

*Le novità IVA apportate dal  
Decreto "Cura Italia" e dal  
Decreto "Liquidity": tra  
chiarimenti e dubbi  
interpretativi*

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A cura di PwC TLS VAT, Customs and Excise

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introduced by the Cura Italia  
Decree and the Liquidity Decree:  
main clarifications and  
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 PwC TLS | Avvocati e Commercialisti

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In the Official Gazette no. 110 of April 29, 2020, Law no. 27 of 24 April 2020, which converted the “Cura Italia” decree into law (DL, 17 March 2020, n. 18) which, together with the “Liquidity” decree (DL, 8 April 2020, n. 23), contains , among others, the measures relevant for VAT purposes to deal with the emergency from COVID-19. Below is a summary of the main clarifications offered at the level of practice as well as the unresolved issues.

The new deadlines relating to periodic obligations for VAT purposes are also summarized.

# 1. What are the subjects who can benefit from the suspension of the VAT obligations pursuant to article 62, paragraph 1, of the Italian Care Decree?

***In short : only taxable persons established for VAT purposes in Italy can benefit from this suspension.***

Article 62, paragraph 1, of the Cura Italia decree provides for the suspension of the terms of VAT compliance, other than payments, which expire in the period between 8 March and 31 May 2020. These obligations must be carried out by 30 June 2020.

The legislative dictation does not clearly indicate which audience of subjects the suspension in question is addressed to. In particular, it is not clear whether the same can be applied to subjects not established in Italy (ie, VAT taxable persons identified directly or through a tax representative).

Well, as clarified by the Circular of April 3, 2020, n. 8 / E "[...] *as expressly provided for by article 62 of the Decree, the suspension of the terms of the tax obligations expiring in the period between 8 March 2020 and 31 May 2020 relates only to those who have a tax domicile, the registered office legal or operational headquarters in the territory of the State, and not also **foreign subjects***" (in this sense, see also Circular Assonime of 27 April 2020, n. 6).

The position taken by the Inland Revenue - which, indeed, makes a-technically reference to "foreign subjects" - would seem that the suspension applies only to subjects established in Italy and not also to subjects not established as they lack tax domicile, operational headquarters or registered office in Italy.

However, this interpretation presents uncertainty profiles.

First of all, article 58, paragraph 1, of Presidential Decree 600/1973 (peacefully applicable also for the purposes of indirect taxes) provides a broad notion of tax domicile, providing that “ *Individuals other than natural persons have their tax domicile in the municipality where they are located. their registered office or, failing that, the administrative office; if this too is missing, they have their tax domicile in the municipality [...] in which they mainly exercise their activity* ”.

In the case of subjects not established in Italy (identified *pursuant to* article 35-ter, Presidential Decree no. 633/1972 or through the appointment of a tax representative):

1. to the subjects identified directly pursuant to article 35-ter, Presidential Decree 633/1972, upon completion of the VAT registration procedure, a tax domicile is assigned at the Pescara Operations Center (Provision March 6, 2007);
2. for subjects who appoint a tax representative, the tax domicile would seem to coincide with the domicile of the same representative (Circ. Min. 10 July 1979, n. 19).

Furthermore, it should be stressed that the exclusion of non-residents from the rules under discussion appears to infringe the Community principle of non-discrimination.

In this regard, the state of emergency does not concern only Italy and, therefore, the suspension of obligations should not be limited to only those established in the national territory.

On this point, it is considered appropriate to point out that, when converting the "Cura Italia" Decree, an amendment was proposed which provided for the extension of the suspension of obligations also to " *subjects identified for VAT purposes in the territory of the State pursuant to article 35-ter of the decree of the President of the Republic 26 October 1972, n. 633, or who have appointed a tax representative in the territory of the State pursuant to article 17 of the same decree* ". However, this amendment has been omitted.

## **2. With the suspension of the deadline for submitting the annual VAT return for 2019, how long is it possible to record passive invoices, issued and received in 2019 (but not registered in 2019) for the purpose of exercising the right to deduct VAT?**

***In short : for the purposes of exercising the right to deduct VAT, it would seem possible to register, by 30 June 2020, the passive invoices dated and received in 2019 and to bring the VAT into the VAT declaration for 2019 (according to the indications provided by the Revenue Agency with circular No. 1 / E / 2018).***

Article 62, paragraph 1, of the "Cura Italia" Decree, has suspended, inter alia, the deadline for submitting the VAT return for the year 2019, to be carried out by 30 June 2020.

One wonders if this provision has impacts with reference to the deadline for exercising the right to deduct VAT (pursuant to article 19, paragraph 1, of Presidential Decree 633/1972). As is well known, the deadline for exercising the VAT deduction can be identified at the latest on the date of submission of the VAT return relating to the year in which the right to deduct arose.

With reference to the invoices issued and received in 2019 but not registered in 2019, it is not entirely clear what the deadline is within which they can be registered (according to the indications provided by the Revenue Agency with circular No. 1 / E / 2018), for the purpose of exercising the right of deduction (where provided) in the VAT return for 2019: on 3 April 2020 or on 30 June 2020?

There seems to be valid evidence to argue that the extension to 30 June 2020 may also concern the deadline for the registration of invoices issued and received in 2019 but not registered in that year (referred to above).

This conclusion seems to be confirmed in the clarifications provided by the Inland Revenue in the recent response to the request for an appeal dated April 16, 2020, no. 107, with regard to the different issue of the deadline for issuing the change note pending the suspension of VAT obligations pursuant to the "Cura Italia" Decree. On this occasion, the Revenue Agency stated that, considering that the tax deduction is allowed within the deadline for submitting the VAT return for the year 2019, the decrease note must be issued at the latest within the deadline. Last submission of the 2020 VAT return, now extended from 30 April to 30 June 2020.

The equally recent Circular Assonime of April 27, 2020, n. 6: "*returning to the generality of the other taxpayers, following the suspension of the deadline for the submission of the annual return required by the aforementioned art. 62, paragraph 1, it seems legitimate to believe that the deadline of 30 June should also be the reference date for identifying the deadline for exercising the right to deduct VAT, pursuant to the provisions of art. 19, paragraph 1, of Presidential Decree 633 of 1972*".

### **3. Can the obligation to issue an electronic invoice be considered suspended in relation to the activities for which the closure has been ordered from 11 March 2020 on the basis of the Prime Minister's Decree of the same day? Alternatively, is it possible to invoke the exemption of force majeure?**

***In short : the issue of invoices is not a suspended fulfillment, without prejudice to the possibility of invoking the cause of force majeure. Under certain conditions, the obligation to certify the fees is suspended.***

The aforementioned article 62, paragraph 1, provides for the suspension until 30 June 2020 of the terms of VAT obligations other than payments that expire in the period between 8 March and 31 May 2020.

One of the interpretative doubts that arose in relation to this provision concerns the possible application of this suspension also to the transmission of electronic invoices and the transmission of electronic fees.

On this point, the Revenue Agency, in the Circular of April 3, 2020, n. 8 / E, point 1.7., Preliminarily recalled that:

1. the electronic or analogical invoice is issued within twelve days from the execution of the transaction, pursuant to article 21, paragraph 4, of Presidential Decree 633/1972 (so-called immediate invoice);
2. the invoice can be issued, in some cases, also by the 15th day of the month following the month of carrying out the operation, according to the provisions of article 21, paragraph 4, lett. a), Presidential Decree 633/1972 (so-called deferred invoice).

This clarified, for taxable persons who have carried out transactions for which the tax period has taken place in the twelve days prior to the date of interruption of the activity, the issue of the invoice, analog or electronic, remains mandatory and is not included in the obligations suspended pursuant to Article 62. This, as this document is:

1. intended for the contractual counterparty, necessary to fulfill certain obligations arising from the decree; as well as
2. functional to the exercise of certain fiscally recognized rights (e.g. the deduction of VAT by the transferee or client who, otherwise, this right would be denied).

Nonetheless, the Revenue Agency considers the exemption of the force majeure (article 6, paragraph 5, of Legislative Decree no. 472/1997) to be applicable, retaining the power to assess its existence in the specific case. In particular, it is necessary to evaluate the existence of both the so-called objective

element (related to abnormal circumstances unrelated to the operator) and the so-called subjective element (consisting of the obligation of the interested party to take precautions against the consequences of the anomalous event).

In addition, the Revenue Agency clarifies that the storage and electronic transmission of the fees are to be understood as a single tax compliance functional to the exact documentation of the transaction and the related fees (Circular of February 21, 2020, n.3 / E). Therefore, it cannot be subject to the suspension *pursuant to* article 62, paragraph 1 in comment. In other words, the counterparty's need to receive a document necessary for the fulfillment of tax obligations also prevails.

However, the Revenue Agency recognizes the possibility of benefiting from the suspension which is discussed in the following cases:

1. the consideration has been stored and the commercial document has been issued, but the transmission has been legitimately deferred to a later date (in case of absence of internet and / or device connectivity problems);
2. by taxpayers with a turnover of less than 400 thousand euros who still do not use a telematic recorder or the web procedure of the Inland Revenue and continue to issue receipts or tax receipts and who are required only to the monthly electronic transmission of the data of the fees pursuant to article 2, paragraph 6- *ter* , d. lgs. n. 127 of 2015;
3. if the operator of an automatic vending machine is unable to electronically transmit the payment data within 60 days of the previous transmission of the data (since the technician in charge of collecting the data from the distributor's master system is unable to carry it out during the period of emergency) it will be possible to carry out the detection and transmission at a later time.

Lastly, if the commercial activity does not carry out any activity (for example, as it is closed by order of the authority or for other reasons connected to the calamitous events), no further operation relating to the storage / sending of data must be carried out (see technical specifications attached to the



provision of the director of the Revenue Agency prot. no. 182017 of 28 October 2016).

#### **4. In connection with the epidemiological emergency, is there an obligation to issue transport documents in the presence of an electronic invoice?**

***In short : in the presence of an immediate electronic invoice, there is no obligation to issue the transport document.***

The Revenue Agency, in the Circular of April 3, 2020, n. 8 / E, point 1.8, has preliminarily recalled that, as a result of article 1, Presidential Decree 472/1996, the obligation to issue the accompanying document of the traveling goods (so-called invoice or delivery note) pursuant to Presidential Decree 627 / 1978 was repealed and was replaced by the provision of the issue of a transport document.

The issue of the DDT (also possible in the form of an electronic document, see circular no. 36 / E of 6 December 2006) is necessary:

1. in the event of movement of the property for non-translational purposes, in order to overcome the presumptions of transfer and purchase referred to in Presidential Decree 441/1997;
2. in the event of the issue of the so-called "deferred" invoices (ie by the 15th day of the month following that of carrying out the operations detailed in them).

Outside of these hypotheses, the DDT can be replaced by an invoice. In particular, as clarified by the Ministerial Circular 16 September 1996, n. 225, **a so-called "immediate" invoice**, that is, issued within twelve days from the execution of the operation, **can replace the DDT, either "escorting" the goods transported during the trip, or separately from them, making it sufficient to issue it only**

The alternativity between DTT and the so-called immediate invoice - electronic or analog, where permitted by law - is therefore already foreseen in our legal system, regardless of the ongoing epidemiological crisis.

## **5. In light of the epidemiological emergency, what are the measures implemented by the Revenue Agency with reference to the entry into force of the new .XML electronic invoice layout?**

The Directorial measure Prot. N. 166579/2020 published on April 20, 2020, established the extension of the entry into force of the new technical specifications relating to the .XML layout of the electronic invoice according to this distinction:

- from 4 May 2020 (original deadline) to **1 October 2020** for the adoption of the new route on an optional basis;
- from 1 October 2020 (original deadline) to **1 January 2021** for the adoption of the new route on a mandatory basis.

## **6. How does the suspension of VAT payments with reference to the group VAT settlement procedure, referred to in article 73, paragraph 3, of Presidential Decree 633/1972 work?**

***In short : according to the Inland Revenue, for the purposes of the application of the suspension of VAT payments, it is sufficient that the subjects included within the perimeter of the group VAT settlement exercise one or more of the activities envisaged by the "Cura Italia" Decree, provided the amount of revenues deriving from these activities is prevalent compared***

***to the total achieved at group level. It is hoped that the suspension of VAT payments will also apply if, with reference to the group VAT settlement procedure, the parent company or one of the participants is established in another EU country and identified for VAT purposes in Italy.***

Article 73, paragraph 3, of Presidential Decree 633/1972, as supplemented by the Finance Ministerial Decree of 13 December 1979 as last amended by the Economy and Finance Ministerial Decree of 13 February 2017, identifies an optional liquidation and compensation regime for VAT purposes only, upon the occurrence of certain requirements. In particular, with reference to the requirement of tax residence, with resolution no. 22 / E of 21 February 2005, the Inland Revenue has extended the possibility of participating in the group VAT settlement also to companies based in the European Union, if they have established a permanent establishment in the State, they have appointed a tax representative , or still identified directly pursuant to article 35- *ter* , dPRn 633/1972.

With circular no. 8 / E of 3 April 2020, the Revenue Agency has clarified that, for the purposes of the suspension of the VAT payments provided for tourist accommodation businesses, travel and tourism agencies and tour operators referred to in paragraph 3 of article 61 of the "Cura Italia" Decree, as well as for the subjects referred to in paragraph 2 of the same article, it is sufficient that those who participate in the group VAT settlement exercise one or more of the activities indicated in the aforementioned regulatory dictation, provided that the amount of the revenues cumulatively they represent the main part of them compared to those made overall by all the companies of the group.

However, it is not clear whether the suspension, according to the clarified procedures, also applies if the parent company or one of the participants is established in another EU country but identified for VAT purposes in Italy.

A rigorous interpretation of the regulatory framework just outlined, in light of the clarifications provided with reference to the suspension of VAT obligations (see, in this regard, question no. 1), would lead to exclude the application of the suspensive regime in comment in a similar hypothesis. This restrictive interpretation, however, contrasts, in the opinion of the writer, with the principles of freedom of

establishment and equal treatment enshrined at Euro-unit level. From a more pragmatic perspective, one cannot help but highlight that the emergency situation affects all EU countries, albeit to varying degrees.

In light of this, clarifications from the Revenue Agency in a confirmatory sense regarding the extension of the aforementioned suspension regime are desirable.

## **7. How does the suspension of VAT payments with reference to the VAT Groups referred to in article 70- bis and following, Presidential Decree 633/1972 work?**

***In short : according to the Revenue Agency, for the purposes of the application of the suspension of VAT payments, it is sufficient that the subjects belonging to the VAT Group exercise one or more of the activities provided for in paragraphs 2 and 3 of article 61, "Treatment Decree Italy ", provided that the amount of the revenues relating to them cumulatively represents the prevalent part with respect to those overall achieved at the group level.***

Articles 70- bis and following, Presidential Decree 633/1972, establish the right for taxable persons, among whom there are financial, economic and organizational constraints (punctually set out in article 70- ter , Presidential Decree 633/1972) to set up a VAT Group , upon the outcome of which the participants are considered as a single VAT taxable person. The exercise of the option to set up a VAT Group is subject to the fact that the participants are established in the territory of the State.

With circular no. 8 / E of 3 April 2020, the Revenue Agency has clarified that, for the purposes of the suspension of the VAT payments provided for tourist accommodation businesses, travel and tourism agencies and tour operators referred to in paragraph 3 of article 61 , "Cura Italia" Decree, as well as for the subjects referred to in paragraph 2 of the same article, it is sufficient that the subjects

belonging to the VAT Group exercise one or more of the activities indicated in the aforementioned regulatory dictation, provided that the amount of revenues their cumulative represents the prevalent part with respect to those overall achieved at group level.

## **8. What are the requirements to take advantage of the VAT exemption on the import of goods intended to counter the emergency from COVID-19?**

***In short : public organizations and bodies, organizations specifically authorized by national authorities, first aid units, as well as all those who import goods on behalf of the aforementioned subjects can take advantage of this VAT exemption.***

By decision 2020 / 491 of 3 April 2020, the EU Commission established that imports of goods intended to deal with the emergency from COVID-19, carried out from 30 January 2020 to 31 July 2020, are carried out exempt from customs duties and VAT on import.

The aforementioned EU provision was implemented by the Customs Agency with directorial determination prot. n. 107042 / RU of April 3, 2020, which identified the subjective and objective assumptions that must be jointly used to benefit from the subsidy in question.

In particular, from a subjective point of view, imports are expected to be made by, or on behalf of, public organizations, including state bodies, public bodies and other bodies governed by public law, or by, or on behalf of, organizations authorized by competent national authorities. Imports made by first aid units, or on their behalf, to meet their needs for the duration of their intervention are admitted to the same benefit.

It is therefore explicitly allowed also to subjects other than the above qualified subjects to effect the duty-free import, provided that these subjects act on behalf of the latter.

From an objective point of view, on the other hand, the exemptions apply only to goods destined for free distribution to those affected by the COVID-19 infection, or exposed to the risk of contracting COVID-19, or engaged in the fight against the pandemic, also where the aforementioned goods remain in the property of the subjects who make them available free of charge.

From a more operational point of view, a self-certification must be produced at the time of customs clearance, filling in a special form published on the website of the Customs Agency, in which the final recipient of the goods certifies that they belong to the categories of public subjects who have the right to VAT exemption and that the goods for which the benefit is requested are intended for the purposes indicated above.

Furthermore, if the importer is a different subject from the final recipient of the goods entitled to exemption, he must produce a special and separate self-certification, always filling in a special form published on the website of the Customs Agency.

## **9. What tax relief rules and / or favorable schemes are available for taxable persons who intend to make donations of goods in the context of the emergency from COVID-19?**

***In short : although there are no specific rules that facilitate the donation of goods in the context of the current epidemiological emergency (apart from those indicated in the next point), it is possible to identify some pre-existing rules, which allow the donation of certain goods to certain subjects without application of VAT, while maintaining the right to deduct.***

Article 66 of the Cura Italia Decree provides for “ *tax incentives for liberal and cash donations in support of the measures to combat the epidemiological emergency from COVID-19* ”, even if nothing specifically regarding VAT.

The circular no. 8 / E of 3 April 2020 clarifies that the aforementioned liberal payments in kind do not automatically benefit from the (preferential) treatment reserved for the transfers regulated by article 6, paragraph 15, Law 133/1999, but must respect the objective and subjective conditions provided for by the latter regulation.

Therefore, there are no specific concessions regarding the donation of goods in kind in the context of the emergency from COVID-19.

This stated, however, it is possible to identify other facilitating rules and / or favorable regimes for VAT purposes that can facilitate the donation of certain goods.

In particular, the aforementioned article 6, paragraph 15, Law 133/1999, as well as art. 16, Law 166/2016 allow the donation to certain subjects of certain goods, including drugs and foods that are no longer marketed or not suitable for marketing, without applying VAT while maintaining the right of deduction for the donor. In essence, the aforementioned provisions assimilate the donation to certain subjects of certain goods to the destruction of the same goods.

In this regard, it should be noted that, when converting the Cura Italia decree, letter d- *bis* was added to the aforementioned article 16 , which extends the aforementioned facilitation to the donation of some additional products (for example, products for clothing and technological products such as computers, tablets and e-readers) that are no longer marketed or not suitable for marketing due to imperfections, alterations, damages or defects that do not change their suitability for use or for other similar reasons.

## **10. Are there favorable VAT rules for compassionate drug donations?**

***In short : the Liquidity Decree assimilated the donation of drugs for compassionate use to certain subjects (essentially medical personnel and clinical centers) to the destruction of the same drugs. It follows that the donor will not have to apply the VAT on the free supplies while maintaining the right of deduction for the purchases related to the aforementioned supplies.***

Article 27, Liquidity Decree, establishes, in paragraph 1, that the presumption of assignment referred to in article 1 of Presidential Decree 441/1997 for free supplies of drugs does not apply, as part of the programs for compassionate use identified by the Ministerial Decree Health 7 September 2017 and authorized by the competent Ethics Committee, carried out against the subjects referred to in article 3 of the aforementioned ministerial decree (essentially, medical personnel and clinical centers).

In particular, by drugs used in the context of compassionate use programs we mean the products that have been subjected to clinical trials, and used outside the trial, in patients suffering from serious or rare diseases or who are in danger of life, when, in the opinion of the doctor, there are no further valid therapeutic alternatives, or in the event that the patient cannot be included in a clinical trial or, for purposes of therapeutic continuity, for patients already treated with clinical benefit as part of a clinical trial .

As clarified in the explanatory report to the Liquidity Decree, the provision referred to in the aforementioned article 27 is intended to counter the ongoing epidemiological spread, so that " *in the absence of specific drugs, patients with COVID-19 are administered drugs authorized for other therapeutic indications in the 'in the context of clinical studies or still being tested and which fall within the so-called compassionate use programs "*.

As there is no specific regulatory reference with regard to exclusive use with respect to COVID-19 patients, it is reasonable to assume that the scope of the standard is extended to all drugs used in compassionate use programs.



Therefore, for free supplies of medicines used as part of compassionate use programs, the donor will not be required to apply VAT, despite having the right to deduct the tax on purchases related to the aforementioned free supplies.

This circumstance was also confirmed by the Revenue Agency in circular no. 9 / E of 13 April 2020, which clarified that *"it is believed that the right to deduct the purchase should also be recognized for VAT purposes, also in derogation of the general principles "*, since *" in the situations covered by the examination, companies are not transferring (free of charge) an asset suitable to be marketed tout court for the pathologies to which it will be administered, but are freely transferring drugs authorized for other therapeutic indications in the context of clinical studies, or drugs still in phase experimentation and that are part of the so-called compassionate use programs "*.

The aforementioned circular does not clarify, however, whether the VAT exemption in question is also subject to compliance with the specific documentary obligations set out in article 16, paragraph 3, Law no. 166/2016 for the free transfers of surplus food, medicines and other products for social solidarity purposes, i.e. obligations on the donor regarding the issue of transport documentation and the preparation of communications and / or summary declarations of the supplies made to be issued to the Revenue Agency and to the Guardia di Finanza, as well as to the donor to issue a summary statement of the assets received to the transferor.

## **11. New VAT deadline calendar**

With reference to the measures taken due to the COVID-19 emergency, we summarize below the new deadlines for VAT purposes. This schedule is based on the provisions of the "Cura Italia" decree and the "Liquidity" decree.

### **11.1 Deferral of VAT payments**

1. **General suspension** . For payments of VAT payable, originally due on March 16, 2020 (ie VAT due in relation to February 2019 and the annual VAT 2019 balance), the remittance is made in terms until **April 16, 2020** . This measure applies to entities established and not established in Italy.
2. **Suspension for "qualified" sectors** . VAT payments due in March 2020 originally due in the period between 8 March 2020 and 31 March 2020 are held pending until 31 May 2020 by taxpayers operating in certain qualified sectors (e.g. tourism, sport, entertainment, art, culture, education, transport, food, non-profit) and which have their tax domicile, registered office or operational headquarters in the territory of the State. In this regard, the Italian Financial Administration has published a non-exhaustive list of the activities (specified by its ATECO code) to which this suspension applies (Resolution 18 March 2020, n.12 / E, Resolution 21 March 2020, n.14 /IS).
3. **Small entrepreneurs and "sensitive" provinces** . In addition, VAT payments originally due in the period between 8 March 2020 and 31 March 2020 are suspended until 31 May 2020 for professionals and businesses with tax domicile, registered office or operational headquarters in the territory of the State, whose volume of revenues and fees has not exceeded 2 million euros in the tax period preceding that in progress on the date of entry into force of the Decree, are suspended. There are no penalties and interest. Taxpayers with a tax domicile, registered office or operating office in the provinces of Bergamo, Cremona, Lodi, Piacenza and Brescia (added during conversion) are also included, regardless of the threshold of the volume of revenues and fees.
4. **April and May payments**. The payments relating to the months of April and May 2020 can be made, without the application of penalties and interest, in a single solution by 30 June (or by installments up to a maximum of 5 monthly installments of the same amount starting from the same month of June 2020) by professionals and companies with tax domicile, registered office or operational headquarters in the territory of the State, with **revenues not exceeding 50 million euros in the previous tax period** , which have suffered a **decrease in revenues of at least**

**33%** in the months of March 2020 and April 2020, compared to the same periods of the previous tax period. This benefit also applies to professionals and companies with tax domicile, registered office or operational headquarters in the provinces of **Bergamo, Brescia, Cremona, Lodi and Piacenza, regardless of the volume of revenues**, who have suffered a decrease in revenues or fees of at least 33% in the months of March 2020 and April 2020 compared to the months of March 2019 and April 2019, but regardless of the volume of revenues and fees of the previous tax period.

5. The benefit referred to in point 4. applies to professionals and companies with tax domicile, registered office or operational headquarters in the territory of the State, with **revenues in excess of 50 million euros in 2019**, which have suffered a **decrease in revenues of at least 50%** in the months of March 2020 and April 2020 compared to the months of March 2019 and April 2019.
6. The benefit referred to in point 4. applies to professionals and companies with tax domicile, registered office or operational headquarters in the territory of the State who have **undertaken the** business, art or profession, **after March 31 2019** without special conditions.

In this regard, the Revenue Agency, through the **Circular of April 13, 2020, n. 9 / E**, has provided some clarifications regarding the requirement of the decrease in revenues, at the occurrence of which the taxpayer can benefit from the suspension of payments due in April and May 2020. In particular, it has been clarified that:

- the benefit of the suspension of payments due in April 2020 is recognized where in March 2020 the taxpayer suffered a drop in turnover compared to March 2019; the benefit of the suspension of payments due in May 2020 is recognized where in April 2020 the taxpayer suffered a drop in turnover compared to April 2019;
- the calculation of the turnover must be carried out by evaluating the operations which in these months have been **invoiced or certified** and which, therefore, have participated in the VAT

settlement of these periods. To these operations must also be added those that do not fall within the scope of VAT (e.g. the operations referred to in Article 74, Presidential Decree 633/1972);

- the date to be taken as reference is the **date of execution of the operation**. In particular, for the so-called immediate invoices the date is the "invoice date" indicated in field 2.1.1.3 of the .xml layout, for the fees it is the date of the daily fees, while for the so-called deferred invoices it is the date of the DDT or equivalent documents;
- the aforementioned criteria are valid not only for monthly taxpayers, but also for quarterly taxpayers;
- the **non-profit organizations** that, in addition to the institutional, also held a commercial activity in a non-dominant and exclusive, can take advantage of the suspension of payments where it is, the condition of the decrease in revenues mentioned above.

7. Taxpayers who have their tax domicile, registered office or operational headquarters in one of the following municipalities (" **red zone** "): Bertonico, Casalpusterlengo, Castelgerundo, Castiglione D'Adda, Codogno, Fombio, Maleo, San Fiorano, Somaglia , Terranova dei Passerini, Vò enjoy the suspension of payments and obligations which are due to expire between **21 February 2020 and 31 March 2020** . The deadline is postponed to **1 June 2020** . These measures apply to persons established in Italy whose tax domicile is located in one of the municipalities mentioned above.

## 11.2 Suspension of VAT obligations

In the light of the publication of the so-called "Cura Italia" Decree, the deadline for tax obligations other than payments that expire in the period between 8 March and 31 May 2020 has been postponed to 30 June 2020.

In this regard, below is a summary table of the main VAT obligations whose deadline is deferred:

Adempimento	Termine ordinario	Nuovo termine
Modelli Intrastat relativi a Febbraio 2020	25.03.2020	30.06.2020
Modelli Intrastat relativi a Marzo 2020	27.04.2020	
Modelli Intrastat relativi ad Aprile 2020	25.05.2020	
Dichiarazione IVA anno 2019	30.04.2020	
Modello TR relativo al 1Q 2020	30.04.2020	
Esterometro relativo al 1Q 2020	30.04.2020	
Lipe relativa al 1Q 2020	01.06.2020	

Finally, it should be noted that the **payment of stamp duty on electronic invoices** can be made, without the application of interest and penalties:

1. for the first quarter, within the terms provided for the payment of the tax relating to the second calendar quarter of the reference year ( **20 July 2020** ), if the amount of the tax to be paid for electronic invoices issued in the first calendar quarter of the year is less than 250 euros;
2. for the first and second quarters, within the terms provided for the payment of the tax relating to the third calendar quarter of the reference year ( **20 October 2020** ), if the amount of tax to be paid for electronic invoices issued in the first and second calendar quarter of the year is less than 250 euros overall.

## Let's talk

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