

THE MAIN ECONOMIC AND FINANCIAL SUPPORTING MEASURES PROVIDED BY LAW

DECREE 17 MARCH 2020, No. 18 (so-called CARE ITALY)

On 17 March 2020, the government issued a law-decree containing measures to strengthen the national health service and economic support for families and businesses connected to the epidemiological emergency by COVID-19 (hereinafter: the “Decree”). The rules came into force on the same date with the publication in G.U. n. 70 of 17 March 2020.

It includes, inter alia, a series of special rules on social safety nets, reduction of working hours, support of liquidity through the banking system and tax measures for families and businesses.

Below is a preliminary information on the main measures contained therein.

SUMMARY

Special rules on job support

1. Social scheme “*Cassa integrazione ordinaria*”
2. Exceptional social scheme “*Cassa integrazione in deroga*”
3. Special leave and allowance for employees and self-employed workers
4. Extension of the duration of paid leave pursuant to art. 33, law 104/1992 and period of illness
5. Indemnity for professionals and self-employed workers and employee bonuses
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7. Supporting measures to businesses (DTA transformation)
8. Financial support measures for SMEs and support for corporate liquidity

Tax measures to support the liquidity of families and businesses

9. Deferral of the terms of fulfillments and payment of tax and social security contributions
10. Deferral of payments for tourism-hotel businesses (Legislative Decree 9/2020) and other companies particularly affected by the epidemiological emergency
11. Tax credit for the costs of sanitizing workplaces
12. Tax credit for shops and store and advertising tax credit
13. Donations
14. Suspension of the time periods relating to the activities of the tax authorities and the judicial activities
15. Suspension of executive payment
16. Extension of term of payments in the gaming sector
17. Mention for not benefiting from deferral
18. Rules on general assembly and deferral of approval of the financial statements

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The Decree-Law shall be converted into law by Parliament within the following sixty days. It Amendments and further provisions may be implemented during the parliamentary process.

The measures contained therein are added, and in part replace them, to the legal and tax measures already provided for by the previous Decree-Law of 2 March 2020, n. 9 being converted into law, which was mainly focused on measures in favor of the so-called "Ex Red Areas" identified in Annex 1 of the same provision.

I) SPECIAL RULES ON SUPPORT FOR WORK

1. Special rules for social scheme "*Cassa Integrazione Ordinaria*"

Article 19 of the Decree provides for the possibility, for employers who suspend or reduce their work activity for events attributable to the epidemiological emergency from COVID-19, to request for a social scheme so called "*Cassa Integrazione Ordinaria*" for a maximum period of nine weeks and in any case within the month of August 2020.

Simplified procedures are then provided that might derogate from the limits established by current legislation, for example by excluding the payment of the additional contribution and by setting electronically simplified terms for submitting the application.

The application, in any case, must be submitted by the end of the fourth month following the month in which the period of suspension or reduction of the work activity began and is not subject to the verification of the requirements referred to in article 11 of Legislative Decree 14 September 2015, n. 148.

The funds referred to in Article 27 of Legislative Decree 14 September 2015, n. 148, guarantee the payment of the same social scheme as referred to in paragraph 1 in this article. The workers targeted by the rules are employee in force as of 23 February 2020.

The aforementioned income support services are recognized in the maximum spending limit of 1,347.1 million euros for the year 2020. INPS monitors this limit. If the aforementioned monitoring shows that the spending limit has also been reached prospectively, the INPS does not consider further applications.

Further provisions are envisaged for companies that are already using the social scheme so called "*Cassa integrazione straordinaria*" (art. 20) and for those that have ongoing solidarity allowances (cd. *assegni di solidarietà*) (art. 21).

2. Special rules for the social scheme “Cassa Integrazione in deroga”

This is an additional and residual protection for employers in the private sector for which the protections provided for by the current provisions on suspension or reduction of hours, in the presence of employment, do not apply.

Article 22 of the Decree provides that the Regions and Autonomous Provinces can recognize as a consequence of the epidemiological emergency from COVID-19 - after agreement with the Trade Union that are comparatively more representative at national level for employers who employ more than five employees - special social schemes for the duration of the suspension of the employment relationship and in any case for a period not exceeding nine weeks.

The agreement with the trade unions is not required for employers who employ fewer than five employees.

The treatment referred to in this article is recognized from 23 February 2020 and limited to employees already in force on the same date. The procedures for granting the treatment are then established and monitoring is provided by the INPS.

The treatment referred to in this article is recognized in the maximum limit of 3,293.2 million euros for the year 2020, starting from February 23, 2020 and limited to employees already in force on the same date.

The provisions of articles 15 and 17 of the Decree-Law of 2 March 2020, n. 9 on the social scheme “*Cassa integrazione in deroga*” continue to be applied to the production units located in the municipalities of Annex 1 of the same Decree (formerly “red areas”) and for the Lombardy, Veneto and Emilia-Romagna regions.

3. Leave and allowance for employees and those enrolled in the separate management of INPS

Article. 23 of the Decree provides for the right to receive, for children aged 12 and over, a specific leave for a continuous or split period, in any case not exceeding fifteen days from March 5, as a consequence of the measures of school suspension, with the payment of an allowance equal to 50 percent of the remuneration calculated in accordance with the provisions of art. 23 Legislative Decree 151/2001.

The use of the leave is recognized alternately to both parents for a total of fifteen days, provided that there is no other parent beneficiary of income support tools. Specific rules are placed with reference to children with disabilities.

In any case, parents employed in the private sector with minor children, aged between 12 and 16, have the right to abstain from work to the extent the childcare services and activities in

schools are suspended, without payment of indemnity or acknowledgment of notional contribution, with prohibition of dismissal and right to job retention.

As an alternative to the aforementioned leave, there is the possibility of choosing the payment of a bonus for the baby-sitting services in the maximum overall limit of 600 euros, to be used for services carried out during the period of school suspension.

The application procedures for both accessing leave or the bonus are established by INPS. On the basis of the requests received, INPS monitors. If monitoring indicates the exceeding of the total spending limit of 1,261.1 million euros per year for the year 2020. referred to in paragraph 10, the INPS will reject the applications presented.

4. Extension of the duration of paid leave pursuant to art. 33, law 5 February 1992, n. 104 and periods of illness

Article 24 of the Decree provides for the possibility of increasing the number of days of paid monthly leave covered by notional contributions up to a further twelve days, limited to the months of March and April 2020 for the employees beneficiaries of Law 104 (e.g. employees or their familiars with assessed disability).

Again, the benefit is recognized to a maximum limit, which in the case is 553.5 million euros for the year 2020.

In addition, pursuant to Article 26, for workers in the private sector, the period spent in quarantine or in fiduciary home stay with active surveillance, due to COVID-19, is equivalent to periods of illness, for the purposes of the economic treatment provided and said period cannot be added for the purposes of the period of conduct. Application procedures are then established for the preparation of certificates by the doctor. Notwithstanding the current provisions, the charges are on the State burden.

5. Allowances for professionals and self-employed workers and bonuses for employees

Articles 27, 28 and 29 of the Decree grant a one-off indemnity equal to 600 euros for the month of March 2020 in favor of self-employed with VAT number and assimilated employees workers (so called co.co.co), registered in the separate INPS Social Security Fund, non-pensioners and not registered in other forms of compulsory pension.

INPS will set and monitor the procedures for granting the benefit. The aforementioned allowances are cumulative with each other and do not concur to the taxable income.

As for employees, art. 63 of the Decree provides for the payment of a bonus for the month of March of 100 euros in favor of employees with total income not exceeding 40,000 euros, who, during the COVID 19 health emergency period, continue to go to work place.

The bonus, which does not concur to the taxable income for the purposes of direct taxes, and is pro rata days considering the days when the work is performed in the ordinary location. The award is automatically paid by the employer with the remuneration for the month of April and, in any case, within the terms provided for the so called "Conguaglio". The withholding tax agent recovers the premium paid in compliance with Article 17 of Legislative Decree no. 241 of 1997 through offsetting of taxes and social security contribution payment.

6. Extension of social security and welfare terms

Pursuant to Article 34 of the Decree, from 23 February 2020 up until 1 June 2020, the prescription terms and the statute of limitation related to social security, assistance and insurance services provided by INPS and INAIL.

Article 33 also provides for an extension of terms for claims of unemployment NASPI and DIS-COLL.

Article 46 provides that, since the entering into force of this Decree, appeal procedures for individual and collective redundancies cannot be started and is prevented for 60 days; pending procedures are also suspended in the same period. It is also provided that during this period the employer, regardless of the number of employees, cannot withdraw from the contract for justified objective reason.

II) SPECIAL RULES IN SUPPORT OF LIQUIDITIES THROUGH THE BANKING SYSTEM

7. Financial support measures for enterprises (DTA transformation deriving from unpaid credits)

Article 55 of the Decree is aimed at promoting the sale of non-performing loans (NPL), both commercial and financing, of companies by introducing the possibility to transform into a tax credit a portion of deferred tax assets (so-called "DTA") relating to tax losses and allowance for corporate equity (ACE), for an amount proportional to the value of the non performing loans that are sold to third parties.

Specifically, for companies that assign receivables from defaulting¹ debtors by December 31, 2020 the Decree provides for the possibility of transforming a portion of DTA into tax credit at the date of assignment. The DTA must refer to:

- i. the tax losses that have not yet been used in accordance with article 84 of the TUIR;
- ii. the amount of ACE in excess of the total net income (art. 1, par.. 4, of Decree Law no. 201/2011).

This provision, which does not apply to the assignments of receivables between companies belonging to the same group, provides two limits for the purposes of the transformation: i) the components that can generate transformable DTA are considered for an amount equal to 20% of the nominal value of the assigned receivables ; ii) the nominal value of the receivables assigned by 31 December 2020 cannot exceed € 2 billion (for subjects belonging to groups, this limit is intended calculated taking into account all the sales made by subjects belonging to the group).

The transformation into a tax credit can take place even if the DTA have not been accounted in the financial statements. The transformation, moreover, takes place on the date of the assignment of the receivables, with the consequence that the tax credit will arise for the entire amount on the date of assignment.

It is understood that, since the assignment, the seller will no longer be able to offset the income with the tax losses, nor deduct or take advantage of the ACE, corresponding to the portion of DTA convertible into a tax credit.

These tax credits are not interest-bearing and can be used, without amount limits, via offsetting pursuant to art. 17 of Legislative Decree no. 241/1997 or can be transferred to companies belonging to the same group in accordance to art. 43-bis or art. 43-ter of the Presidential Decree no. 602/1972 or can be asked for a refund.

Tax credits must be disclosed in the tax return and do not concur to the taxable income for Corporate or Local Income Tax.

Companies that wish to proceed with the transformation of DTA shall exercise the option referred under art. 11, par. 1, of Decree Law no. 59/2016. The option, if not already exercised, must be exercised by the end of the financial year in which the assignment takes effect and it takes effect from the year following the one in which the assignment takes effect.

¹ A debt is said in default when not cashed within 90 days from the relevant payment expiration date.

8. Financial support measures for SMEs and support for corporate liquidity

Based on article 56 of the Decree, micro-enterprises and small and medium-sized enterprises based in Italy might ask banks or other financial institution to postpone/ suspend the repayment until 30 September 2020.

The measure is aimed specifically at micro and small and medium-sized enterprises which, although they do not have deteriorated exposures, have suffered the effects of the epidemic (it is necessary self-certify this requirement) and applies to loans which are beneficiaries of companies that at the date of publication of this decree are not reported by the intermediary in one of the situations that qualify the credit as "impaired" within the meaning of the relevant regulations.

The following article 57 of the Decree entitles:

- i. the banks, with the support of Cassa Depositi e Prestiti S.p.A. (CDP), to provide loans more easily to companies that have suffered a reduction in turnover due to the aforementioned emergency;
- ii. CDP, to support banks that provide the aforementioned loans through specific tools such as fund caps and / or portfolio guarantees, including first-loss portfolio guarantees, with respect to the exposures of such banks;
- iii. the State to grant "counter guarantees" up to a maximum of 80% of the exposures assumed by CDP and at market conditions, with an evident multiplicative effect of the resources available to the system.

The tool is complementary to the SME Guarantee Fund and the relative implementing decree will define their respective application areas.

III) TAX MEASURES IN SUPPORT OF THE LIQUIDITY OF FAMILIES AND BUSINESSES

9. Deferral of the terms of the fulfillments and payments of the tax and social security contributions

Article 62 of the Decree provides that all the tax fulfillments (other than the tax payments and withholding tax to be withheld) expiring from March 8, 2020, to May 31, 2020 are postponed and have to be made within June 30, 2020. No penalties are applied.

For the taxpayer carrying on business, art or professional activities having their residence, legal or operative seat in Italy with a turnover lower than 2 millions Euro (in the previous fiscal year)

also certain tax payments due from March 8, 2020, to March 31, 2020, are postponed (i.e. withholding tax applied on employees' income, VAT, social contribution).

VAT payments are postponed, regardless the level of turnover, for the taxpayer carrying on business, art or professional activities having their residence, legal or operative seat in the following Municipalities Bergamo, Cremona, Lodi or Piacenza.

The postponed payments have to be made within May 31, 2020, in one or up to five equal monthly installments.

For taxpayers who exceed the dimensional thresholds set forth above, Article 60 only provides that the terms of payments to the Public Administrations, including social security and welfare payments and the premiums for compulsory insurance, expiring on 16 March 2020 are extended to March 20, 2020.

10. Suspension of payment obligations for tourism-hotel businesses (DL 9/2020) and other businesses particularly affected by the epidemiological emergency

Thanks to article 61 of the Decree, for the entities carrying on touristic and accommodation activities (such as hotels), travel agencies and tour operators, having their legal or operative seat in Italy, the withholding tax payments due on employment income and similar and social contributions fulfillments and payments due from March 2, 2020, to April 30, 2020, are postponed to May 31, 2020. Similar extension is granted to - inter alia - sport entities, entities managing theatres, cinema etc., exhibit companies, restaurants, bars or pubs, entities managing assistance for old or disable people, childhood care, thermal sites, touristic guides, etc..

For all the above subjects the VAT payments due in the month of March 2020 are suspended. The suspended payments have to be made within May 31, 2020, in one or up to five equal monthly installments.

For the wording of the rule, only payments to be made by April 16, 2020 and not those whose payment expires on the following May 16 seem to be suspended.

For national sports federations, sports promotion bodies, associations and professional and amateur sports clubs, the suspension of the above payments (with the only exception of VAT whose suspension is limited to the month of March only) operates until May 31, 2020. The suspended payments must be made by said taxpayer, without applying penalties and interest, by June 30, 2020 in one or up to five equal monthly installments.

11. Tax credit for the costs of sanitizing workplaces

Pursuant to the provisions of article 64 of the Decree, for businesses, art or profession, a tax credit of 50% of the costs incurred for the sanitation of the work environments and tools is granted. The credit is up to a maximum of 20 thousand Euros and with a total expenditure ceiling for the Treasury of 50 million Euros for the year 2020.

The implementing rules will be adopted within 60 days from the entry into force of the conversion law of this Decree.

12. Tax credit for shops and stores and advertising bonuses

Article 65 of the Decree provides for the assignment, to taxpayers carrying out business activities, of a tax credit, equal to 60% of the amount of the rent paid by the same for the month of March 2020 in relation to properties falling under the cadastral category C / 1.

This incentive does not apply to activities that have been identified as essential by the Prime Ministerial Decree of 11 March 2020, including pharmacies, parapharmacies and basic food stores.

The tax credit can only be used via offsetting in compliance with article 17 of Legislative Decree 241/97.

Pursuant to art. 98 of the Decree, limited to 2020, the tax credit for advertising investments (provided for by Article 57-bis of Decree Law no. 50 of 24 April 2017) will be granted for a single amount of 30% of the value of investments made (and no longer for 75% of incremental investments compared to the previous year).

For 2020, e-filing for the "booking" of the tax credit is filed in the period between September 1st and 30th of the same year (instead of in the period between March 1st and 31st.). The e-filing made in the period between March 1st and 31st, 2020 remain in any case valid.

13. Liberal donations in support of the Covid-19 emergency response measures

Article 66 of the Decree provides that natural persons and non-commercial entities that make donations (in favor of the State, Regions, local and territorial bodies, public bodies or institutions, foundations and no profit associations legally recognized) intended to finance measures of containment and management of the epidemiological emergency from Covid-19, are entitled to make a deduction from the gross tax equal to 30% of the disbursements made. The amount of the deduction cannot exceed € 30 thousand.

For taxpayer with business income, the aforementioned donations are subject to the provisions of article 27 of the law of 13 May 1999, n. 133, with the consequence that the same are fully deductible from the business income.

For IRAP purposes, the aforementioned donations are deductible in the year in which the payment takes place.

14. Suspension of the time periods relating to the activities of the tax authorities and the judicial activities

Article. 67 of the Decree provides that all terms related to activities of liquidation, audit, collection and litigation carried out by the Italian Tax Authorities are suspended from March 8, 2020, to May 31, 2020. The same suspension period applies to the terms related to the tax ruling requests filed

before or during the suspension period. The statute of limitation and other deadlines related to the activities carried out by the Tax Authorities expiring in 2020 have to be considered postponed of two additional years (i.e. 2022) in accordance with the Italian legislation regarding the extraordinary events (art. 12, Legislative Decree 159/2015).

The hearings of tax proceedings scheduled between March 9, 2020, and April 15, 2020, are postponed to April 15, 2020. All procedural time limits, including deadlines for the notification of proceedings before the Court, enforcement and appeal procedures, are suspended until April 15, 2020.

15. Suspension of executive payment

Based on article 68 of the Decree, certain tax payments (such as executive tax payments notices, social contribution executive payments requests, executive assessment acts issued by the Local Offices or by the Custom Duties Office) due between March 8, 2020, and May 31, 2020, are postponed to June 30, 2020.

Certain settlements payments, expiring on February 28 (so called “rottamazione-ter”) and March 31 (so called “saldo e stralcio”), are due by May 31, 2020. No refund shall be made in case of anticipated payments.

Also in this case, the Italian legislation regarding the extraordinary events (art. 12, Legislative Decree 159/2015) is applicable, and, therefore, also the acts to be issued by the Tax Authorities in the collection procedure or in case of litigation have to be considered postponed.

16. Extension of payments in the gaming sector

As a result of art. 69 of the Decree, the terms for the payment of the PREU on entertainment devices (so-called VLT and AWP) pursuant to art. 110, c. 6, lett. a) and b), of the R.D. n. 773/1931, and of the concession fee expiring by 30 April 2020.

The sums due can be paid in equal monthly installments, with the legal interest calculated on a day-to-day basis. The first installment must be paid by 29 May and subsequent installments by the last day of the month; the last installment must be paid by 18 December 2020.

Following the suspension of the Bingo foreseen by the Decree of the President of the Council of Ministers of 8 March 2020 (and subsequent amendments and additions), the concession fees provided for the extension of the Bingo game concessions are not due (of pursuant to art.1, c. 636, Law no. 147/2013 and subsequent amendments and ii.) starting from the month of March and for the entire period of suspension of the activity.

Finally, the deadline for bidding for bets and bingo, the competition for entertainment devices and the entry into force of the so-called “Registro Unico del Gioco” is extended by six months. The standard also extends the entry into operation of the devices with remote control, taking into account the slowing down or even blocking of the activities necessary for the production of new appliances and their certification.

17. Mention for renunciation of suspensions

Article 71 provides that taxpayers who decide not to take advantage of any tax payment postponement (as provided by the Decree or by other special provisions) can ask to be mentioned on the web site of the Ministry of Finance.

18. Rules relating to the conduct of company meetings and deferral of approval of the financial statements

Article 106 of the Decree applies to corporation meetings called within July 31, 2020, or until the end of the Covid-19 emergency, if subsequent. Notwithstanding the provisions of art. 2364, c. 2, code civ and of art. 2478-bis of the civil code said provision entitles all companies to convene the general assembly to approve the financial statements within 180 days of the end of the financial year.

It is also provided that joint-stock companies, limited partnerships, limited liability companies, cooperatives and mutual insurance companies, through the notice of call of ordinary or extraordinary shareholders' meetings, may provide, even by way of derogating the by-law, the vote can be expressed electronically or by correspondence and the attendance at the meeting by means of telecommunication. The aforementioned companies may also order that the

meeting be held, even exclusively, by means of telecommunication means to the extent such means guarantee the identification of the participants, their participation and the exercise of the right to vote, pursuant to and for the purposes of the articles 2370, c. 4, 2479-bis, c. 4, and 2538, c. 6, code civ. The provision further specifies that, where required, the chairman, secretary or notary is not required to be in the same place.

Limited liability companies may also allow, even by derogating the art. 2479, c. 4, civil code and the by-law, that the vote is expressed by written consultation or by express written consent.

With reference to companies with listed shares, to companies admitted to trading on a multilateral trading system and to companies with shares disseminated among the public to a significant extent, they are expected to have recourse to the institution of the designated representative envisaged by art. 135-undecies of the TUF for the exercise of the right to vote in ordinary and extraordinary shareholders' meetings, even if the articles of association provide otherwise; the same companies may also envisage in the notice that the attendance to the meeting takes place exclusively through the aforementioned representative, to whom proxies and / or subdelegations may be conferred pursuant to art. 135-novies of the TUF.

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