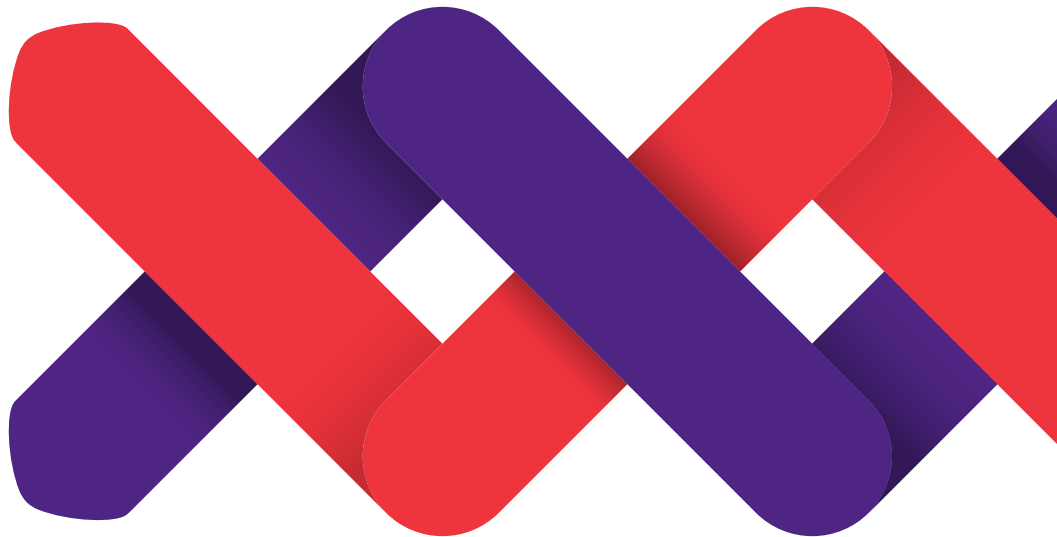


# Leoni & Partners

HR News

**COVID-19 emergency - "Cura Italia" Law Decree**



# Focus on...

The latest provisions introduced by the Italian Government to face the Coronavirus emergency with Law Decree no.18 dated 17-03-2020.

## Titles II, IV and V

### Measures to support labour, Tax measures to support families' and businesses' liquidity

#### **Art. 19 - Ordinary redundancy fund and salary supplementary funds (FIS) – Special COVID-19 object**

Those employers who suspend or reduce working activities due to events derived from the COVID-19 emergency can apply for the ordinary redundancy funds or salary supplementary funds (FIS) for periods starting from 23 February 2020 and for a maximum term of nine weeks and in any case not later than August 2020.

Applications can be submitted within the end of the fourth month after the working activities were first suspended and, therefore, can be retrospective.

Such periods will not be included in the calculation of the time limits for the use of social safety net provisions within the five-years' period and do not imply the payment of additional contributions provided for ordinary redundancy funds and FIS.

The procedure to apply for such aids is simplified and provides the submission of a communication to trade union organizations via certified email and a possible joint examination to be carried out within three days, even electronically.

Aids will be granted for all people employed by the concerned entity at 23 February 2020.

#### **Art. 20, 21 - Ordinary redundancy fund and salary supplementary funds (FIS) for companies that are receiving extraordinary redundancy funds/salary supplements.**

Those companies that at 23/02/2020 (effective date of Law Decree 6/2020) were receiving extraordinary redundancy funds (so-called *CIG Straordinaria*) and extraordinary salary supplements (*Assegno di solidarietà*), can suspend such extraordinary aids by applying for ordinary redundancy fund and salary supplementary funds for the total worked hours. For such applications, the provisions under art. 19 apply.

#### **Art. 22 - New dispositions on exceptional redundancy funds (i.e. for those companies that cannot apply for ordinary and extraordinary redundancy funds)**

For those companies excluded from the scope of application of ordinary and extraordinary redundancy and supplementary funds, the Decree extends the provisions under Law Decree no. 6/2020 concerning exceptional redundancy funds.

The abovementioned Law Decree, in fact, provided the possibility to apply for exceptional redundancy funds for one month and only for production units located and for employees residing in the "red zones" and for companies

closed following the dispositions of the Ministry of Health on companies located in Lombardy, Veneto and Emilia Romagna regions.

The new provisions extend the possibility to benefit from exceptional redundancy funds to all companies operating in Italy for 9 weeks, using the new “COVID19” object.

A union agreement must be signed with the trade unions that most represent the company’s workers, even through electronic procedure. Companies with less than five employees are excluded from this obligation.

However, the Institutions suggest – both in case of ordinary and in case of exceptional redundancy funds – to previously use remaining holidays and leaves.

### **Art. 23 - Leaves and allowances for private sector employees, for workers registered in the gestione separata contribution scheme and for self-employed**

Starting from 5 March and for all the suspension period of childcare services and of all school educational activities, both parents are granted a leave period of max. 15 days – not necessarily all in a row – for children not older than 12 years.

The above age limit does not apply for disabled children in law ascertained serious situations, who attend any school at any level.

Such leaves can be granted provided that in the family there is no other parent benefitting from income support measures due to suspension or termination of the working activity (Naspi unemployment allowance, Reddito di cittadinanza, social safety net provisions) and no other parent that is unemployed or simply does not work.

During this leave period, workers are granted an allowance equal to 50% of the consideration, calculated according to the provisions regulating maternity leave (excluding the incidence of additional monthly payments).

Leave periods are also covered by imputed social security contributions.

Any other parental leaves that were already used or ongoing at 5 March are turned into the leaves under this article, together with the right to receive a 50% allowance, provided that the above described requirements are met.

Parents employed in the private sector having children between 12 and 16 years’ old – provided that in the family there is no other parent benefitting from income support measures due to suspension or termination of the working activity (Naspi unemployment allowance, Reddito di cittadinanza, social safety net provisions) and no other parent that is unemployed or simply does not work – can suspend their working activity for the period of suspension of childcare and school educational activities, without receiving any allowance nor imputed social security contributions, and providing the prohibition to dismiss such employees and the obligation to keep their job in the company/organization.

Operating procedures to apply for this leave period will be defined by INPS.

As an alternative to the 15-days’ leave, there is the possibility to apply for the payment of a bonus for the purchase of baby-sitting services, within the limit of 600.00 Euros, to be used for services received in the period of suspension of childcare and school educational activities. Application procedures will be defined by INPS.

Workers registered with the so-called gestione separata (i.e. a separate compulsory Italian insurance and pension scheme for the self-employed) can benefit from a specific leave starting from 5 March and for the whole period of suspension of childcare and school educational activities, and from an allowance for children up to 12 years’ old.

For each day included in the concerned period, such allowance is equal to 50% of 1/365 of income calculated according to the provisions regulating maternity leave.

The same allowance is granted to self-employed parents registered with INPS; in this case, it will be equal to 50% of the standard daily consideration established each year by law.

As an alternative to the leave provided for workers registered with INPS Gestione Separata or for self-employed workers registered with INPS, there is the possibility to apply for the payment of a bonus for the purchase of baby-sitting services, within the limit of 600.00 Euros, to be used for services received in the period of suspension of childcare and school educational activities. Application procedures will be defined by INPS.

The abovementioned bonus is granted also to self-employed workers who are not registered to INPS, depending on the number of beneficiaries indicated by the relevant insurance and pension scheme.

#### **Art.24 - Extension of paid leaves under Law no. 104/1992**

The number of paid monthly leave days covered by imputed social security contributions provided under art. 33, para. 3 of Law no. 104/1992, is extended – in case of serious handicap, by further total 12 days.

The employee can choose how to use such leave days in March or April, in addition to the 3 ordinary leave days provided under Law no. 104.

#### **Art.26 - Urgent measures for the safeguard of the active-monitoring period of employees in the private sector**

The period spent by private sector employees in actively-monitored quarantine or in actively-monitored home isolation is treated as sickness for remuneration purposes and is excluded from the calculation of the maximum period during which the employer is obliged to maintain the worker's job cannot be dismissed.

For the above period, the doctor issues the sickness certificate including the reference of

the medical authority provision imposing the quarantine or isolation at home with active monitoring. Sickness certificates issued without such specific medical authority provision are also valid, if issued before the coming into force of the decree under analysis.

Up to 30 April, public and private sector employees having an attested serious disability pursuant to law, as well as those employees having a specific certification issued by the competent local medical authority attesting a risk condition due to immunodepression, or to oncologic diseases, or to relevant life-saving therapies are allowed to suspend their working activities – to be prescribed by the relevant medical authorities - for the period equal to the hospitalization.

As an exception to current provisions, those contributions due by employers filing their application to the social security institution and those due by social security institutions that are related to the measures under this article are paid by the State, within the maximum limit of 130 million Euros for 2020.

#### **Art.27 - Una tantum allowance for professionals having a VAT registration number and for coordinated and continuative collaborators (so-called co.co.co)**

Within the established amount limit, an allowance – issued directly by INPS and equal to 600 Euros – is granted to professionals having a VAT registration number (active at 23 February 2020) and to workers under a coordinated and continuative collaboration agreement (in force at 23 February 2020), provided that they are registered with the INPS gestione separata pension scheme, do not receive any pension and are not registered under other mandatory social security schemes (at the present-day situation, it seems that the allowance is granted regardless of the suspension of the agreement and/or the suspension of payment of the remuneration

and/or periodical considerations, but clarifications are expected). The Decree announced for April 2020 could extend such allowance also to April 2020.

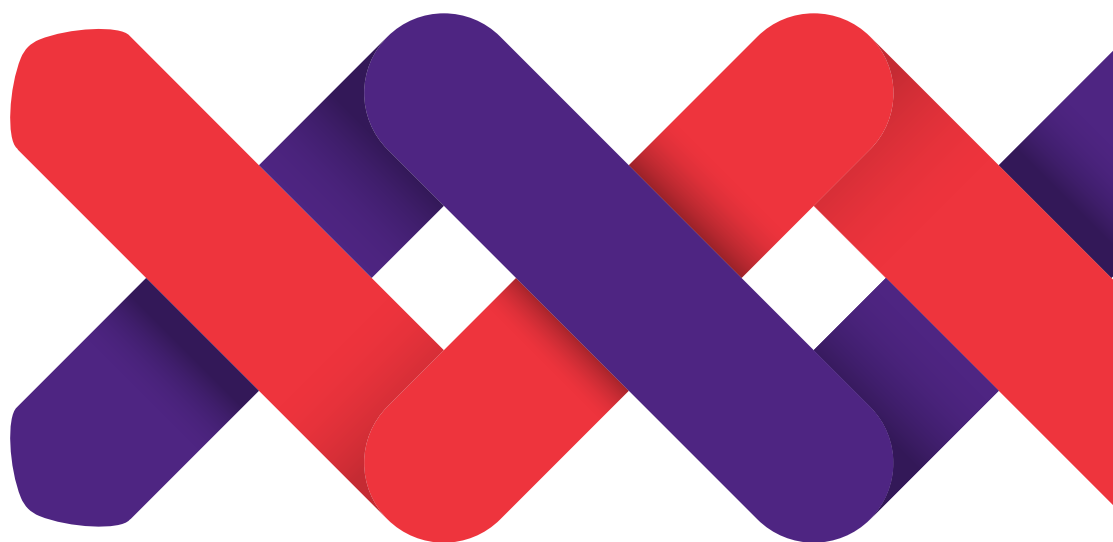
The same allowance is granted to coordinated and continuative collaborators who work for amateur sports companies and associations (please refer to the dispositions under Art. 96 below).

### **Art.28 - Una tantum allowance for self-employed craftsmen and tradesmen**

An una tantum allowance equal to 600 Euros is also provided for self-employed registered under the special INPS pension schemes for “craftsmen and tradesmen (so-called Ago – “Artigiani e Commercianti”), who do not receive any pension and are not registered under other mandatory social security schemes. The Decree announced for April 2020 could extend such allowance also to April 2020.

### **Art.29 - Una tantum allowance for workers in the tourism sector**

All those seasonal employees in the tourism and thermal facilities sector, who unintentionally lost their job in the period within 1 January 2019 and 17 March 2020, and who do not receive any pension or income from subordinate employment at 17 March 2020 are entitled to receive an allowance for March equal to € 600.00. The Decree announced for April 2020 could extend such allowance also to April 2020.



### **Art.30 - Una tantum allowance for workers in the agricultural sector**

Agricultural workers under a fixed-term agreement, who do not receive any pension and who spent at least 50 effective days carrying out agricultural working activities are entitled to receive an allowance for March equal to € 600. The Decree announced for April 2020 could extend such allowance also to April 2020.

### **Art.31 - Non-cumulative allowances**

Allowances under articles 27, 28, 29, and 30 cannot be combined and cannot be issued to persons receiving the so-called *Reddito di Cittadinanza*.

### **Art.32 - Extension of terms for the filing of applications for agricultural unemployment allowances**

The term for the filing of the applications for agricultural unemployment allowances, relevant to 2019, has been delayed to 1 June 2020, concerning those agricultural employees under either a fixed-term or a permanent employment agreement and for other equal figures.

### **Art.33 -Extension of terms for the filing of Naspi and DIS-COLL unemployment allowances**

The term for the filing of the applications for Naspi and DIS-COLL unemployment allowances has also been extended for all those cases of unintentional termination of the working relationship occurred in 2020. The new term is extended from 68 to 128 days, while for those applications that were already filed beyond the ordinary 68-days' term, the 68th day after the unintentional termination of the working relationship will be considered as starting date of for the allowance.

### **Art.34 - Suspension of INAIL limitation of actions and prescription terms**

Within the period from 23 February and 1st June 2020, the terms of limitation of actions and prescription concerning the social security, pension, and insurance payments are suspended.

### **Art.37 - Extension of social security contribution payments due by employers of domestic workers**

The terms relevant to the fulfilments and payment of social security contributions and mandatory insurance premiums for domestic labour due within the period between 23 February and 31 May 2020 are suspended (therefore, the terms for payments relevant to Quarter 1, 2020 due by 10 April 2020 are suspended, as well as any payment due for termination of domestic employment agreements occurred in the above period). Suspended contributions will have to be paid by 10 June 2020 and neither penalties nor interest will be applied on deferred amounts.

### **Art.38 - Una tantum allowance for workers in the show and entertainment sector**

All those workers registered with the Show and entertainment pension fund, who paid at least 30 daily contributions in 2019 to the above pension fund and with a corresponding income not higher than € 50.000, who did not sign a subordinate employment agreement at 17 March 2020 are entitled to receive an una tantum allowance equal to € 600. The Decree announced for April 2020 could extend such allowance also to April 2020.

### **Art.39 - Preference to smart working**

Up to 30 April 2020, employees with a handicap or having a person with an handicap in their family can carry out their working activity in smart working, provided that it is compatible with the performed activity.

Also, preference to carry out smart working will be given to employees in the private sector having a serious and proved disease implying a reduction in the working ability.

### **Art.40 -Suspension of required conditions determining the receipt of unemployment allowances**

In order to limit the movement of people to strictly necessary cases, the obligations related to the obtainment of the *Reddito di Cittadinanza*, as well as the required conditions to be met to benefit from Naspi and DIS-COLL unemployment allowances and the relevant terms provided, and the terms for the convocation at employment agencies to participate in orientation and training initiatives are suspended.

### **Art.42 - Work accidents due to covid-19 infection**

Ascertained Covid19 infection during the working activity of private sector employees – similarly to doctors of the National Health system – is considered as work accident, therefore implying the subsequent coverage by the insurance institution, which will also pay the contributions relevant to the quarantine and/or home isolation period.

### **Art.46 - Suspension of dismissals due to objective reasons**

According to this provision, with the aim of safeguarding all jobs in the private sector, collective dismissal procedures are suspended.

The suspension is provided for 60 days starting from the effective date of the *Cura Italia* Law Decree and concerns all procedures started, pursuant to art. 5 and 24 of Law no. 223/1991, after 23 February 2020 (i.e. procedures started before 23 February are excluded).

The decree also provided the general prohibition for all employers – regardless of the number of employees – to dismiss their employees due to objective reasons pursuant to art. 3 of Law 604/1966.

Even in this case, the suspension is equal to 60 days starting from the coming into force of this Decree, i.e. 17 March 2020.

### **Art.60 - General extension of terms for payments due by 16 March 2020**

Given the regulatory uncertainty on the suspension of payments due to public authorities by 16 March 2020, all payments due by this date can be made by 20 March, without the application of any penalty and interest.

### **Art.61 - Suspension of payment of withholding taxes, social security contributions and mandatory insurance premiums**

The provision is aimed at supporting the liquidity of businesses that are considered to be the most affected by Covid19 emergency, introducing the delay of deadlines for the payment of taxes and social security contributions for additional sectors compared to those originally included under art. 8, para. 1 of Law Decree no. 9/2020 (tourism-accommodation facilities, travel agencies, tour operators).

Particularly, the decree provides for:

- operators in the sports, arts, and culture sector, in transport, catering, transport means rental, education and assistance, amusement parks, events, fairs and conferences, courses, amusement arcades, betting agencies, touristic guides and assistants.

The delay of the deadline for the payment of withholding taxes on subordinate employment and similar income, as well as of social security contributions and mandatory insurance premiums to 30 April 2020.

For the above taxpayers, the decree also provides the suspension of terms for the payment of VAT due in March 2020.

No interest nor penalties will be due on such amounts (it is expressly provided that no refunds will be paid to those who have already fulfilled the above payments).

For those who will benefit from the suspension, collection will re-start from 31 May 2020. By this date, suspended withholdings and contributions can be paid in a single payment or by instalments – max. 5 equal monthly instalments – starting from May 2020.

Tax and social security payments for professional and amateur sports companies are

suspended up to 31 May 2020. No penalties nor interest are due on such amounts, which can be paid in a single payment by 30 June 2020 or by max. five monthly instalments starting from June 2020.

### **Art.62 - Further suspension of payments (other sectors) and suspension of tax fulfilments**

For entities having their tax domicile, registered office, or operating office in Italy, tax fulfilments are suspended from 8 March to 31 May 2020.

However, the following are not suspended:

- Tax and social security payments
- Withholding taxes, including regional and municipal surtaxes
- Fulfilments due by the withholding agent, concerning the filing of the CU returns (confirmed the deadline on 31 March 2020) and the obligation related to pre-compiled returns.

Suspended fulfilments will be due by 30 June, without the application of penalties (it is not clear whether the obligations under art. 17-bis of legislative decree no. 241/1997 on withholding taxes on contracts are also suspended. Clarifications are expected).

Taxpayers receiving corporate income and self-employment income whose turnover in the previous year was:

- non superiore a due milioni di euro

can choose not to pay amounts due in March 2020 with reference to withholding taxes for subordinate employees, VAT, and social security contributions.

The two-million Euro limit does not apply for taxpayers receiving corporate income, artisanal income or professional income having their tax domicile, registered office or operating office in the provinces of Bergamo, Cremona, Lodi, and Piacenza: in this cases, payments are suspended regardless of the turnover.



Suspended payments will be due by 31 May in a single payment, or by max. 5 monthly instalments starting from May 2020. No penalties or interest apply and already paid amounts will not be refunded.

Smaller entities having registered revenues and considerations lower than 400 thousand Euros in the previous tax period, who did not incur expenses for subordinate employees in the previous month, and whose considerations are subject to withholding tax under art. 25 (income from self-employment) and 25-bis (considerations from commission, agency, intermediation, sales representation and brokerage activities) can apply (upon a declaration to the withholding agent) for the suspension of WHT application by the withholding agent on considerations received from the coming into force of the regulation to 31 March 2020.

WHT amounts will be due by taxpayers by 31 May 2020 in a single payment, or by max. five equal monthly instalments starting from May 2020, without any penalty or interest.

### **Art.63 - Bonus for subordinate employees**

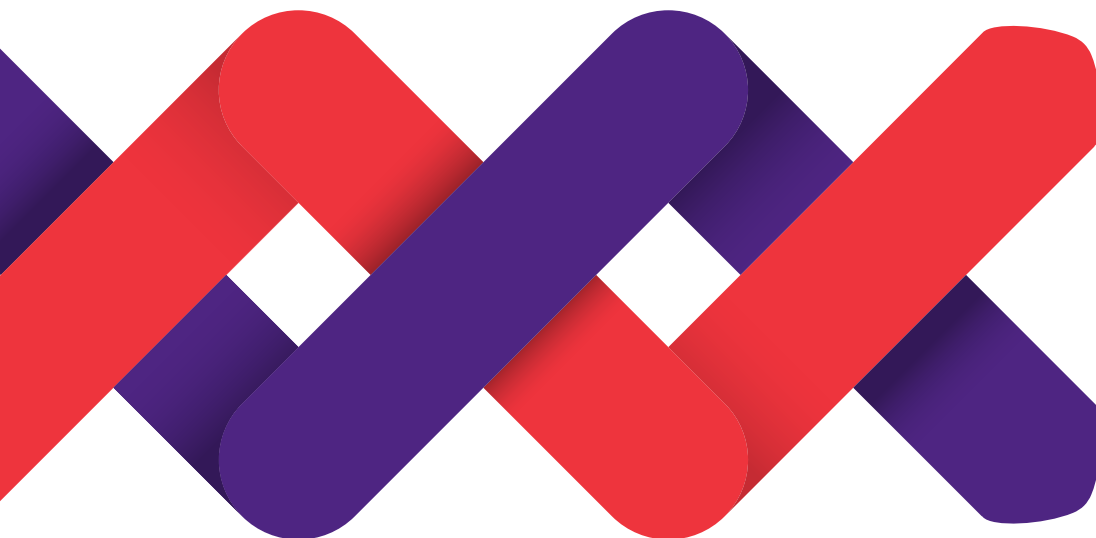
In order to favour employees' smart working and award those employees that, on the contrary, are forced to work at the normal company workplace, an una tantum bonus, equal to max. Euro 100,00 is granted to employees that carry out their working activity in March 2020.

The amount of the bonus (exempt from tax and social security withholdings) is proportioned basing on the actual working days in March 2020 and is granted to employees receiving an annual income not higher than € 40.000,00.

The bonus is issued automatically by withholding agents starting from April 2020, and in any case before the year-end balance.

Withholding agents will recover the anticipated amount through the offset procedure under art. 17 of legislative decree no. 241/1997.

The Decree announced for April 2020 could extend such allowance also to April 2020.



#### **Art.64 - Tax credit for the sanitization of working places**

A contribution is granted to companies for the sanitization of the working places and working equipment.

This contribution, issued as tax credit, is equal to 50% of expenses incurred for the sanitization and up to an amount of 20 thousand Euros.

The disposition will be implemented by a proper Decree by the Minister of Economic Development and will be issued within the limit of allocated resources.

#### **Art.65 - Tax credit for shops and workshops**

A tax credit equal to 60% of rental fees due in March is granted for real estate under C1 category (shops and workshops).

Such tax credit is not granted for the rental fees of those shops considered as essential, such as pharmacies, para-pharmacies, and food sales points. In fact, these were not concerned by the mandatory closure provided under the Government decree. This tax credit can only be used through offsetting.

#### **Art.66 - Donations to face Covid19 virus**

Donations in cash or in kind made by individuals and non-commercial entities to State, regions, local authorities and not-for-profit foundations and associations, aimed at financing interventions for the limitation and management of the COVID-19 emergency are subject to a 30% income tax deduction.

The tax deduction cannot be higher than 30 thousand Euros. Donations in cash and in kind made by taxpayers receiving corporate income are totally deductible from income with no limitations and are deductible also for the purposes of the regional tax on production activities in the FY in which the relevant donation is made.

Donations tax does not apply for the transfer of goods.

#### **Art.67 - Suspension of inspection, assessment and collection activities and of litigation by tax authorities**

From 8 March to 31 May 2020, the terms relevant to inspection, assessment, collection, and litigation activities by tax authorities are suspended.

Terms for limitations of actions and prescriptions related to the activities of tax authorities are generally suspended.

With regard to terms for limitations of actions and prescriptions related to the activities of tax authorities, the decree applies art. 12 of legislative decree no. 15/2015, therefore, terms lapsing on 31 December of the year in which payments are suspended are deferred to 31 December of the second year following the end of the suspension period. Subsequently, terms lapsing this year will be delayed to 2 years, i.e. to 31/12/2022 (e.g. tax assessments on FY 2015, omitted returns relevant to FY 2014, tax payment notices following formal assessments on FY 2015).

**Art.68 - Suspension of payments related to tax payment notices, tax assessment notices, rottamazione ter tax settlements, and saldo e stralcio tax settlements**

With reference to tax and non-tax revenues, terms for payments due between 8 March and 31 May 2020 relevant to tax payment notices issued by collection agencies are suspended, as well as to notices provided under art. 29 and 30 of Law decree dated 31 May 2010, no. 78, turned into law dated 31 July 2010, no. 122.

Suspended payments are due in a single payment by the month following the end of the suspension period.

Already paid amounts will not be refunded. Provisions under art. 12 of legislative decree dated 24 September 2015, no. 159. apply.

**Art.95 - Suspension of fees payments for the sports sector**

For national sports federations, sports promotion entities, sports companies and associations, either professional or amateur, having their tax domicile, registered office or operating office in Italy, terms for the payment of rental fees and concession fees relevant to sports facilities owned by the State or by local entities are suspended from the coming into force of this decree to 31 May 2020.

Payments of such fees are due – without the application of any penalty nor interest – in a single payment by 30 June 2020 or by max. 5 equal monthly instalments starting from June 2020.

**Art.96 - Allowance to sports collaborators**

The allowance provided under art. 27 of “Cura Italia” Law Decree (600 Euro for March 2020) is granted by Sport e Salute S.p.A., within the maximum limit of 50 million Euros for 2020, also with reference to collaboration relationships at national sports federations, sports promotion entities, amateur sports companies and associations under art. 67, para. 1, letter m), of Presidential Decree dated 22 December 1986, no. 917, that were already effective at 23 February 2020.

This allowance does not contribute to the calculation of income pursuant to Presidential Decree dated 22 December 1986, no. 917.

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