



Milano, 27 aprile 2020

NEWSLETTER N° 13/2020

Object : Decree-Law 8 April 2020 n.23 concerning: “Urgent measures related to access to credit, financial support and tax compliances for businesses special powers in strategic sectors, as well as intervention in healthcare and work, extension of administrative and procedural deadlines”

Introduction

With the issuing of Decree-Law no. 23 of 8 April 2020 concerning measures related to access to credit and tax compliance for businesses, related to the epidemiological emergency by covid-19 (called “Liquidity Decree”) new measures have been introduced to deal with the health emergency, in the following topics:

- i) Suspension of tax payments and tax deadlines deferral;
- ii) Support to the continuity of business activities;
- iii) Access to credit, financial support to business and professional activities;
- iv) Special powers of the executive power in relation to areas considered as strategic and of national interest (“Golden powers”)

With regard to the fiscal area, the Government has implemented a series of measures to suspend, postpone or shift tax payments and fulfilments, in addition to what already provided for in the previous Decree-Law no. 18 of March 17 2020 (“Cura Italia” Decree), whose provisions remain valid, for those entitled, for the month of April 2020.

In the paragraph below, we provide a summary of the main measures referred to the topics under i) and ii), while a second newsletter will be issued with reference to points iii) and iv).

1. SUSPENSION OF PAYMENTS (TAXPAYERS WITH REVENUES LOWER THAN € 50 MILLION IN 2019) – ART. 18 PAR. 1 E 2 »
2. SUSPENSION OF PAYMENTS (TAXPAYERS WITH REVENUES HIGHER THAN € 50 MILLION IN 2019) - ART. 18 PAR. 3 E 4 »
3. SUSPENSION OF PAYMENTS (TAXPAYERS WHO STARTED THE ACTIVITY AFTER 31 MARCH 2019) – ART. 18 PAR. 5 »

4. SUSPENSION OF VALUE ADDED TAX PAYMENTS (TAXPAYERS IN BERGAMO, BRESCIA, CREMONA, LODI AND PIACENZA) – ART. 18 PAR. 6 »
5. SUSPENSION OF OTHER TAX OBLIGATIONS – “CERTIFICAZIONE UNICA 2020” – ART. 22 »
6. WITHHOLDING TAX: POSTPONEMENT (TAXPAYERS WITH REVENUES LOWER THAN € 400.000 IN 2019) – ART. 19 »
7. JUNE ADVANCE PAYMENTS METHOD - ART. 20 »
8. TAX CREDIT FOR THE PURCHASE OF PROTECTIVE EQUIPMENT IN THE WORKPLACE - ART. 30 »
9. TERMS AND CONDITIONS FOR “PRIMA CASA” BENEFITS - ART. 24 »
10. SIMPLIFICATIONS FOR THE PAYMENT OF STAMP DUTY ON ELECTRONIC INVOICES - ART. 26 »
11. TAX JUSTICE PROVISIONS - ARTICLES 29 AND 36 »
12. MEASURES AIMED TO SUPPORT THE CONTINUITY OF THE BUSINESS ACTIVITY: SUSPENSION OF RECAPITALIZATION RULES FOR LOSSES; SUSPENSION OF THE PRINCIPLE OF GOING CONCERN BASIS; LOANS MADE BY SHAREHOLDERS;

1. Suspension of payments (Taxpayers with revenues lower than € 50 million in 2019) – Art. 18 par. 1 e 2

Payments due in April and May 2020 are suspended for taxpayers who, in the previous tax period (2019), have accrued revenues and compensation not exceeding €50 million and who have suffered a reduction in turnover or compensation in March 2020 of at least 33 per cent compared to March 2019 and in April 2020 compared to the same month in 2019.

The deferral of payment deadlines applies to taxes subject to self-liquidation concerning withholding taxes on employees' and similar income, social security and welfare contributions, and compulsory insurance premiums, as well as value added tax.

The payment deadline is set at **30 June 2020**, in a single instalment, or in five equal monthly instalments starting in June 2020, without the application of interest and penalties.

2. Suspension of payments (Taxpayers with revenues higher than € 50 million in 2019) - Art. 18 par. 3 e 4

Payments due in April and May 2020 are suspended for taxpayers who, in the previous tax period (2019), have accrued revenues and compensation exceeding €50 million and who have **suffered a reduction in turnover or compensation in March 2020 of at least 50 per cent compared to March 2019 and in April 2020 compared to the same month in 2019.**

The deferral of payment deadlines applies to taxes subject to self-liquidation concerning withholding taxes on employees' and similar income, social security and welfare contributions, and compulsory insurance premiums, as well as value added tax.

The payment deadline is set at **30 June 2020**, in a single instalment, or in five equal monthly instalments starting in June 2020, without the application of interest and penalties.

3. Suspension of payments (Taxpayers who started the activity after 31 March 2019) – Art. 18 par. 5

The suspension of payments also applies to those who started the activity after 31 March 2019.

The payment deadline is set at **30 June 2020**, in a single instalment, or in five equal monthly instalments starting in June 2020, without the application of interest and penalties.

4. Suspension of value added tax payments (Taxpayers in Bergamo, Brescia, Cremona, Lodi and Piacenza) – Art. 18 par. 6

The suspension of value added tax payments applies, regardless of the volume of revenues or compensation received in the previous tax period, to those carrying on business activities, art or profession that have their fiscal domicile, registered office or operating headquarters in the Provinces of Bergamo, Brescia, Cremona, Lodi and Piacenza, also for the months of April and May 2020. The condition to meet is that they have suffered a reduction in turnover or compensation in the month of March 2020 of at least 33 per cent compared to the month of March 2019 and in the month of April 2020 compared to the same month of 2019.

The payment deadline is set at 30 June 2020, in a single instalment, or in five equal monthly instalments starting in June 2020, without the application of interest and penalties.

5. Suspension of other tax obligations – Certificazione Unica 2020 – Art. 22

With regard to the provisions concerning the terms related to the 2020 pre-filled tax return, the deadline for the delivery to the beneficiaries and for the electronic transmission of the 2020 Certifications is postponed to **April 30, 2020**, without application of sanctions, without prejudice to the other provisions of art. 62 of the “Cura Italia” Decree Law.

6. Withholding tax: postponement (Taxpayers with revenues lower than € 400.000 in 2019) – Art. 19

The term already provided for by the “Cura Italia” Decree Law is extended to 31 May with reference to the date of accrual of revenues and compensation received by subjects with revenues or compensation not exceeding € 400.000 in the previous tax period (2019).

The fees received in the period from 17 March 2020 to 31 May 2020 are therefore not subject to withholding tax as per articles 25 and 25 bis of D.P.R. 600/1973 (on income from self-employment and other income on remunerations relating to commission, agency, brokerage, trade representation and business procurement), upon the non-exposure of the withholding tax on the invoice and the submission of a specific declaration by the recipient.

Those who have incurred expenses for employment or equivalent services in the previous month will not be able to benefit from this provision.

Withholding taxes shall be paid by the recipient in a single instalment by **31 July 2020** (the previous deadline of 31 May 2020 is cancelled), without the application of penalties and interest. In this regard, a special tax code will soon be instituted by the Tax Revenue Agency.

It is still possible to benefit from the payment by 5 equal instalments starting from the month of July 2020 (no longer May 2020), without the application of sanctions and interest.

Below are the additional accounting and tax provisions contained in Legislative Decree no. 23/2020 (“Decreto Liquidità”).

7. June advance payments method - Art. 20

With regard to the payment of tax advances due in June 2020, in order to support taxpayers who, as a result of the epidemiological crisis, could incur a decrease in taxable

income in respect of IRPEF, IRES and IRAP, the Decree allows them to calculate and pay the advances due using the provisional method.

For tax period 2020 only, therefore, no penalties or interest will be applied if the prepayments made for the purposes of personal and corporate income tax and regional tax on productive activities are later revealed not lower than 80 per cent of the amount due based on the tax return for the current tax period.

8. Tax credit for the purchase of protective equipment in the workplace - Art. 30

With regard to tax credits, the Decree-Law extends the 50 per cent tax credit facilitation already provided for the sanitation of workplaces and work tools, as per art. 64 of the “Cura Italia” Decree Law, also to the expenses incurred for the purchase of personal protective equipment (surgical masks, protective overalls, glasses or visors) and of other safety devices to protect workers from accidental exposure to viruses or to guarantee their distancing (panels), **until a maximum amount of € 20.000,00**. The criteria and methods of application and use of the tax credit will be established by a Ministerial Decree.

9. Terms and conditions for “Prima Casa” benefits - Art. 24

During the period between 23 February 2020 and 31 December 2020, the terms set out in note II-bis of Article 1 of the Tariff annexed to Presidential Decree no. 131 of 1986, are suspended; namely:

- a) the period of 18 months from the purchase of the first home, within which the taxpayer must transfer the residence to the municipality where the property is located;
- b) the term of one year within which the taxpayer who sold the property purchased with the “Prima Casa” benefits must proceed with the purchase of another property to be used as his main residence, requested in order not to lose the original benefit in case of transfers occurred within 5 years from the purchase;
- c) the term of one year within which the taxpayer who purchased a 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 first house provided for by Article 7 of Law No. 448/1998 is also extended in order to benefit from the tax credit relating to registration tax or VAT paid in relation to the "first" facilitated purchase.

The above-mentioned terms will start to run again at the end of the suspension period.

10. Simplifications for the payment of stamp duty on electronic invoices - Art. 26

It is provided that if the amount of stamp duty due for electronic invoices issued in the first calendar quarter of the year is less than €250 (but the total amount of tax due for the first and second quarter is more than €250), the payment can be made within the deadline for payment of stamp duty on invoices issued in the second quarter of the year (**deadline 20.07.2020**). If, taking into account also the stamp duty due on invoices issued in the second quarter of the year, the total amount (first quarter and second quarter) to be paid remains less than €250, the stamp duty due in respect of the first and second quarter of the year may be paid within the time limits set for the payment of the stamp duty due on electronic invoices issued in the third quarter of the reference year (deadline 20.10.2020). The ordinary deadlines for payment of stamp duty due on electronic invoices issued in the third and fourth calendar quarter of the year (i.e. 20.10.2020 and 20.01.2021 respectively) remain unchanged.

11. Tax justice provisions - Articles 29 and 36

There is an obligation for all parties in the tax process who have joined the lawsuit by analogical means to serve and file subsequent documents, as well as court orders, exclusively by telematic means. A new provision is also introduced to allow the Judicial Offices to serve the sanctioning acts resulting from omitted or partial payment of the unified contribution (“Contributo Unificato”) through PEC (even if the imposition of the sanction is contained in the invitation for payment referred to in Article 248 of the TUSG) at the address for service or, in the absence of such indication, by filing at the Secretariat Office of the Tax Commissions or at the competent registry.

The deadline set by art. 83 of Legislative Decree no. 18/2020 of 15 April 2020 is postponed to 11 May 2020 in relation to the ex officio postponement of the hearings of the tax proceedings pending at all the judicial offices and the suspension of the expiration of the deadline for the completion of any act for tax proceedings. Finally, the terms for the suspension of proceedings for both parties to the tax proceedings are realigned. In fact, the suspension period set at 31 May 2020 for the litigation activities of the tax authorities by Article 67, paragraph 1, of Legislative Decree no. 18/2020 is brought forward to 11 May 2020.

12. Measures aimed to support the continuity of business activities.

Firstly, the implementation of the remaining rules of the Crisis and Insolvency Code (“Codice della crisi e dell’insolvenza - Legislative Decree no. 14 of 12.01.2019”) is **deferred until 1.09.2021**, in order to protect the productive economic system to prevent a temporary financial imbalance from being considered as persisting and thus causing the exit from the market of some companies that are still performing.

Again, for the purposes of protecting the entrepreneurial market, until 31 December 2020 the obligations for companies of recapitalization, reduction of share capital or transformation provided by articles 2446, 2447, 2482-bis and 2482-ter of the Italian Civil Code are suspended. It is also provided for the ineffectiveness of the cause for the dissolution of the Company due to the reduction or loss of capital (articles 2484, no. 4 and 2545-duodecies of the Italian Civil Code).

Correspondingly, the principle of valuation of financial statement items on a "going-concern" basis is suspended (Article 2423-bis, par. 1 of the Italian Civil Code; see also Article 2428 of the Italian Civil Code on the drafting of the annual management report).

The temporary disapplication (until 31.12.2020) of the rules on the subordination of loans made in favour of the Company by shareholders or by those performing management and coordination activities (articles 2467 and 2497 quinquies of the Italian Civil Code) has also been provided for, in order to encourage alternative sources for the possible financial sustainability of the Company.

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The Firm, BĒS Associati, remains as usual at full disposal for any further information or clarification. Please use your contact details.

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