



CIRCULAR ON TAX ISSUES
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Decree Law of April 8th, 2020 no. 23 | Urgent measures concerning access to credit and tax compliance for businesses, special powers in strategic sectors, as well as measures in the field of health and work, extension of administrative and judicial deadlines.

The Italian Council of Ministers, upon proposal of the Italian President Giuseppe Conte and the Italian Minister of Economy and Finance Roberto Gualtieri, approved, on 08.04.2020, the decree law no. 23 (the so-called "Decreto Liquidità" i.e. Liquidity Decree) which introduces urgent measures regarding access to credit and postponement of obligations for companies, as well as special powers in sectors of strategic importance and of justice.

Below is a table summarising the most relevant measures contained in the aforementioned decree.

Temporary measures to support corporate liquidity (Art. 1)

In order to ensure liquidity to **companies based in Italy** that have been damaged by the COVID-19 epidemic, until 31.12.2020, SACE S.p.A. will grant guarantees in favour of banks and other entities authorized to exercise credit in Italy up to 90% of the amount of loans granted in any form to the above-mentioned companies.

The conditions for accessing the guarantee are as follows:

- a. loans with a duration not exceeding 6 years;
- b. as at 31.12.2019 the beneficiary company was not a "company in difficulty" as defined by the Community legislation;
- c. as at 29.02.2020, the company had not any non-performing debt exposure;
- d. the amount of the loan must not exceed certain thresholds.

Undersigning of agreements and communications in a simplified manner (Art. 4)

Agreements relating to banking and financial transactions and services that were entered into with retail clients between 09.04.2020 and 31.07.2020 will meet the requirement of written form even if the client gives his consent by **ordinary e-mail**, provided that they are accompanied by a copy of the contracting party's identification document. The client may also withdraw from the agreement by the same means.

The requirement of delivery of the copy of the agreement will be satisfied by making the agreement available on a durable medium; the hard copy must be delivered to the client at the first opportunity.

Deferral of the Code of Corporate Crisis and Insolvency (Art. 5)

The Corporate Crisis and Insolvency Code will enter into force on 01.09.2021.

Temporary provisions on capital reduction (Art. 6)

From 09.04.2020 to 31.12.2020 the provisions on the reduction of the capital of joint stock companies for losses pursuant to article 2446, paragraphs 2 and 3 of the Italian Civil Code and of limited liability companies pursuant to article 2482-bis, paragraphs 4, 5 and 6, and Article 2482-ter of the Italian Civil Code shall not be applied. For the same period of time, **the cause for dissolution of the company due to reduction or loss of share capital** pursuant to article 2484, paragraph 1, no. 4 of the Italian Civil Code for joint stock companies and article 2545-duodecies of the Italian Civil Code for cooperative companies shall not be applied.

These rules do not exclude the **obligation to convene and inform** the shareholders of S.p.A. in cases of serious losses of the subscribed capital (article 58 of EU Directive 2017/1132/EU).

Principles for the preparation of financial statements: going concern (Art. 7)

In the preparation of the financial statements for the year ended 31.12.2020, it is possible to continue to evaluate the items in the financial statements taking into account the **principle of going concern** if the prospect of continuing as a going concern exists in the last financial statements for the year ended before 23.02.2020. This rule is also extended to financial statements closed by 23.02.2020 and not yet approved. The valuation criterion must be explained in the notes to the financial statements.

Otherwise, due to the anomalous situation after this date, many companies would be required to prepare financial statements without the possibility of adopting a going concern approach, with a serious impact on all items in the financial statements.

This is without prejudice to the provision of article 106 of the Italian Decree Law no. 18/2020, which extended by 60 days the deadline for the approval of the financial statements for 2019, ordinarily set at April 30th, 2020.

Temporary provisions on loans to the company (Art. 8)

From 09.04.2020 to 31.12.2020, the provisions of articles 2467 and 2497-quinquies of the Italian Civil Code regarding the repayment of loans made by shareholders or those who exercise management and coordination activities shall not be applied. In particular, the aforementioned provisions refer to: (a) the subordination of receivables deriving from said loans; (b) the obligation to repay loans repaid in the year preceding the declaration of bankruptcy, in the event of the company's bankruptcy.

Provisions on composition with creditors and restructuring agreements (Art. 9)

The deadlines for the fulfilment of compositions with creditors and approved agreements expiring between 23.02.2020 and 31.12.2021 have been **extended by 6 months**.

Temporary provisions on appeals and applications for declaration of bankruptcy (Art. 10)

Appeals and applications for declaration of bankruptcy filed between 09.03.2020 and 30.06.2020 will be **inadmissible** unless the p.m. (i.e. public prosecutor) has applied for precautionary or protective measures to protect the assets or the company.

Suspension of the maturity dates of debt securities (Art. 11)

The maturity dates falling due or starting from 09.03.2020 to 30.04.2020 for promissory notes, bills of exchange and other debt securities issued before 09.04.2020 are **suspended** for the same period.

Suspension of the mortgage for primary residence (clarifications) (Art. 12)

With regard to the suspension of the mortgage for primary residence, pursuant to art. 54 of the Italian Decree Law 18/2020, the regulation clarifies that the notion of self-employed workers who have access to the so-called "Gasparri Fund" also includes **sole proprietorships** and **artisans**.

For a period of 9 months from 09.04.2020, the benefits also apply to loans that have been amortised for less than one year.

Central Guarantee Fund for SMEs (Art. 13)

The financing guarantee will be granted free of charge and **up to 90%**. Moreover, the maximum amount guaranteed per company has been raised to **Euro 5 million** and funding for debt rescheduling operations will also be eligible for the guarantee under certain conditions.

The measure has also been extended to **non-performing companies**:

- a. companies with exposures classified as probable default or impaired (but not as non-performing), provided that this classification is not prior to 31.01.2020;
- b. companies that, after 31.12.2019, have been admitted to the composition with creditors on a going concern basis, have entered into restructuring agreements or have submitted a certified recovery plan.

Suspension of tax and contribution payments (Art. 18)

1. Suspension for the months of April and May 2020 of payments relating to:
 - withholding taxes on employment income and similar income (as per articles 23 and 24 of the Italian Presidential Decree 600/1973);
 - withholding taxes relating to the regional and municipal surtax, which the parties carry out as withholding agents;
 - VAT;
 - social security and welfare contributions;
 - premiums for mandatory insurance.

Suspended payments must be made, without penalty and interest, either in a single instalment by 30.06.2020 or by instalments of up to a maximum of 5 equal monthly instalments from June 2020.

This regime shall apply to:

- subjects carrying out business, art or profession activities
 - o with revenues or income not exceeding **€50 million** in 2019;
 - o with a **decrease** in turnover or fees of at least **33%** in March 2020 and April 2020 compared to the same months of the previous tax period;
- subjects exercising business, art or profession

activities

- with revenues or income exceeding €50 million in 2019;
- with turnover or fees **reduced** by at least **50%** in March 2020 and April 2020 compared to the same months of the previous tax period;
- subjects carrying out business, art or profession activities, who have undertaken the activity after 31.03.2019.

2. The suspension of **VAT payments** referred to in the previous point shall apply, for the months of April and May 2020, regardless of the volume of revenues and fees of the previous tax period.

This regime shall apply to:

- subjects carrying out business, art or profession activities
 - who have their fiscal domicile, registered office or operating headquarters in the **provinces of Bergamo, Brescia, Cremona, Lodi and Piacenza**;
 - who have suffered a decrease in turnover or fees of at least 33% in March 2020 and April 2020 compared to the same months of the previous tax period.

3. Suspension for the months of April and May 2020 of payments relating to:

- withholding taxes on employment income and similar income (articles 23 and 24 of the Italian Presidential Decree 600/1973);
- withholding taxes relating to the regional and municipal surtax, which the parties carry out as withholding agents;
- social security and welfare contributions;
- premiums for mandatory insurance.

This regime shall apply to:

- **non-commercial entities**, including third sector entities and civilly recognised religious bodies, which carry out institutional activities of general interest not under a business regime.

Extension of suspension withholding taxes (Art. 19)

The possibility of not subjecting revenues and income received in the period between 17.03.2020 and

31.05.2020 to withholding taxes is extended from March 31st to May 31st 2020:

- on income from self-employment;
- on commissions related to:
 - commission relationships
 - agency
 - mediation
 - sales representative
 - business procurement

The beneficiaries of the suspension may pay the amount of the withholding tax not incurred either in **one instalment by 31.07.2020** (instead of 31.05.2020) or **by instalments of up to a maximum of 5 equal monthly instalments from July 2020** (instead of May 2020), without penalty and interest.

This regime shall apply to:

- self-employed workers with revenues or income not exceeding € 400,000 in 2019, who have not incurred expenses for employee or similar services in the previous month.

Irpef, Ires and Irap 2020 payments in advance (Art. 20)

For Irpef, Ires and Irap payments in advance, due for the tax period following the one in progress as at 31.12.2019, no penalties and interest are applied if, adopting the forecast method, there is a difference between the amount due on the basis of the tax return/IRAP and the payments in advance carried out not exceeding 20%.

Extension to 16.04.2020 of tax and contribution payments (Art. 21)

The new Liquidity Decree extends the deadline for payments due on March 20th to 16.04.2020 (art. 60 of the Italian Decree Law 18/2020). This refers to all payments to public authorities, including those relating to social security contributions and to INAIL premiums for mandatory insurance.

Extension to 30.04.2020 of the deadlines for delivery and electronic submission of the Certificazione Unica (Art. 22)

For the year 2020, the deadline for delivery of the CU (i.e. Certificazione Unica, an annual declaration of all the income paid by the employer or the pension institution) to interested parties is extended to

30.04.2020. No penalties shall be applied for late submission if the CUs are sent electronically to the Italian Tax Authorities by 30.04.2020.

DURF (Art. 23)

The validity of the DURF (i.e. a certificate of regular tax payment) issued in February 2020 is extended to 30.06.2020.

Suspension of main dwelling tax reliefs terms (Art. 24)

The following terms relating to the main dwelling are suspended in the period between 23.02.2020 and 31.12.2020:

- a) the term of 18 months after the purchase of the main dwelling, within which the taxpayer must transfer the residence to the municipality where the house is located;
- b) the deadline of one year within which the taxpayer who sold the real estate purchased with the main dwelling-related tax reliefs must proceed with the purchase of another property to be used as his main residence;
- c) the period of one year within which the taxpayer who purchased the property to be used as his main residence must proceed with the sale of the property still in his possession;
- d) the deadline for the repurchase of the main dwelling in order to benefit from the tax credit.

Remote tax assistance (Art. 25)

With reference to the tax period 2019, subjects with an income from employment and similar income may send electronically to qualified Professionals and CAF (i.e. Tax Advice Centre):

- copy by image of the proxy for accessing the pre-filled tax return or copy by image of the appropriate authorization in a free and undersigned form;
- copy of the necessary documentation;
- copy of the identity document.

This also applies to the submission of returns, forms and applications for accessing or using INPS services.

Once the emergency is over, the documentation must be handed over.

Payment of stamp duty on electronic invoices (Art. 26)

Stamp duty on electronic invoices issued in the individual quarter can be paid without penalties and interest:

- for the 1st quarter within the deadline provided for the 2nd quarter if the amount is lower than € 250;
- for the 1st and 2nd quarter within the deadlines for the 3rd quarter if the total amount is lower than € 250.

Tax process (Art. 29)

In order to facilitate the digitisation of judicial documents whose litigation has been started by paper means, there is an obligation for the parties to file subsequent documents and to notify judicial orders by electronic means.

The Courts may serve the sanctioning acts resulting from omitted or partial payment of the court fee also through PEC (i.e. certified email address) at the elected domicile or, in the absence of such indication, by filing them with the Secretariat Office of the Tax Commissions or the competent registry.

Tax credit for the purchase of protective equipment in the workplace (Art. 30)

The tax credit in favour of subjects carrying out business, art or profession activities for the costs of workplace sanitization (as per art. 64 of the Italian Decree Law 18/2020) is also recognised for the purchase of personal protective equipment and other safety devices to protect workers from accidental exposure to biological agents and to guarantee interpersonal safety distance.

Allowance of Euro 600 provided by the "Cura Italia" Decree for self-employed workers (clarifications) (Art. 34)

For the purposes of the recognition of the allowance referred to in article 44 of the Decree Law 18/2020 for self-employed workers registered with Registers, the beneficiary professionals must be understood as professionals:

- not holding pension benefits;
- registered exclusively with private law bodies of mandatory social security.

INPS PIN (Art. 35)

Until the end of the health emergency, INPS is authorised to release its digital identities in a simplified way by acquiring electronically the elements necessary to identify the applicant.

Deferral of judicial deadlines (Art. 36)

It has been decided to postpone on the court's own motion until after 11.05.2020 the civil, criminal, administrative and accounting justice hearings pending before all courts, and to suspend, during the same period, the deadlines for the carrying out of any act in civil, criminal and administrative proceedings, except for specific exceptions.

Moreover, in order to counter the epidemiological emergency caused by Coronavirus and to contain its negative effects on the performance of judicial activities, for the period between 12.05.2020 and 30.06.2020, the

top management of the courts will adopt the organizational measures, including those related to the handling of judicial affairs, necessary to allow the compliance with the hygienic-sanitary indications provided by the Italian Ministry of Health, in order to avoid groups within the court and close contacts between people.

Labour provisions (Art. 41)

The employment provisions of articles 19 and 22 of the Cura Italia Decree (Decree Law 18/2020), concerning the possibility to apply for the granting of ordinary wage supplementation treatment or access to ordinary redundancy fund, as well as the granting of redundancy fund by way of derogation, also apply to workers hired from February 24th 2020 to March 17th, 2020 (no longer only to employees already in force on 23.02.2020).

Moreover, there is an exemption from stamp duty for applications for redundancy fund by way of derogation.

[Please do not hesitate to contact your RSM professional for any clarification.](#)