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The Italian Government has issued the “Cura Italia Law Decree” providing measures to strengthen the National Health Service and economic support for families, workers and enterprises in connection with the epidemiological emergency COVID-19.

In the wake of those previously released, the Cura Italia Law Decree introduces a series of facilitations for companies pertaining to various production categories in order to compensate the strong liquidity reduction due to the stop in their activities introduced to deal with the COVID-19 emergency.

Further measures comprehend the suspension of deadline of the activities of the Italian Tax Authorities, provisions on litigation matters, measures to support specific sectors, rewards to employees and tax credits. To be highlighted, in addition, the provision allowing companies to approve their F/S within the extended deadline of 180 days from the end of the previous year.

The purpose of the present newsletter is to inform about the most relevant measures introduced.

1. Tax measures to support the liquidity of families and companies.

1.1 Extension of deadline for payments – Article 60

For all taxpayers not entitled to benefit from the suspension (see below), the payments expiring on 16 March 2020, including those related to social security contributions and premiums for mandatory insurance, are postponed to 20 March 2020.

1.2 Suspension of payments for certain production categories – Articles 61 and 69

For **tourism companies, travel agencies and tour operators** having tax domicile, registered office or place of business in Italy, the Cura Italia Law Decree provides for the suspension of payment of withholding taxes on employment income and similar income, as well as the suspension of payment of social security contributions and premium for mandatory insurance on employment.

The Cura Italia Law Decree **extends said suspension to further categories pertaining to *inter alia* sport, art, culture, transport, catering, education, thermal, wellness and amusement parks sectors, non-profit organisations.**

For the abovementioned categories, similar suspension is introduced for VAT payments having deadline in March.

The suspended payments must be made by 31 May 2020 in full, or in five equal installments starting from May 2020, without penalties and interest. Sports associations and clubs must make payments by 30 June 2020 or in five equal installments starting from June 2020, without penalties and interest.

In the **gaming sector**, the terms of payment of the one-off tax withdrawal ("*prelievo erariale unico*" – PREU) expiring by 30 April 2020 are extended to 29 May 2020. The amounts due can be paid in equal monthly installments, plus legal interest calculated on a day-by-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. The Cura Italia Law Decree also establishes that the payment of the concession fees provided for the extension of the Bingo game concessions are not due for periods of suspension of activities, as provided in the context of the current health emergency.

1.3 Suspension of tax duties and payments for professionals and small enterprises – Article 62

1. For subjects having tax domicile, registered office or place of business in Italy the Cura Italia Law Decree provides for the suspension of tax duties other than payments, such as the VAT return, expiring in the period between 8 March 2020 and 31 May 2020. The provision included in Article 1 of the Italian Law Decree no. 9 dated 2 March 2020 relating to the deadline for the pre-filled tax return is unprejudiced. The suspended tax duties shall be performed by 30 June without penalties.
2. As far as payments are concerned, specific provisions are introduced as regards minor VAT taxpayers having income not higher than €2,000,000 in the previous FY for which the COVID-19 related measures have determined major impacts on liquidity. For VAT taxpayers located in Bergamo, Cremona, Lodi and Piacenza provinces, the suspension of VAT payments applies irrespective from the amount of earnings. For said taxpayers the payments expiring in March 2020 relating to withholding taxes on employment income, regional and municipal surcharges withholdings, VAT and social security contributions as well as premiums for mandatory insurance coverage are suspended. The suspended payments must be made by 31 May 2020 in full, or in five equal installments starting from May 2020, without penalties and interest.
3. As far as small taxpayers having income not higher than €400,000 in the previous FY, income earned in the period between the entry into force of the Cura Italia Law Decree and 31st March 2020 are not subject to withholding tax at source provided that the taxpayer did not borne employment expenses in the previous month. A self declaration is required in this respect. The amount of taxes which have not been withheld must be paid by 31 May 2020 in full, or in five equal installments starting from May 2020, without penalties and interest.

1.4 Suspension of terms of payment of amounts due to the Tax Collection Agent – Article 68

The Cura Italia Law Decree provides for the **suspension of payments** expiring in the period between 8 March and 31 May 2020 **arising from tax bills issued by the Tax Collection Agents as well as from tax assessment notices issued by the Italian Revenue Agency and from bills issued by Social Security Contributions Authorities**. The suspended payments shall be performed by 30 June 2020.

The suspension applies also to acts/notices issued by the Italian Customs Agency, injunctions and further collection acts issued by municipalities or local authorities.

Said suspension up to 31 May 2020 applies also to terms for payments in the context of the third “Facilitated settlement of tax bills” procedure (so called “**Rottamazione-ter**”).

The prorogation of expiring terms applies in addition also to communications of not-recoverability issued by the Tax Collection Agents (“*comunicazioni di inesigibilità*”) concerning debts entrusted for collection during 2018, 2019 and 2020, now expiring respectively on 2023, 2024 and 2025.

1.5 Conversion of DTAs into payable tax credits – Article 55

The provision is intended to encourage the assignment of non-performing receivables accrued in recent years, also as a result of the financial crisis, with the aim of supporting the creditors under the liquidity perspective in facing the current context of economic uncertainty. The failure in payment occurs when 90 days after the due date are passed.

Scope of the provision

In case of transfer by 31 December 2020 of receivables claimed against defaulting debtors, a company is allowed to convert deferred tax assets related to the following components into tax credits:

1. tax losses not yet used to decrease the taxable income at the date of sale;
2. the NID not yet deducted or used in the form of tax credit on the date of the transfer.

The limits provided for by Article 84 of the Italian Tax Code for entities benefitting from an exemption regime on income are not applicable.

The conversion into a tax credit is allowed also in the case DTAs have not been booked e.g. since the probability test is not overcome provided that they are referred to those components provided by the rule under reference, not yet deducted or benefitted from at the date of the assignment.

The conversion of DTAs into tax credits is conditional upon the exercise, if not already performed, of the so-called Guarantee Fee ("*Canone di Garanzia*") pursuant to Article 11 of Legislative Decree no. 59/2016. The annual fee due is 1.5% of the difference (if positive) between the amount of deferred tax assets and the taxes paid. The DTAs mentioned by the provision under reference will be added to those provided by Law no. 214/2011 (e.g. adjustments on receivables and goodwill). The Guarantee Fee will be deductible for income tax and IRAP purposes. If due, the payment could be required up to 2029.

Amount of the benefit

The maximum amount of DTAs convertible into tax credits is determined by making reference to the components they are referred to. Paragraph 1 of the provision introduces a limit to components which may generate convertible DTAs, equal to 20% of nominal amount of credits assigned. For the same purposes a limit of € 2 billions of nominal amount of overall credits assigned by 31st December 2020 relevant for the conversion is provided; for entities part of a group, the limit is calculated considering all the assignments performed by the entities pertaining to the same group.

As from the effective date of the assignment of the receivables, the transferor will no longer be able to offset losses, nor deduct or take advantage of the excess of the NID by means of a tax credit, corresponding to the portion of convertible DTAs pursuant to the provision under reference.

Offset of tax credits

The tax credits deriving from the conversion are not interest-bearing and can be offset, without amount limits, pursuant to article 17 of the Italian Legislative Decree dated 9 July 1997, no. 241, or transferred according to the procedures of article 43-*bis* or article 43-*ter* of the Italian Presidential Decree no. 602 dated 29 September 1973, or asked for a refund. Tax credits must be declared within the tax return and are not taxable both for CIT and Regional Tax (“IRAP”) purposes.

Personal limits

The provision does not apply to assignments by and between parent and subsidiaries as well as by and between companies controlled, even if indirectly, by the same parent.

In addition, the provision does not apply to companies in default or at risk of default under insolvency provisions.

1.6 Suspension of activities of all the offices of the Italian Tax Authorities – Article 67

The Cura Italia Law Decree provides for the suspension of activities of all the offices of the Italian Tax Authorities.

Consistently with the general provisions on suspension of terms in case of extraordinary events, the Cura Italia Law Decree suspends from 8 March 2020 to 31st May 2020 the terms ordinarily provided for audit (except for formal controls), assessment, collection and litigation **exclusively from the revenue offices perspective**.

Due to the cross reference to Article 12 of Italian Legislative Decree no. 159/2015 (suspension of terms for exceptional events), those terms expiring within 31st December of the year in which the suspension occurs are automatically postponed to 31st December of the second year following the end of suspension. Therefore, assessment powers of the Italian Tax Authorities expiring by the end of 2020 will be postponed to the end of 2022 (e.g. assessment related to FY 2015, to omitted tax return for FY 2014, tax bills arising from formal control of 2015 tax returns).

The newly introduced provision applies also to consultancy activity and entails the suspension from 8 March 2020 to 31st May 2020 of terms ordinarily provided for the Italian Tax Authorities to reply to ruling requests, even in case of filing of supplementary documentation.

Are also suspended in the hands of the tax offices the terms to reply to requests to be admitted to cooperative compliance regime, cooperation and enhanced collaboration procedure, international standard ruling procedure, TP downwards adjustments procedure and patent box procedure.

As for possible ruling requests filed with the Italian Revenue Agency during the suspension period, the related terms to reply will become to run as from the day following said suspension period.

The suspension applies also to response to requests to access the Tax Registry ("*Anagrafe Tributaria*"), including the Archive of financial reports filed in accordance with the Italian Code of Civil Procedure to search assets to be seized, except for cases of specific urgency.

1.7 Tax Litigation (Article 83)

The deferral of hearings and suspension of terms previously provided for by Law Decree no. 11 dated 8 March 2020 are further postponed to 15 April 2020. It is also provided the suspension of the limitation period in criminal proceedings and the extension of the sessions of the Assize Courts for the same period.

Furthermore, the deadline for notification of the appeal before the Tax Court of First Instance and the deadline for the conclusion of the complaint and mediation procedures in the same environment are suspended until 15 April 2020. Therefore, the taxpayer does not seem to benefit from the longer term provided for the Italian Tax Authorities (31st May 2020). Clarifications/amendments will be appropriate.

2. Measures to support specific production sectors

2.1 Cinema, audiovisual and entertainment emergencies fund (Article 89)

In order to support the entertainment, cinema and audiovisual sectors following the COVID-19 containment measures, two Funds are established within the Ministry of Cultural Heritage and Activities and of Tourism budget to tackle emergencies in the entertainment, cinema and audiovisual sectors. To the Funds referred to have been allocated €130,000,000 for 2020, of which €80,000,000 for the current portion and €50,000,000 for capital interventions.

2.2 Provisions relating to road transport and public passenger transport (Article 92)

In order to deal with the sudden reduction in maritime traffic related to transport of goods and passengers, the payment of concession charges as per articles 16, 17 and 18 of the Law dated 28 January 1994, no. 84 related to the period between the date of entry into force of the Cura Italia Law Decree and 31st July 2020 is suspended. The suspended payments must be performed within 31st December 2020 even by installments without interest, according to procedures established by each Port Authority.

In order to mitigate the economic effects deriving from the spread of COVID-19 contagion, the payments of customs duties, expiring between the date of entry into force of the Cura Italia Law Decree and 31st April 2020 and executed as provided for by articles 78 and 79 of the Italian Presidential Decree no. 43 dated 23 January 1973, are postponed of further thirty days without interest.

2.3 Urgent extraordinary measures to support the press supply chain (Article 98)

a) *Tax credit for advertising investments.* For the three-years period 2020-2022 the aforementioned tax credit will be granted, under the same conditions and to the same beneficiaries already provided, in an amount equal to 30% of investments made considering the expected decrease in investment volumes starting from the current year. The benefit is subject to EU limits and will be granted within a limit of €60,000,000 per year.

b) *Tax credit for newsstands.* For the purpose to optimize the use of resources already allocated for the year 2020, for the same year an expansion of the objective and subjective scope of the measure is provided.

3. Other tax measures

3.1 Bonus to employees (Article 63)

The Cura Italia Law Decree provides for the payment of a bonus of €100 in favor of employees, both public and private, having income not exceeding €40,000, who, during the COVID-19 health emergency period, continue to work in the workplace during the month of March 2020. The bonus is not taxable for personal tax purposes and is adjusted on the basis of the days in which the work is performed in the ordinary location.

The bonus is attributed automatically by the employer, who pays it if possible with the salary paid for the month of April, and in any case within the deadline for carrying out the year-end adjustments. Withholding agents recover the bonus paid by offsetting it.

3.2 Tax credit for sanitation costs in the workplace (Article 64)

A tax credit of 50% of the costs borne by enterprises and professionals to sanitize spaces and work instruments is provided for 2020 FY up to an amount of €20,000. The expenditure limit is €50,000,000 for 2020. Implementing measures are provided.

3.3 Tax credit for workshops and shops (Article 65)

In order to contain the negative effects deriving from the prevention and containment measures connected to the epidemiological emergency from COVID-19, a tax credit for 60% of lease rental paid in March 2020 for properties registered in the Cadaster under C/1 category is granted to entrepreneurs. The credit can only be offset. The benefit is not applicable to activities identified as essentials, including pharmacies, para-pharmacies and food shops.

3.4 Donations (Article 66)

The rule is aimed at promoting donations to face the evolution of the epidemiological situation in Italy caused by COVID-19.

In particular, the Cura Italia Law Decree provides that cash donations and donations in kind made by natural persons and non-commercial entities, in favor of State, regions, local entities, public bodies or institutions, foundations and non-profit associations are 30% deductible from the income tax. The deduction cannot be higher than €30,000.

For entities subject to CIT, said donations are deductible from business income and are not deemed as not business related.

For the purposes of the Regional Tax ("IRAP") the donations are deductible in the FY in which they have been paid.

4. Rules on shareholders' meetings (Article 106)

The Cura Italia Law Decree introduces provisions which, considering the containment measures to deal with the exceptional emergency situation following the COVID-19 epidemic, are aimed, in particular, at allowing companies to convene the ordinary shareholders' meetings within a wider deadline compared to the ordinary deadline established by the Italian civil code, as well as to facilitate the meetings in compliance with the provisions aimed at reducing the risk of contagions:

a) notwithstanding the provisions of article 2364 and 2478-*bis* of the Italian civil code, companies are allowed to convene the shareholders' meeting to approve the financial statements within 180 days from the end of the financial year;

b) with regard to joint-stock companies, partnerships limited by shares, limited liability companies and cooperative companies, the vote by electronic means or by correspondence and the attendance at the shareholders' meeting by telecommunication means is allowed notwithstanding statutory provisions. The aforementioned companies may also provide that the meeting is held, even exclusively, by means of telecommunication means allowing the identification of participants, their participation to the meeting and the exercise of the right to vote. Where required, the chairman, secretary or notary public are not required to be in the same place.

c) limited liability companies can also allow the vote to be expressed by written consultation or by written consent;

d) also popular banks and cooperative credit banks can designate the designated representative referred to in art. 135-*undecies* of the Italian Consolidated Law on Finance e) if companies with listed shares do not adopt remote voting methods, they will appoint the representative required by article 135-*undecies* of the

Let's talk

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