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# Guide to the "*Cura Italia*" decree Tax Issues



18 March 2020



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# Taxation in the times of the Coronavirus

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## Introduction

On 17 March 2020 the “*Cura Italia*” law decree n. 18 was approved, containing measures to strengthen the National Health Service and economic support for families, workers and businesses further to the Covid-19 emergency.

The purpose of this document is to provide an overview of the main provisions of the Decree in terms of taxation and which are immediately effective. We are however constantly monitoring the situation and will release further updates in case of new developments

Please do not hesitate to contact us should you require any further information or clarification.

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Article	Summary
<p>Postponement of due dates for payments due on 16 March,2020</p> <p>(article 60)</p>	<p>The deadlines for payment of all taxes and social security contributions <b>due on 16 March</b> are postponed:</p> <ul style="list-style-type: none"> <li>➤ to <b>20 March</b> for taxpayers with revenues in excess of Euro 2 million,</li> <li>➤ to <b>31 May</b> for other taxpayers.</li> </ul>
<p>Suspension of payments</p> <p>(article 61)</p>	<p>Payments due <b>in the period from 8 March 2020 to 31 March 2020</b> are suspended for all taxpayers with revenues or income not exceeding Euro 2 million in the tax period prior to the tax year in which 17 March 2020 fell.</p> <p>More precisely, not only are payments of VAT, IRPEF additional personal income tax and withholding taxes subject to suspension, but also social security and welfare contributions, as well as compulsory insurance premiums.</p> <p>The new deadline for payment is 31 May 2020. Payment at that date must be made as a lump sum but there is also the possibility to make payment in up to 5 equal monthly instalments (without penalties or interest) starting from 31 May 2020.</p>
<p>Suspension of the other fiscal obligations</p> <p>(article 62)</p>	<p>All fiscal obligations falling due in the period <b>from 8 March 2020 to 31 May 2020</b>, other than payments and application of withholding taxes and withholding relating to the regional and municipal surcharges, are suspended. This provision therefore relates to the obligations to file tax returns and declarations that expire in the relevant period (the VAT return ordinarily falls due on 30 April 30 of each year).</p> <p>The obligations must be complied with, without application of any penalty, within 30 June 2020.</p> <p>Please note, however, that, with reference to the pre-filled tax declaration, the terms provided for in Article 1 of Law Decree apply 9/2020 and therefore, for example, the <i>Certificazioni Uniche</i> will still have to be sent by the original deadline of <b>31 March2020</b>.</p>
<p>Suspension of tax obligations for certain categories of subjects</p> <p>(article 61 paragraph 2)</p>	<p>The suspension <b>until 30 April 2020</b> of the obligation to make payments of withholdings and social security and welfare contributions, reserved by Law Decree 9/2020 to companies in the tourism sector alone, is extended to a series of subjects, including, for example, professional and amateur sports associations and sports clubs; entities that manage lottery offices or betting agencies; caterers, ice cream and pastry shops, bars and pubs. For entities operating in the tourism sector, VAT payments falling due <b>in March 2020</b> are also suspended.</p> <p>Another category of subjects to which the suspension of VAT payments (falling due in March 2020) is applied is defined based on the territorial requirement, regardless of 2019 revenues, and requires that the taxpayer have a tax domicile, registered office or operating office located in the provinces of Bergamo, Cremona, Lodi or Piacenza. For these categories, suspended payments must be made by <b>31 May 2020</b>, with the option to make payment in up to 5 equal instalments (without penalties or interest) starting from 31 May 2020.</p>
	<p>The deadlines within which to make payments falling due in the period <b>from 8 March 2020 to 31 May 2020</b> are suspended as far as regards:</p>

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<p>Suspension of payment requests by the collection agent</p> <p>(article 68)</p>	<ul style="list-style-type: none"> <li>➤ payment requests issued by collection agents,</li> <li>➤ executive assessment notices issued by the Tax Authority,</li> <li>➤ debit notices issued by social security institutions,</li> <li>➤ executive assessment documents issued by the Customs and Monopolies Agency,</li> <li>➤ injunctions and executive acts issued by local authorities.</li> </ul> <p>The suspended payments must be made, in a lump sum within the month following the end of the suspension period, and therefore by 30 June 2020.</p> <p>The payment of the instalment of the "<i>rottamazione ter</i>" falling due on 28 February 2020; and the payment of the instalment of the "final balance" falling due on 31 March, must be paid <b>within 31 May 2020</b>.</p>
<p>Withholding tax: postponement</p> <p>(article 62, paragraph 7)</p>	<p>For subjects having a tax domicile, registered office or operational headquarters based in the Italy with revenues or fees for the previous year not exceeding Euro 400,000, the income received from the date of entry into force of the Decree until 31 March 2020 is not subject to withholding tax (pursuant to articles 25 and 25-bis of Presidential Decree 600/1973), provided that in the previous month they did not incur costs relating to employees or collaborators.</p> <p>The subjects who opt for the non-application of the withholding tax must submit a specific declaration certifying the presence of the above requisites.</p> <p>The amount must be paid in a lump sum by the recipient of the payment by 31 May 2020. Payment is however possible in 5 equal instalments starting from May 2020, without application of interest or penalties.</p>
<p>Suspension of the assessment deadlines and the deadlines for replying to requests for clarification</p> <p>(article 67)</p>	<p><b>From 8 March 2020 to 31 May 2020</b>, the deadlines for the liquidation, control, assessment, and collection as well as litigation activities on the part of the tax authorities are suspended.</p> <p>The deadlines for providing answers to requests for clarifications (<i>istanze di interpello</i>) are also suspended, including following presentation of supplementary documentation, for the same period.</p> <p>As regards requests for clarifications submitted during the suspension period, the deadlines for replying will start to run from the first day of the month following the end of the suspension period.</p> <p>During the suspension period, legal advice and the presentation of the aforementioned requests is allowed only electronically via certified mail (PEC).</p> <p>The suspension also applies, by way of derogation from art. 3, paragraph 3 of law no. 212/2000, to the limitation periods for tax assessments.</p>

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<p>Tax credit for the sanitation costs in the workplace (<i>article 64</i>)</p>	<p>A tax credit equal to 50% of the expenses incurred for the sanitation of the workplace is granted to businesses, artisans or professionals, <b>up to a maximum of Euro 20,000</b> for each beneficiary, and up to the maximum amount of Euro 50 million allocated for the year 2020 on a national basis.</p> <p>The implementing provisions will be detailed in a subsequent decree.</p>
<p>Tax credit for rental contracts for shops (<i>article 65</i>)</p>	<p>For 2020, business operators are granted a <b>tax credit of 60%</b> in relation to the rent for March 2020 provided that the properties fall in the C / 1 cadastral category (shops).</p> <p>The tax credit is not applicable to the forms of business listed in Annexes 1 and 2 of DPCM dated 11 March 2020.</p> <p>The tax credit can only be <b>used in compensation</b>.</p>
<p>Tax incentives for donations (<i>article 66</i>)</p>	<p>Donations in cash and in kind, in favour of the State, regions, local authorities, public institutions and foundations aimed at financing actions relating to the containment and management of the Covid-19 emergency are deductible from the income of individuals / non-commercial entities at <b>30%, for an amount not exceeding Euro 30,000</b>.</p> <p>For subjects exercising a business, the deduction from taxable income takes place on the basis of the provisions of article 27 of Law 133/1999.</p> <p>For IRAP purposes, the amounts in question are deductible in the year in which the payment is made.</p>
<p>One-time allowance to professionals and workers under <i>co.co.co.</i> contracts (<i>articles 27,28, 29, 30 and 38</i>)</p>	<p>A one-off payment of <b>Euro 600</b> is provided for March, to freelancers holding a VAT number and to workers party to a coordinated and continuous collaboration relationship registered in the so-called "<i>Gestione Separata</i>" register held by INPS (a special fund for self-employed workers) who are not pensioners and are not enrolled in other mandatory social security funds.</p> <p>The same allowance is granted to self-employed workers enrolled in the AGO fund (<i>Fondo Pensioni Lavoratori Dipendenti FPLD e gestioni speciali dei lavoratori autonomi</i>) and to seasonal workers in the tourism sector, who have involuntarily ended their employment relationship.</p> <p>For fixed-term agricultural workers, who are not pensioners, the allowance is granted provided that in 2019 they worked for at least 50 actual days in the agricultural sector.</p> <p>The allowance of Euro 600 is also due to people working in showbusiness, registered in the relevant pension fund, and who are not pensioners, with at least 30 daily contributions paid in 2019, and with an income of no more than Euro 50,000</p> <p>According to a first analysis, it would seem that professionals enrolled in private pension funds are therefore excluded from the allowance (eg. accountants –<i>commercialisti</i> and <i>ragionieri</i> - payroll consultants, lawyers, etc.).</p>

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<p>Suspension of hearings and postponement of deadlines <i>(article 83)</i></p>	<p>All hearings scheduled to be held from 9 March to 15 April 2020, in both civil and criminal proceedings pending before all courts are postponed <i>ex officio</i>.</p> <p>In the same period from 9 March 9 to 15 April, the deadlines for carrying out any act within the same procedures are suspended.</p> <p>In the same period from 9 March to 15 April, <b>the deadlines for submitting appeals to the Tax Commissions are suspended.</b></p>
<p>Suspension of first home loans for VAT holders <i>(article 54)</i></p>	<p><b>For a period of 9 months</b> from the entry into force of the Decree, self-employed and freelance professionals can request the suspension of mortgage instalments due on a first home, upon presentation of a specific self-certification attesting the loss of income in a quarter following 21 February, 2020 or in the shorter period of time between the date of the application and the aforementioned date, of more than 33% of their turnover compared to the last quarter of 2019.</p> <p>There is no requirement to present and <i>ISEE</i> declaration (equivalent economic situation indicator) for the purpose of this provision.</p>
<p>Suspension of repayment of loans to SMEs <i>(article 56)</i></p>	<p>Payment of instalments on loans granted by banks or other financial intermediaries to SMEs and micro-enterprises is suspended until 30 September 2020.</p> <p>The repayment date of (non-instalment) loans with a contractual expiry date prior to 30 September 2020 is postponed until 30 September 2020 on the same conditions.</p> <p>Revocable credit lines and loans granted against advances on loans existing on 29 February 2020 <b>cannot be revoked until 30 September, 2020.</b></p> <p>The beneficiaries of this measure must not have deteriorated debts and must present a self-certification stating that it has suffered a partial or total reduction of its activity as a direct consequence of the COVID-19 epidemic.</p>
<p>Allowance for presence in the workplace <i>(article 63)</i></p>	<p>A bonus of up to <b>Euro 100</b> is payable for the month of March to employees with a total annual gross income of no more than Euro 40,000 who cannot benefit from "Smart-working": the amount of the bonus is calculated in proportion to the number of working days carried out on site in that month.</p> <p>The bonus is automatically attributed by the tax substitute and does not contribute to the formation of income.</p> <p>Tax substitutes can compensate the incentive paid by means of pursuant to article 17 of Legislative Decree 241/1999.</p>

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<p>Deferral of deadlines for the approval of financial statements (<i>article 106</i>)</p>	<p>All companies are now entitled to call the meeting for the approval of the financial statements within <b>180 days of the end of the financial year</b>.</p> <p>Notwithstanding the provisions of their bylaws, Spa, Srl, Sapa and cooperative companies and mutual insurance companies may provide for attendance at the ordinary and extraordinary shareholders' meeting online provided this is specified in the notice of calling.</p> <p>It is not necessary for the chairman, secretary or notary to be in the same place.</p> <p>In the case of Srl companies, it is possible to vote by written consultation or with consent expressed in writing, also in derogation of the provisions of article 2479, paragraph 4, of the civil code.</p> <p>With reference to listed companies, cooperative banks, cooperative credit bank, cooperative companies and mutual insurance companies, further specific rules are envisaged for the appointment of proxies to attend ordinary and extraordinary shareholders' meetings, even where the articles of association provide otherwise</p>
<p>Financial support for businesses <i>(article 55) - credit tax to DTA</i></p>	<p>If a company <b>within 31 December, 2020</b> assigns – on payment of consideration - its credits (both commercial and financial) against defaulting debtors (i.e. when the non-payment continues for more than 90 days from the due date), it can transform deferred tax assets relating to the following components into a tax credit:</p> <ul style="list-style-type: none"><li>- tax losses not yet counted as a decrease in taxable income;</li><li>- ACE (Economic Growth Aid) facilitation surpluses.</li></ul> <p>For the purposes of transformation into a tax credit, the components mentioned above can be considered up to a <b>maximum amount not exceeding 20% of the trade receivables</b>. The tax credit is calculated on this value, which in ordinary cases amounts to 24% (IRES rate). Deferred tax assets (DTA) that have not yet been included in the financial statements can also be considered as tax credit generators.</p> <p>The assigned credits of up to a maximum amount of Euro 2 billion, verified on an annual basis and at the group aggregate level, can be used for this purpose..</p> <p>Tax credits do not contribute to the formation of the IRES and IRAP tax base and can be used in set-off, or can be assigned or a request for reimbursement presented.</p> <p>This facility, already contained in the previous provision of Law Decree 34/2019, is therefore <i>de facto</i> extended in scope, eliminating both the territorial limitations (no longer only the companies operating in the "<i>Mezzogiorno</i>"), and the "context" (it is no longer necessary for the transformation into tax credit to take place following company reorganization operations). The benefit is precluded for companies where the state of failure or the risk of failure or the state of insolvency, has been ascertained, and does not operate in the case of the transfer of intragroup credits. The new provision expressly refers to the method of exercising the option envisaged in art. 11 of Law Decree 59/2016 (clarified with circular no. 32/2016) which in certain cases provides for the payment of a fee of 1.5% on the amount of prepaid taxes transformed into credits.</p>

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