 2021³⁰, by way of derogation from the ordinary statute of limitation.

The above suspension shall also apply, among others, to the sending of the following communications and documents, drawn up or issued, even if not signed, by December 31, 2020³¹:

- communications pursuant to Articles 36-*bis* and 36-*ter* of Presidential Decree No. 600 of 1973,
- communications pursuant to Article 54-*bis* of Presidential Decree No. 622 of 1972,
- invitations to fulfil pursuant to Article 21-*bis* of Law Decree No. 78 of 2010.

With regard to deeds and communications affected by the extension of deadlines, notified in 2021, neither interests for late payment nor interests for late registration, accrued during the period between January 1, 2021 and the date of service of the document or delivery of the communication, shall be due.

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³⁰ Except in cases of impossibility and urgency, or in order to complete the tax fulfilments that require the simultaneous payment of taxes.

³¹ See previous footnote.