

Law Decree n. 18/2020, so-called Decreto Cura Italia

The main regulatory measures related to the Covid-19
emergency

Law Decree n. 18/2020, so-called “Decreto Cura Italia” (also “March Decree” and hereinafter simply the “Decree”), published in the Official Gazette on 17 March 2020, introduced various measures aimed at strengthening the national healthcare service and at providing financial support to families, workers and businesses following the COVID-19 epidemiological emergency. Below we provide an overview of the main measures introduced by the Decree concerning taxation, liquidity support to businesses and labour.

New provisions concerning payments

Prorogation and suspension of payments (articles 60, 61, 62)

The Decree introduces a series of provisions postponing some tax fulfilments and suspending the payment of taxes for specific categories of taxpayers.

With the exception of the categories above, all payments towards public administrations, including social security contributions and insurance premiums, due on 16 March have been postponed to 20 March 2020.



Tab. 1

Taxpayer categories	Withholdings pursuant to articles 23 and 24 of Presidential Decree no. 600/1973	Social security contributions	VAT
Subjects managing stadiums, sports facilities, gyms, dance/fitness/body-building clubs and facilities, sports centres, swimming pools and centres	Payments relevant to the period between 2 March 2020 and 30 April 2020 will be due by 31 May 2020 in a single payment or through a maximum of 5 equal instalments starting from May 2020.		VAT payments with maturity in March 2020 will be due by 31 May 2020 in a single payment or through a maximum of 5 equal instalments starting from May 2020.
Subjects managing theatres, concert halls, movie theatres, including ticket services and performance supporting activities, as well as discos, ballrooms, nightclubs, amusement arcades and billiard halls			
Subjects managing lottery and betting centres, including the management of related machines and equipment			
Subjects organizing courses, fairs and events, including artistic, cultural, game, sports, and religious ones			
Subjects managing restaurants, ice-cream shops, bakeries, bars and pubs			
Subjects managing museums, libraries, archives, historical places and monuments, botanical gardens, zoos and nature reserves			
Subjects managing nurseries and daily assistance services for disabled minors, education services and schools for children, first and second level education services, professional training courses, sailing/navigation/flying schools, which issue licenses or commercial licenses, professional driving schools			
Subjects carrying out social assistance activities without accommodation for the elderly and disabled people			
Thermal companies under law dated 24 October 2000, no. 323, wellness centres			
Subjects managing amusement parks or theme parks			
Subjects managing bus/train/underground stations, ports, or airports			
Subjects managing land/air/sea/river/lake/lagoon transport services of goods and people, including the management of funiculars, cableways, cable railways, chairlifts, and ski-lifts			
Subjects managing the hire of land/sea/river/lake/lagoon transport means			
Subjects managing hire services of sports and recreational equipment, or structures and equipment for exhibitions and shows			
Subjects carrying out touristic guide and assistance activities			
social utility not-for-profit organizations under art. 10 of legislative decree no. 460/1997 registered in the proper registers, volunteering organizations registered with the regional and provincial under Law no. 266/1991, and social promotion associations registered with the national, regional and Trento and Bolzano provincial registers under art. 7 of Law no. 383/2000, which exclusively or mainly carry out one or more activities of general interest provided under art. 5, para. 1 of legislative decree no. 117/2017			
Touristic and accommodation entities, travel and tourism agencies, and tour operators			
National sports federations, sports promotion entities, sports associations and companies, either professional or amateur			

Tab. 2

Taxpayer categories	Withholdings pursuant to articles 23 and 24 of Presidential Decree no. 600/1973	Social security contributions	VAT
Subjects carrying out business activities, arts or professional activities having their tax domicile, registered office or operating office in Italy and having registered revenues or considerations up to 2 million Euros in the FY preceding that in which the Decree came into force	Payments relevant to the period between 8 March 2020 and 31 March 2020 will be due by 31 May 2020 in a single payment or through a maximum of 5 equal instalments starting from May 2020.		
Subjects carrying out business activities, arts or professional activities having their tax domicile, registered office or operating office in the provinces of Bergamo, Cremona, Lodi and Piacenza	Refer to the specific taxpayer category	Refer to the specific taxpayer category	Payments relevant to the period between 8 March 2020 and 31 March 2020 will be due by 31 May 2020 in a single payment or through a maximum of 5 equal instalments starting from May 2020.
Subjects having their tax domicile, registered office or operating office in the following towns: Bertinico, Casalpusterlengo, Castelgerundo, Castiglione D'Adda, Codogno, Fombio, Maleo, San Fiorano, Somaglia, Terranova dei Passerini, Vo'	Payments with maturity in the period between 21 February 2020 and 31 March 2020 will be due by 31 May 2020 in a single payment or through a maximum of 5 equal instalments starting from May 2020. Moreover, for these taxpayers, the suspension also includes payments due in the above period that derive from tax payment notices issued by tax collection agencies and from tax assessment notices.		

Payments already made will not be subject to refund. All prorogations provided for can be enacted without the application of fines and interest.



New provisions concerning tax fulfilments

Prorogation of tax fulfilments (art. 62)

Tax fulfilments, with the exception of tax payments as well as withholdings at source and withholdings relevant to additional regional and municipal taxes, whose due dates were originally scheduled from 8 March

2020 to 31 May 2020, are now postponed to 30 June 2020 without the application of fines. The provisions of art. 1 of Law Decree n. 9 dated 2 March 2020, concerning the terms for the precompiled 2020 income tax return, remain valid.

New tax credits and further benefits

Tax credit for the sanitisation of working environments (art. 64)

A tax credit for FY 2020 is granted to all persons carrying out a business, art or profession for the sanitisation of their working environments and tools.

The tax credit will be granted for 50% of documented expenses, up to a maximum amount of Euro 20,000 for each beneficiary. The relevant criteria and ways to obtain the tax credit will be indicated in a decree by the Ministry of Economic Development to be issued within 60 days from the entry into force of the abovementioned Decree.

Tax credit for workshops and shops (art. 65)

A tax credit for FY 2020 is provided for persons carrying out a business activity for rental costs for buildings and premises falling within the cadastral category C/1 (shops and workshops). Said tax credit may be used only to offset amounts owed on F24 form and will

be equal to 60% of the amount of the rental paid for March 2020.

Subjects carrying out an essential activity, as listed in Annexes 1 and 2 of Prime Ministerial Decree dated 11 March 2020, cannot benefit from the tax credit.

Remodelling of the tax credit for incremental advertising investments on newspapers, magazines and television and radio broadcasters (art.98)

The tax credit relevant to advertising investments is set at 30% of the value of the investments made for 2020.

Applications to obtain this tax credit are to be filed electronically between 1 and 30 September of the same year. Applications filed between 1 and 31 March 2020 remain valid.

Exclusion from withholding taxation (art. 62)

Subject having their domicile for tax purposes, registered office or operating office in Italy and normally subject to withholding taxation pursuant to articles 25 and 25-bis can ask their tax withholding agents to be excluded from such withholdings with reference to income and considerations received in the period included between 17 March and 31 March 2020.

Amounts not withheld will have to be paid directly by the taxpayer who benefitted from this option by 31 May 2020 (or, if paid by instalments, up to 5 monthly instalments of equal amount starting from May 2020).

Taxpayers can apply to obtain this tax benefit provided that:

- they have recorded revenues and considerations for an amount not exceeding Euro 400,000 in the tax period preceding the one in which the Decree entered in to force
- they bore no expenses for subordinate or similar employment in the month preceding the one in which they received the considerations to be subject to the tax benefit.

Taxpayers willing to opt for this tax benefit need to issue a declaration (to their withholding tax agents), certifying that they meet the required conditions and committing to pay the amount due at the set deadline.

Premium to subordinate employees (art. 63)

The Decree provides for a premium of Euro 100, exempt from taxation, to be granted to all subordinate employees who, in March 2020, carried out their working activity at their workplace. The premium, payable directly by the withholding tax agent starting from the

first applicable wage, will have to be linked to the actual days spent at their workplace and will be granted only to those workers who, in the previous tax period, had a total income not exceeding Euro 40,000.

The withholding tax agents can offset the amounts relevant to the incentives paid to employees (pursuant to art. 17 of Legislative Decree 241/1997).

Donations in cash or kind supporting the measures to fight the COVID-19 (art.66)

The Decree introduces specific tax incentives to foster donations supporting the measures implemented to limit the spreading of the COVID-19 epidemiologic emergency. In particular:

- a 30% deduction, equal to an amount not exceeding Euro 30,000, for donations made by individuals and non-commercial entities in favour of the State, regions, local entities, public entities or institutions, legally recognised not for profit foundations and associations, aimed at financing interventions for the containment and management of the emergency
- full IRES and IRAP deductibility for donations made in 2020 by subjects having a business income, according to the terms and ways set forth under art. 27 of Law 133/1999.

Public mention for the renouncement to the suspension (art. 74)

Taxpayers not availing themselves of the provisions concerning the suspension of payments can ask for a specific mention on the institutional website of the Ministry of Economics and Finance.

New provisions concerning tax judicial bodies

Suspension of the terms relevant to the activity of revenue offices and tax authorities (art. 67)

Generalised suspension of terms in favour of the Revenue Office (*Agenzia delle Entrate*) -

The terms relevant to the following activities, to be carried out by the Revenue Office, are suspended from 8 March 2020 up to 31 May 2020:

1. settlements, inspections, assessments, collections and tax litigations
2. reply to requests for rulings, including those to be provided following to the submission of supporting documentation, and settlements requests
3. communications relevant to the inclusion in the cooperative compliance regime
4. fulfilment of the procedure of collaboration and enhanced cooperation for the definition of tax liabilities for possible Italian permanent establishments of companies belonging to multinational groups
5. advance pricing agreements for international enterprises
6. recognition of income reductions following to the application of the agreements concluded with the competent authorities of foreign Countries further to the application of mutual agreement procedures provided for under international double tax treaties or under arbitration agreements, upon conclusion of the inspections carried out within the international cooperation activity and whose outcomes are shared with the participating Countries and, upon request by the taxpayer, against final increases applied in compliance with the arm's length principle by a Country in which a convention against double taxation is in force

7. advance agreements for the application of the optional Patent Box regime.

Suspension of terms and submission of requests for a ruling -

The terms for providing the outcomes to requests for a ruling submitted in the suspension period (08.03.2020 - 31.05.2020) and for the relevant regularisation will start from 01.06.2020.

During the suspension period, requests for a ruling can be submitted only via certified email (PEC) or via email, for non resident taxpayers without an approved agent in Italy.

Suspension of the terms relevant to the right of access -

The terms for the provision of a feedback to the requests of access to the tax register database (*Anagrafe Tributaria*), as well as to administrative deeds and documents (provided they cannot be postponed and are urgent) by the tax authorities are suspended from 08.03.2020 to 31.05.2020.

Suspension of limitation and prescription periods -

Limitation and prescription periods expiring on 31 December 2020 are postponed to 31 December of the second year following the end of the suspension period (31 May 2020). Therefore, for example, tax assessments on FY2015 tax returns (or FY2014 in case of returns not filed), tax bills relevant to FY2015 resulting from formal controls or automated payment check relevant to FY2016, can now be notified within 31.12.2022.

Suspension of the activities carried out by the tax and SSCs collection agents (art.68)

Suspension of payment terms of amounts due following to an assessment or tax bill -

Payments due in the period included between 8 March 202 and 31 May 2020, relevant to tax

bills, tax assessment notices and debit notices issued by INPS (the Italian Social Security Institute), can be made as a single payment within 30 June 2020. No refund is provided in case of wrong payments.

Terms for payments due relevant to assessments issued by the Customs Office, injunctions issued by regional authorities and execution proceedings issued by local entities and due from 8 March 2020 to 31 May 2020, are also suspended.

Suspension of the terms for paying amounts due following to tax settlement concessions

- The term of 28 February 2020 for payments relevant to the tax concession settlement so-called “*rottamazione-ter*” and the payment term of 31 March 2020 for the final settlement provided for taxpayers in serious and proven economic difficulties, are deferred to 31 May 2020.

Deferment of terms for the submission of uncollectability notices

- The terms for the submission of notices of uncollectability of the amounts granted to collection agents in FY2018, FY2019 and FY2020 are postponed, respectively, from 31 December 2021 to 31 December 2023, from 31 December 2022 to 31 December 2024 and from 31 December 2023 to 31 December 2025.

New urgent provisions to face the COVID-19 emergency and limit its effects on civil, criminal, tax, and military justice (art. 83)

Common provisions

Postponement of hearings - All hearings within pending civil and criminal proceedings before all courts scheduled in the period 09.03.2020 - 14.04.2020 are postponed to 15.04.2020.

Suspension of proceedings terms - From 09.03.2020 to 15.04.2020 the course of following terms is suspended:

- terms for any act within civil and criminal proceedings. If such term starts during

the suspension period, its starting date is postponed to the end of the suspension period (i.e. starting from 15.04.2020). If the term is calculated backwards and falls – totally or partially – within the suspension period, the hearing or activity from which such term starts is postponed, in order to allow the term to be observed;

- terms for the notification of first instance tax appeals and for the fulfilment of claims mediation procedures (so-called “*reclamo/ mediazione*”).

Exceptions to such suspension provisions are detailed below, with specific reference to civil law and to criminal law.

Organization and prevention measures - To face the epidemiological emergency and limit its negative effects on the judicial activities, the following measures must be adopted in courts and judicial offices, aimed at complying with the hygienic instructions provided by the Ministry of Health:

- limited access of public to courts;
- limited opening time of offices to the public or closure to the public – only for those offices that do not provide urgent services;
- regulation of access to services upon reservation;
- implementation of binding guidelines for the fixing and negotiation of hearings;
- execution of all public criminal hearings or single hearings and all public civil hearings behind closed doors;
- execution through remote connection of those hearings that do not require the presence of other people besides barristers and the parties;
- postponement of hearings within civil and criminal proceedings after 30.06.2020, save for some exceptions;
- execution of civil hearings that do not require the presence of other people besides barristers and the parties through the exchange and electronic filing of written notices including only applications and

conclusions and subsequent out-of-court order by the judge.

Within the terms suspension period from 09.03.2020 to 15.04.2020 and limited to the non-suspended judicial activity, the organization and prevention measures listed above can be adopted in courts, except for the postponement of hearings after 30.06.2020. While, in the period between 16.04.2020 and 30.06.2020, all of the above organization

and prevention measures must be adopted in courts.

The limitation of actions and prescription terms of rights that can be exercised only through forbidden actions in the period in which the above measures are effective are suspended.

All civil and criminal justice provisions are applicable also to tax court proceedings.

New provisions concerning corporate law

Rules on the execution of companies' Shareholders' Meetings (art. 106)

Companies can call ordinary Shareholders' Meetings within a more extended term of 180 days after the closure of the fiscal year, departing from the provisions under article 2364 of the Italian Civil Code (2478-bis for S.R.L. companies).

It is also provided that companies can include in the notice of call of Shareholders' Meetings the possibility to proceed with electronic voting or postal voting or to take part in the meeting via telecommunication means, even departing from the provisions under the Company's Articles of Association.

S.R.L. companies can provide the possibility to make resolutions through written consultation or explicit written consent, even departing from art. 2479 of the Italian Civil Code and from the company's Articles of Association.



New provisions concerning liquidity support for companies

SMEs Guarantee Fund (art. 49)

Measures aimed at extending the scope of application of the SMEs Guarantee Fund are provided. Among these, for example, there are: the extension of the maximum guaranteed amount up to 5 million Euros; the admission of debt renegotiation transactions, provided that new financing equal to at least 10% of remaining debt is issued; extension of guarantees in case of moratorium or suspension of loans due to the COVID-19 emergency.

Conversion of Deferred Tax Assets (DTA) into tax credit (art. 55)

The Decree introduced the possibility to convert into tax credit those DTAs referred to i) tax losses and ii) ACE surplus not yet deducted from the taxable income, against the transfer of commercial and financial receivables due from defaulting parties (transfer between companies of the same group is excluded).

The conversion can concern a DTAs amount not higher than 20% of the face value of transferred receivables. Referring to the example illustrated in the Decree, if transferred receivables are equal to Euro 100,000, the convertible amount will concern an amount related to DTAs items (i.e. losses and ACE surplus that can be carried forward) not exceeding Euro 20,000 and therefore convertible DTAs will be equal to Euro 4,800 (assuming an IRES rate of 24%).

Tax credit deriving from such conversion can be (without any amount limitation):

- offset in compliance with art. 17 of legislative decree no. 241/1997;
- transferred in compliance with art. 43-bis or 43-ter of Presidential Decree no. 602/1973;
- claimed for refund.

The conversion will have to be exerted upon a specific option to be made within the closure of the FY being current at the date on which the transfer of receivables is effective. The option is considered effective starting from the FY following that in which the transfer itself occurred.

Financial support to SMEs and liquidity support for companies (art. 56)

A moratorium, through deferment and suspension, to 30 September is granted to micro enterprises and SMES, to be requested to banks for loans or credit lines existing at the date of the Law decree.

A joint press release issued by the Italian Bank Association (ABI) and business associations notified that the possibility to request a suspension or extension of loans is granted also for loans at 31 January 2020. The moratorium is referred to loans to micro enterprises and SMEs damaged by the COVID-19 epidemiological emergency.

The press release specifies that the suspension of payments relevant to principal of a loan instalments can be requested for up to a year.

The suspension is applicable to medium/long-term loans, even concluded through the issue of agricultural short-term loans, and to lease transactions (in the latter case, suspension concerns the implicit principal of lease fees).

Extensions of the loan's term are allowed up to 100% of the remaining repayment term.

Liquidity support for companies impacted by the epidemiological emergency through guarantees (art. 57)

Banks, supported by Cassa Depositi e Prestiti (CDP), can more easily issue loans to companies affected by a reduction in turnover due to the COVID-19 emergency.

CDP will support banks through specific instruments and the Government will grant counter-guarantees up to 80% of the exposure assumed by CDP.

An implementing decree will clarify application procedures.

New provisions concernign labour

The Law Decree introduced some new provisions on ordinary salary supplements (art.19), on exceptional redundancy – without any limitation on the number of employees – (art.22), on parental leaves (art.23), as well as extensions of paid monthly leaves (art. 24), allowances to professionals and coordinated and continuative collaborators – co.co.co – (art. 27), and suspensions of dismissal procedures (art. 46).

Details on the new provisions concerning labour are included in the proper circular letter of our Grant Thornton Human Resources professionals, published on our website and available in the dedicated section Clever Desk.

Our experts are available should you need any further information.

Please consult Clever Desk visiting the dedicated section on our website bgt-grantthornton.com for any matter regarding Covid-19.

