

Italian measures aimed COVID-19 emergency

April 20, 2020



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Legislation

- **Law Decree** March 17, 2020 n. 18 (so called “Heal Italy Decree” or “March Decree”) published on the Italian Official Gazette n. 70 of March 17, 2020 and to convert into Law within May 16, 2020
- **Law Decree** April 8, 2020 n. 23 (so called “Liquidity Decree”) published on the Italian Official Gazette n. 94 of April 8, 2020 and to convert into Law within June 7, 2020.

Clarifications provided by the **Italian Tax Authority** with following **Circular letters**:

- n. 6 of March 23, 2020
- n. 7 of March 27, 2020
- n. 8 of April 3, 2020
- n. 9 of April 13, 2020
- n. 10 of April 16, 2020

Regional disposals locally enacted (e.g. Lombardy, Emilia Romagna and Veneto).

Lock down and Re-opening

The Relevance of ATECO Code

Essential Businesses

Only some businesses (those considered “essential”) **were allowed to continue their operations** throughout the lock-down.

All others were ordered to suspend their activities unless they can be continued working from home (to allow that, a specific provision was contained in the Heal Italy Decree to consent **generalized smart working** even if not regulated by relevant employment agreements).

Essential businesses were identified according to their ATECO Code (i.e. the national version of the NACE, the European classification of economic activities).

ATECO means ATtività ECONomica (i.e. Economic Activity) and it is an alfa-numeric code allocated to a business on registration and start-up - introduced in this form in 2007. The code is used by ISTAT for statistics by ITA for tax reference and by INPS for SSC.

Given the above, also in view of the re-opening, **it is key that local businesses declare the correct ATECO code associated with the current activity they carry on.**

Corporate provisions

Corporate law provisions

(1)

- **Shareholders' meetings** for *S.p.a.*, *S.a.p.a.* and *S.r.l.* can be called within an extended term of **180 days** after the closure of the fiscal year (instead of ordinary 120 days);
- Shareholders' (and Board of Directors') meetings can be held through conference calls and **electronic and postal voting** applies also in absence of a specific clause in the bylaws;
- Italian Civil Code measures consequential to the **reduction of share capital** amount **due to losses** are not applicable for year 2020;
- The business continuity (presence of a **going concern**) of corporations should be evaluated with regard to their situation **before February 23, 2020**.

Corporate law provisions

(2)

- **Shareholders' loans** granted within December 31, 2020 are not subordinated to suppliers and other unsecured creditors;
- New rules introduced by **Code of corporate crisis** will be applicable starting from September 1, 2021 (instead of August 15, 2020);
- An **extension of six months** is granted for
 - filing insolvency proceedings and approved restructuring agreements expiring between February 23, 2020 and December 31, 2021
 - approving insolvency proceedings and pending restructuring agreements at February 23, 2020;
- All **bankruptcy applications** are **suspended** between March 9, 2020 and June 30, 2020.

Tax provisions and litigation

Tax provisions and litigation

New provisions have been set in terms of:

1. General deferment of tax payments
2. Deferment of collections and tax filings
3. Advanced tax payments calculation
4. Deductions and Tax credits FY 2020
5. Suspension of administrative procedures and Tax Authority activities
6. Tax litigation and suspension of some administrative activities

1. Deferment of tax payments

(1)

General deferment relief

Payment due within March 16, 2020 were postponed to March 20, 2020 and they have been further postponed to **April 16, 2020** without penalties and interest.

Withholdings, Social Security Contribution and Value Added Tax

Payments due between **April 1 and May 31, 2020** related to:

- Withholdings tax on employment income and professional remunerations (**WHT**)
- Social Security Contribution (**SSC**)
- Value Added Tax (**VAT**)

can be made **within June 30, 2020** (in one payment or in 5 equal amount installments starting from June 30, 2020) by subjects which carry on a business activity, art or profession having their **tax domicile, register office or operating office in Italy**, if their **turnover** in March and April 2020 decreased by at least:

- **33%** respect of March and April 2019 for subjects with revenue and considerations 2019 **not exceeding € 50 ML**;
- **50%** respect of March and April 2019 for subjects with revenue and considerations 2019 **exceeding € 50 ML**.

1. Deferment of tax payments

(2)

Qualified area

The deferment to June 30, 2020 is applicable for VAT payments for all enterprises and self-employees located in **Bergamo, Brescia, Cremona, Lodi** and **Piacenza** if their turnover and considerations decreased at least 33% even if they had revenues and considerations higher than 50 millions Euro in the previous year.

Small business

VAT and **WHT** payments due between March 8 and March 31, 2020 by enterprises and self-employees with **turnover and considerations** in the previous year **up to 2 millions Euro** are deferred to **May 31, 2020** (in one payment or in 5 equal amount installments starting from May 31)

Qualified industries mostly affected by the lock-down

Payments of **VAT**, **WHT** and **SSC** originally due between March 8 and April 30, 2020 (May 30, 2020 for sports associations and club) by tax payers operating in **qualified industries** as hospitality, aviation, tourism, sport, entertainment, culture, education, non-profit, etc... with tax domicile, registered office or operating office In Italy, are deferred to May 30, 2020 in a single payment or in 5 equal amount installments starting from the end of May 2020 (without any interest or penalties).

1. Deferment of tax payments

(3)

Gaming sector

Payment of gaming tax (*Prelievo erariale unico* or *PREU*) originally due within April 30, 2020 is deferred to May 29, 2020 in a single payment or in equal monthly installments (plus legal interests accrual on a daily basis starting from May 29 and till December 18, 2020).

Suspension of WHT on small taxpayers

Professionals and other qualifying taxpayers with previous FY turnover lower than € 400 k may request withholding agents to be paid gross of WHT on the income derived between March 17 and May 31, 2020. Should they do so, the WHT equivalent amount would have to be paid by them within July 31, 2020 in a single payment or in 5 equal monthly installments starting from July 31.

Duties on electronic invoicing

Based on Liquidity Decree, enterprises and self-employees can defer the payment of duties on e-invoices due for the first and/or second quarter as follow:

- if duties for Q1 are lower than € 250, the amount can be paid within the deadline for Q2 (July 20);
- If cumulative duties for Q1 and Q2 are lower than € 250 they can be paid within the deadline for Q3 (October 20).

2. Deferment of collections and tax filing

Deferment of collections

Payments arising from collection deeds such as tax bills, tax assessment notices, SSC bills (ivi included payments on installments) due between March 8 and May 31, 2020 are deferred to June 30, 2020.

Deferment of Tax filings

Tax filings due between March 8 and May 31, 2020 are automatically deferred to June 30, 2020. 2019 Compensation statements (*Certificazioni Uniche* or *CU*) due by March 31, 2020 can be filed within April 30, 2020.

3. Advanced tax payments calculation

Advanced tax payments due for the current FY based on provisional method calculation are neither subject to penalties nor interests if the amount paid is **at least equal to 80%** of the amount due according to the CIT (IRES) and Regional Tax (IRAP) returns for FY 2020.

4. Deductions and Tax credits FY 2020 (1)

Conversion of Deferred Tax Assets (DTAs) in new Tax Credit

Companies with receivables unpaid for more than 90 days can claim a tax credit if they sell these receivables at discount and have:

- Tax losses carried forward
- Excess of notional interest deduction (Aid to Economic Growth - Italian “ACE”) carried forward.

The 24% tax credit is obtained by converting tax losses or ACE excess.

The conversion is capped to 20% of the face value of sold receivables.

The emerging tax credit can be:

- Offset against tax payables without limits
- Assigned within the same group or to third parties
- Claimed for refund.

A 1.5% duty will be due in the FY following the conversion.

4. Deductions and Tax credits FY 2020 (2)

Tax credit for shop leases

A tax credit of 60% of the amount paid for leasing shops and retail spaces (cadastral category C/1) for March 2020 is granted to all subjects which carry on a business activity in Italy. Said tax credit is only available through offsetting with other taxes/SSC due.

Tax credit for advertising

A tax credit for advertising on newspapers, magazines, television and radio broadcasters is granted at 30% of the value of expenses sustained in 2020 up to a cap of € 27.5 ML.

An electronic application must be filed between September 1 and September 30, 2020.

This Credit is conditioned to EU limits.

4. Deductions and Tax credits FY 2020 (3)

Tax credit for sanitization of working environments

A tax credit of 50% of the expenses sustained, up to a maximum expense of € 20 k, is granted to enterprises and qualifying self-employers for:

- workspaces and work instruments sanitization;
- COVID-19 personal protection equipment (PPE) purchase.

A Decree by the Ministry of Economic and Development is expected in order to clarify the methods and criteria to get the tax credit.

Tax credit for COVID-19 related donations

- A full deduction for CIT (“IRES”) and Regional Tax on Production (“IRAP”) purposes is allowed for all expenses sustained in FY 2020 supporting the limitation of COVID-19 spread;
- a 30% deduction, up to a maximum amount of € 30 k, is allowed to individuals and non-commercial entities which make donations to State, Regions, local entities, public entities or institutions, legally recognized not for profit foundations and associations, aimed at financing interventions for the containment and management of the emergency.

5. Suspension of administrative procedures and Tax Authority activities (1)

Administrative procedure

All deadlines to administrative activities originally expiring between February 15 and May 11, 2020 are suspended till May 12, 2020.

The validity of all certificates (including certificates issued by foreign Tax Authorities) originally expiring between January 31 and June 15, 2020 is extended till June 15, 2020.

Suspension of terms and submitting ruling requests

The terms for providing outcomes to the requests for a ruling submitted in the suspension period (March 8, 2020 – May 31, 2020) and for the relevant assessment will start from June 1, 2020. During the suspension period, ruling requests can be submitted only through certified email (so called “PEC”) or regular email address (for non resident taxpayers without an approved agent in Italy).

5. Suspension of administrative procedures and activities (2)

Tax Authority activities and right of access

The ordinary terms for tax audits, tax assessments, tax collection and tax litigation are suspended from March 8 till May 31, 2020. The mentioned suspension applies also to:

- ordinary terms for the Tax Authority to reply to ruling requests;
- communications relevant to the inclusion in the cooperative compliance regime;
- filing of procedures of collaboration and enhanced cooperation for the definition of tax liabilities for potential Italian permanent establishments (PE) of a foreign company;
- advance pricing agreements for international companies and multinational group;
- recognition of income reductions following to the application of the agreements concluded with the competent authorities of foreign Countries further to the application of mutual agreement procedures (MAP) provided under international double tax treaties or under arbitration agreements;
- advance agreements for the application of the optional Patent Box regime;
- the requests of access to the tax register database (*Anagrafe Tributaria*), administrative deeds and documents (right of access).

6. Tax litigation

(1)

Extension of the statute of limitation

Limitation and prescription periods originally expiring on December 31, 2020 are deferred to **December 31, 2022** (i.e. tax assessment on CIT/VAT and Individual Tax returns FY 2015 or FY 2014 in case of fling omission at the original deadline). **This provision will likely be removed in the conversion of the “Heal Italy Decree”.**

Payment due as an assessment or tax bill consequences

The payments due between March 8, 2020 and May 31, 2020, as a consequence of:

- tax bills, tax assessment notices and debit notices issued by the Italian Social Security Institute (INPS)
- an assessments issued by the Customs Office,

are deferred to June 30, 2020.

Furthermore between March 8 and May 31, 2020 all injunctions issued by the Regional Authorities and Execution proceedings issued by local entities are suspended as well.

6. Tax litigation

(2)

Deferment of payment due as a tax settlement benefit (*rottamazione-ter*)

Payments due within February 28, 2020 and March 31, 2020 related to the tax settlement benefit so-called *rottamazione-ter* are deferred to May 31, 2020.

Deferment of incollectability notices submission term

Terms for the submission of incollectability notices of the amounts granted to collection agents in FY2018, FY2019 and FY2020 are deferred as following:

- from December 31, 2021 to December 21, 2023
- from December 31, 2022 to December 31, 2024
- from December 31, 2023 to December 31, 2025.

Financial provisions

Liquidity support for companies

(1)

The most significant measures introduced to support liquidity needs of companies, small owner-operated businesses, self-employed and professional can be considered:

1. Small Medium Enterprises (SMEs) Guarantee Fund;
2. Deferment and suspension of SMEs loans and credits;
3. State guarantees on loans granted by banks and other Financial Intermediaries (FIs);
4. Loans granted by the Italian Credit sport Institution (Istituto per il *Credito sportivo*).

Liquidity support for companies

(2)

1. SMEs Guarantee Fund (see also appendix: Table n. 1)

The existing guarantee fund under Law n. 662/1996, has been renewed and temporarily strengthened **till December 31, 2020** including:

- **companies with less than 499 employees:**
 - (i) by increasing the **coverage of direct guarantee up to 90%** (80% in the meanwhile EU will approve the 90% provision) of the amount of each financial operation;
 - (ii) by increasing the **coverage of reinsurance guarantee up to 100%** (90% in the meanwhile EU will approve the 100% provision) of the amount of each financial operation already guaranteed by “Confidi” or another guarantee fund, upon condition that the guarantees issued by the latter institutions do not provide for the payment of a premium for the credit risk assumed;
- **companies with less than 499 employees and revenues up to € 3.2 ML**, negatively impacted by COVID-19 emergency, are allowed to get **the 90% direct guarantee and other coverages for the remaining 10%** (granted by “Confidi” or another authorized subject).

Liquidity support for companies

(3)

Guarantees can cover financial operations **up to € 5 ML** and, in any case, cannot exceed the lower of following thresholds:

- double of the annual labour cost (employees);
- 25% of beneficiary's turnover;
- investments needs in the next 12 months (18 months for SMEs).

A guarantee covering **100% of new loan**, both as a direct guarantee and as a reinsurance is considered within the **limit of 25% of the revenues** only for **SMEs** and **individuals** running a business activity or practicing arts or other professions, whose operations have been negatively impacted by the Covid-19 emergency. **The provision has to be approved by the EU Commission.**

Applying enterprises have to meet **specific requirements** in terms of financial standing as at January 31, 2020 (absence of previous overdue exposures).

Liquidity support for companies

(4)

The eligibility of the financing is evaluated by banks based on economic and financial data of applying enterprises.

An **interest upper limit** is provided for loans up to € 25 k, based on a *Rendistato* index formula plus 0.5%, which to date is a rate between 1.2% and 1.9%.

2. Deferment and suspension of SMEs loans and credits

A standstill, through **deferment and suspension**, to **September 30, 2020** is granted to micro enterprises and SMEs damaged by COVID-19 emergency.

Deferment and suspension must be requested to banks and other FIs for **medium-long term loans** or **credits lines existing** at the date of the March Decree and the extension of the loan's term can be allowed **up to 100% of the remaining repayment** term.

Liquidity support for companies

(5)

3. State guarantees on loans granted by banks and other FIs (*Appendix: Table n. 2*)

In order to support **enterprises** and **self-employees** with registered office in Italy affected by COVID-19 outbreak, SACE S.p.A. (an Italian State-owned company specialized in credit insurance) acts as **guarantor** before banks, national and international FIs and other authorized entities operating in Italy, on loans granted in any form **within December 31, 2020**.

The financial commitment by SACE cannot exceed € 200 BL, of which at least 30 BL addressed to support SMEs, self-employees and professionals having an Italian VAT number, which have entirely reached the coverage granted by SMEs fund.

Subjective conditions: enterprises and self-employees getting SACE guarantee, at December 31, 2019 have not to be classified among **distressed businesses** as per the EU definition and **no impaired positions towards banking system existed** as at February 29, 2020.

Duration of the granted loans should **not exceed 6 years** and a pre-amortization period is allowed up to 24 months.

Liquidity support for companies

(6)

The **amount of the secured loan** cannot exceed the higher between the following amounts:

- 25% of 2019 turnover, as resulting in the approved FS or in the Income tax return;
- twice 2019 employees costs for the company, as resulting in the approved FS or, in case of the FS has not been yet approved, from certified data.

The **guarantee covers up to:**

- **90%** of the loan for subjects with less than 5,000 employees in Italy and turnovers up to € 1.5 BL;
- **80%** of the loan for subjects with more than 5,000 employees or turnovers between € 1.5 BL and € 5 BL;
- **70%** of the amount of the loan for businesses with a turnover exceeding € 5 BL.

For **group of enterprises**, the employees costs and turnovers conditions have to be considered based at Group Consolidated level.

Liquidity support for companies

(7)

A **simplified procedure** is applicable for enterprises with less than 5,000 employees in Italy and turnover up to € 1.5 BL.

The liquidity Decree established, on the contrary, a **more complicated** procedure for bigger companies which will be regulated through a specific Ministerial Decree to be issued.

Limitation clauses exist for enterprises which benefit from the above mentioned guarantee, which have to commit **themselves and other companies with registered office in Italy belonging to the same group** to:

- **not** approve **dividend payments**
- **not** approve **repurchase of own shares** in year 2020 and
- manage employment levels through **union agreements** (*accordi sindacali*).

Guaranteed loans have to be allocated to cover employees costs, to make investments or provide working capital in production facilities and entrepreneurial activities **located in Italy**.

Effectiveness of the abovementioned provisions is subject to EU approval.

Liquidity support for companies

(8)

4. Loans granted by the Italian Credit sport Institution (Istituto per il Credito sportivo)

The duration of the Guarantee fund for sporting venues managed by the Italian Credit sport institution is extended until the 31st of December 2020, including loans for liquidity needs - originally excluded - of the National Sports Federations, sports associations, sports promotion bodies, amateur sports associations and companies.

A specific amount of 35 millions Euro for 2020 is allocated for liquidity needs.

Labour provisions

Labour provisions

(1)

1. Temporary Lay-off special schemes

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 February 23, 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 4th month after the working activities were first suspended and **can be retrospective**.

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 can be granted for all **people employed** by the concerned entity **at March 17, 2020**.

The measure is very flexible and it is possible for the employer to cover the difference in net salary (which can be significant, given salary caps apply) to benefit its employees.

2. Extension of document on tax payment regularity (DurF) validity

The validity of DurF issued by February 29, 2020 is extended to June 30, 2020.

Labour provisions

(2)

3. Indemnity for March 2020

An indemnity amounting to € 600 for the month of March 2020 is paid by the National Social Security Institute (INPS) to following subjects:

- **Qualifying professional** with a VAT position and temporary workers (so called “Co.co.co”) active at February 23, 2020 and registered at a specific section of the INPS (“Gestione separata”);
- seasonal employees operating in **tourism** and **thermal facilities industries** if their employment agreement has ceased between January 1, 2019 and March 17, 2020;
- Temporary employees at February 29, 2020 operating in **agricultural who** worked at least 50 days in 2019;
- Employees operating in **entertainment industry**, with at least 30 daily contributions paid in 2019 and an income lower than € 50 k, without any pensions income

The indemnity can not be added to citizenship income and it's **not relevant under tax purposes**.

The indemnity **for professionals** is **conditioned** to the absence of a pension income and to the exclusive registration with the relevant professional social security fund.

Labour provisions

(3)

4. Prohibition of Dismissal

Individual and collective terminations for business related reasons are prohibited until May 18, 2020.

5. Special leave for parents and vouchers for baby-sitting

Employees with children under the age of 12 are entitled to 15 days of special leave while schools are closed. An indemnity equal to 50% of salary will be paid by the Italian Social Security Institution.

Employees with children aged 12 to 16 are alternatively entitled to a special unpaid leave to be used until schools reopen.

Alternatively parents can apply for a baby-sitting voucher (€ 600) paid by the Italian Social Security Institution.

6. Injuries and sick leave

COVID-19, contracted at the workplace, is treated as an accident at work.

Time spent in quarantine is treated as sick leave and shall not be taken into account when calculating the maximum duration of guaranteed sick leave.

Appendix

Table 1 – Large Companies Guarantee Fund

Beneficiaries	Companies with less than 5,000 employees in Italy and a turnover up to Euro 1.5 billion	Companies with more than 5,000 employees in Italy or with a turnover between Euro 1.5. and 5 billion	Companies with a turnover exceeding Euro 5 billion
State guarantee	90%	80%	70%
Limitations	Clauses on dividends (no distributions), Shares buyback, employment, “made in Italy”		
Costs	Preliminary fees + for SMEs: depending on the amount granted, 0.25% for the 1 st year, 0.5% for the 2 nd and 3 rd year, 1% for the 4 th , 5 th and 6 th year. For bigger companies: 0,5% for the 1 st year, 1% for the 2 nd and 3 rd year, 2% for the 4 th , 5 th and 6 th year		
Procedure	The business files an application to the bank, which evaluates and resolves upon granting the loan; if the resolution is positive, the bank files an application for a guarantee to Sace, which processes it and issues a unique identifying code for the loan		
Refund	6 YEARS		

Table 2 - SMEs guarantees on bank loans

Beneficiaries	SMEs and individuals carrying out a business activity or practicing arts or other professions	Companies with up to 499 employees and turnover up to Euro 3.2 million	Companies with up to 499 employees
State guarantee	100%	90% State + 10% Confidi	90% direct guarantee 100% reinsurance guarantee (80% and 90% respectively, until the EU authorisation is obtained)
Limitations	Loan not exceeding 25% of revenues and in any case not higher than Euro 25,000	Loan not exceeding 25% of the turnover	Maximum yearly guaranteed amount of Euro 5 million and in any case not higher than 25% of the turnover for FY 2019
Costs	Free access to the fund + interest rate with cap (to date, equal to 1.2% as estimated by the Ministry of Economics and Finance)	Free access to the fund. Maximum rate not specified	
Procedure	Self-declaration on the damages suffered due to the COVID-19 emergency. No evaluations by the Fund	Evaluation of the economic and financial profile carried out by the Fund, with the exception of the evaluation of the trend of the last few months	
Refund	Refund to start not earlier than 2 years, with a duration of 6 years	Not specified	

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