

Italian tax measures to support enterprises

Italy enacts Law Decree No. 18/2020 to manage COVID-19

Executive Summary

On March 17th, 2020 Law Decree No. 18 (also known as “*Cura Italia*”, i.e. “Heal Italy”) was published in the Italian Official Gazette and entered into force immediately (the “**Decree**”).

The Decree contains several measures to strengthen the national healthcare service and to support Italian families, workers and enterprises, in connection with the epidemic emergency due to COVID-19.

The Decree must be converted into law within May 16th, 2020 and may be modified.

The content of the Decree has been commented by the Revenue Agency by Circular letters no. 4 and 5 of March 20th, 2020 and no. 6 of March 23rd, 2020.

This alert summarizes the main tax measures contained in the Decree concerning enterprises.

Deferral of tax compliance obligations

In relation to taxpayers having their tax domicile or registered office or place of business in Italy*, all tax compliance obligations to be fulfilled in the period from March 8th, 2020 to May 31st, 2020 are generally postponed to June 30th, 2020. No penalties apply.

The postponed tax compliance obligations include, for instance, the filing of:

- (a) VAT yearly tax return for 2019 (ordinary terms: April 30th, 2020);
- (b) VAT communication of cross-border transactions related to first quarter of 2020 (“*Esterometro*”; ordinary terms: April 30th, 2020); and
- (c) Intrastat Forms related to first quarter of 2020 (ordinary terms: April 27th, 2020).

Ordinary payments of taxes and withholding taxes must be done within the statutory deadlines (exceptions for cer-

tain listed categories of taxpayers).

*Non-resident enterprises registered for VAT purposes in Italy or having appointed a VAT representative in Italy seem to be excluded from the scope of the measure (to be clarified by the Revenue Agency).

Suspension of collection for enforceable tax payments

Terms for the enforceable payment of taxes expiring in the period from March 8th, 2020 to May 31st, 2020 and related to:

- (a) tax bills issued by the Collection Agent and territorial entities; and
- (b) notices of assessment;

are generally suspended.

The amounts resulting therefrom must be done by a lump sum payment within June 30th, 2020.

Deferral of tax payments for micro enterprises

In relation to enterprises having their tax domicile, registered office or place of busi-

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ness in Italy, whose turnover did not exceed €2 million in the fiscal year (“FY”) preceding the entry into force of the Decree (i.e. FY 2019), **a specific deferral is provided in respect of the following tax payments** to be made in the period from March 8th, 2020 to May 31st, 2020:

- (a) withholding taxes, including those related to regional and municipal taxes;
- (b) VAT; and
- (c) social security contributions and mandatory insurance premiums.

Such payments must be due by May 31st, 2020 in full, or in equal monthly instalments (not more than five) starting from May 2020. No penalties and interest apply.

The same deferral - but in respect to VAT only - applies, irrespective of their turnover, to taxpayers having their tax domicile or registered office or place of business in certain listed territories severely afflicted by COVID-19 (**namely, provinces of Bergamo, Cremona, Lodi and Piacenza**).

Suspension of the Italian tax authorities activities

The Decree provides for a suspension of the terms set for certain activities of the Italian tax authorities (i.e. terms stop to run) from March 8th, 2020 to May 31st, 2020.

Such suspension applies in relation to payment, auditing,

assessment, collection and litigation activities.

The same suspension is provided for:

- (a) the ordinary terms for the Italian tax authorities to reply to ruling requests, and to the filing of supplementary documents;
- (b) the ordinary terms for cooperative compliance procedure, for advanced arrangements, for multinational companies (ATA) and advance pricing agreements procedures (APA); and
- (c) the ordinary terms for applications for patent box regime.

For rulings submitted during the suspension period, all terms of the procedure will begin to run from the first day of the month following the end of the suspension period (i.e. June 1st, 2020).

However, according to the above mentioned Circular letter no. 6/2020, the Revenue Office activities may in principle not to stop - notwithstanding the aforesaid terms suspension - in so far they may be managed through electronic means (e.g. amicable settlement proceedings run through video and telephone contacts with taxpayers).

Postponement of the statute of limitations

The ordinary statute of limitations for FY 2015 (which should have expired on December 31st, 2020) is extended by two additional years, with the result that Italian tax authorities will be entitled to audit FY 2015 until December 31st, 2022.

Tax litigation

The terms for the taxpayer’s litigation activities (such as filing of appeals - even in case of filing of amicable settlement requests - defensive briefs, counter-appeals, etc.) before tax courts as well as Court of Cassation are suspended from March 9th to April 15th, 2020.

Apparently the 60-days terms for filing the defensive briefs following the notice of Tax Audits Reports is not covered by such special provision.

It must be noted that the suspension period granted to taxpayers (from March 9th, 2020 to April 15th, 2020) is shorter than the suspension period (from 8th March, 2020 to May 31st, 2020) applicable to the Italian tax authorities activities (including tax litigation). Such a discrepancy may potentially create procedural issues to taxpayers.

Hearings scheduled in the aforesaid period shall be re-scheduled by the courts after April 15th, 2020.

Tax credit for workspace and work instrument sanitation

The Decree introduces a tax credit related to expenses in-

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curred for the sanitation of workplaces during FY 2020.

The tax credit is equal to 50% of the expenses sustained by enterprises for the sanitation of workspaces and work instruments up to €20,000 (a government budget limit of €50 million has been set for FY 2020).

Tax incentives for donations supporting the COVID-19 epidemic emergency

The Decree introduces a tax incentive regime in order to stimulate donations (in cash or in kind) financing actions connected with the current epidemiological emergency.

For enterprises, the donation is fully deductible for IRES (*“Imposta sul reddito delle società”*) and IRAP (*“Imposta regionale sulle attività produttive”*) purposes.

The deduction of such expenses for IRAP purposes is allowed under a cash basis principle.

Tax credit for advertising expenses

A tax credit equal to 30% of the incremental advertising expenses made in FY 2020 via press, television and radio broadcast is allowed. Such tax credit is recognized within a maximum limit to be determined by the Italian government and is subject to the relevant European Union limits.

Postponement of deadlines for approving 2019 financial statements

The Decree introduces a specific deferral for approving 2019 financial statements.

Such documents can be approved within 180 days from the end of the financial year (i.e. June 28th, 2020) rather than 120 days (ordinary deadline).

The payment of related taxes (IRES and IRAP) must be made within the last day of the month following the month of financial statements' approval (i.e. within July 31st, 2020, or – exceptionally – within August 30th, 2020 with a 0.4% surtax).

Also, the Decree generally allows all members to attend the shareholders' meeting by means of telecommunications, also in exception to the provisions of the by-laws.

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