



CIRCULAR ON TAX ISSUES
Special COVID-19 No. 4/2020

Art. 56 Law Decree 18/2020 - Measures For The
Financial Support To Companies Affected By The
Covid-19 Outbreak

In order to cope with the crisis that Italian companies are facing due to the spread of the Coronavirus, the Italian Government, in the context of the provisions adopted with **law decree no. 18/2020** published on March 17th, has provided for **financial support measures in favour of micro, small and medium-sized enterprises**.

In particular, **art. 56** of the mentioned law decree clarifies, first of all, that the COVID-19 epidemic is formally recognised as an **exceptional occurrence** and as a **serious disturbance of the economy**, thus allowing to overcome the prohibition on State Aid laid down in art. 107 of the Treaty on the Functioning of the European Union; therefore, the adopted measures are deemed to be compatible with the internal market. The scope of application of the above mentioned article is limited to companies with registered offices in Italy, that, pursuant to European Recommendation no. 2003/361/EC of May 6th, 2003, are defined as follows:

- **micro-sized enterprises**, as those met the following requirements:
 - employees: up to 10;
 - turnover or total balance sheet: up to euro 2,000,000.00;
- **small-enterprises**, as those met the following requirements:
 - employees: up to 50;
 - turnover or total balance sheet: up to euro 10,000,000.00;
- **medium-sized enterprises**, as those met the following requirements:
 - employees: up to 250;
 - turnover or total balance sheet, respectively: up to euro 50,000,000.00 or up to euro 43,000,000.00.

Again with regard to the subjective requirements for access to support measures under Article 56 of Decree Law 18/2020, with reference to the calculation of the thresholds necessary to identify the field of application of the so-called Recommendation 2003/361/EC, a distinction should be made between those companies qualified as autonomous, associated or linked, pursuant to Article 3 of the Recommendation aforementioned. Therefore, in the event that the company is part of a group, a detailed check of the thresholds should be carried taking into account the classifications set out in Article 3 of the Recommendation 2003/361/EC aforementioned. For an easier interpretation of the European legislation, please refer to the "[User's Guide to the definition of SMEs](#)" edited by the European Commission.

A further requirement necessary for the application of art. 56 is that potential beneficiaries - as clarified by the Ministry of Economy and Finance - shall not have debt


positions classified as impaired exposures, broken down into the categories of non-performing loans, probable defaults, past due exposures and/or impaired overruns. In particular, they shall not have past due instalments, whether unpaid or only partially paid, for more than 90 days.

Subject which meet these requirements, among which even self-employed workers with VAT number shall be included - as clarified by the Ministry of Economy and Finance - and which, on the same date of publication of law decree 18/2020, had obtained **loans or credit lines** from banks or other financial intermediaries, may benefit from the following measures:

- a. **credit lines granted and loans granted against advances on credits** existing on February 29th, 2020 or, if higher, on the date of publication of the aforementioned law decree (*i.e.*, February 17th, 2020) **shall not be revoked**, both for the part used and the part not used, until September 30th, 2020;
- b. the **repayment of single-instalment loans** with deadline prior to September 30th, 2020 is **postponed** until the same date under the same conditions and in a manner that must not result in additional charges either for intermediaries or for companies. Any administrative burden for the implementation of the operation shall remain with the intermediary; any ancillary elements, such as guarantees, shall also be extended;
- c. for **loans** and other loans **repayable in instalments**, the payment of **instalments** or **leasing instalments** with deadline prior to September 30th, 2020 shall be **suspended** until the same date and the repayment schedule for the instalments or lease payments subject to suspension shall be deferred, together with the ancillary elements and without any formalities, in a manner that ensures that there are no new or increased charges for both parties. Companies may request the suspension of capital repayments.

Companies that want benefit from such measures shall send a **self-certification** to the credit institutions and intermediaries, through which businesses declare that they are suffering a **temporary shortage of liquidity** as a direct consequence of the spread of the COVID-19 epidemic. Therefore, businesses shall not declare a crisis or an economic deficit, but only a temporary financial difficulty.

Supervised banks and financial intermediaries and other entities authorized to grant credit in Italy are required to **accept communications of moratorium if the applicant meets the requirements set forth in the law decree**, with no further verification of the truthfulness of self-declarations made by companies.



The suspension, accorded pursuant to the described procedure, shall not result in an alert sent to the Central Credit Register, managed by Bank of Italy.

The communication can also be sent by the company via registered mail, or even through any other means that allow to track the communication with a certain date.

As consequence of the granting of the described measures, credit institutions benefit from the subsidiary and free **guarantee** of a **special section of the Guarantee Fund for SMEs**, which will guarantee – depending on the cases - an amount equal to 33% of the increased use of non-revocable credit facilities, extended loans or the amount of instalments whose payment has been suspended.

For any clarification, please do not hesitate to contact your usual RSM tax / law consultant.