

Fondazione Nazionale dei Commercialisti

CORONA VIRUS PANDEMIC: HIGHLIGHT OF REGULATORY AND LEGISLATIVE MEASURES ADOPTED BY ITALY TO SUSTAIN THE SOCIAL, ENTREPRENEURIAL AND LABOUR MARKET

REFERENCES: LAW DECREE N. 18/2020 (CURA ITALIA) LAW DECREE N. 23/2020 (LIQUIDITÀ)

TOTAL ALLOCATION: 25 BILLION EURO

(ADDITIONAL 50 BILLION HAVE BEEN ANNOUNCED BUT NOT ALLOCATED YET)

ENGLISH TRANSLATION BY CNDCEC

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1. Tax measures concerning the suspension of tax and social security payments and obligations

The approved measures, taken as a whole, apply many diversified criteria of selection, subjective, geographical, quantitative and also temporal, that make them complex to implement also for professionals with specific competences and skills, such as *Commercialisti*, who are "trained" to deal with the cumbersome nature of tax legislation.

The primary concern is however that, also in a material respect, these measures are regrettably inadequate at dealing with the serious state of emergency, also economic and financial, our country is coping with.

Article 60 (d.l. "Cura Italia/ Care for Italy") – *Extension of deadline for payments*

Article 61 (d.l. "Cura Italia") – Suspension of payments for withholding taxes, social security contributions and premiums for compulsory insurance

The article provides for the suspension, until 30 April 2020, of deadlines relating to:

- payments of withholding taxes made in the capacity as tax substitute on employment
- and similar income,
- **obligations** and **payments** of social security **contributions and premiums** for compulsory insurance,

The suspended **payments** shall then be **made**, with no penalty or interest, in a one-off payment **within** 31 May 2020, **or** in installments **up to a maximum of 5 monthly installments** of equal amount, starting from May 2020.

For some parties operating in the sport industry, the suspension is extended **until 31 May 2020**. **Payments** shall be made **within 30 June 2020**, **or** in installments (**up to a maximum of 5 monthly installments** of equal amount) starting from June 2020.

Article 62 (d.l. "Cura Italia") – Suspension of the deadlines for tax and contribution obligations and payments

The article provides for the suspension of some tax obligations, due from 8 March to 1 May 2020.

The suspended obligations shall be met, with no penalty, within 30 June 2020.





Article 22 (d.l. "Liquidità/Liquidity") – Provisions relating to the deadlines for delivery and electronic transmission of Certificazione Unica (Employee Income Statement) 2020

Deferment to 30 April 2020 of the deadline for tax substitutes to **deliver to interested parties the Employee income statements** referring to employment and similar income and to self-employment income.

For what concerns the electronic communication of the Employee Income Statements to the Italian Revenue Agency (Agenzia delle entrate) no penalty applies if the communication is sent within 30 April 2020.

Article 25 (d.l. "Liquidity") – Remote tax assistance

In order to overcome the difficulties caused by the restrictions of movement for natural persons imposed by the health emergency underway, the provision of this article simplifies the procedures to grant the proxy to access the pre-filled statements and related documents.

These procedures also apply to the electronic presentation of statements, models and requests of access or use of services to INPS, the Italian National Social Security Institute.

Article 24 (d.l. "Liquidity") – *Deadlines for tax breaks for first-time home buyers* (agevolazione prima casa)

As to the **registration duty**, this article provides for the **suspension**, from **23 February 2020** to **31 December 2020**, of the **deadlines of some requirements to be met to have tax breaks for first-time home buyers granted.**

Article 62 (d.l. "Cura Italia") – Suspension of deadlines for tax and contribution [obligations and] payments

For natural and legal persons engaged in business activities, arts or professions whose revenues do not exceed 2 million euro in the tax period preceding the one under way on 17 March 2020, the suspension is provided for self-liquidation payments expiring between 8 March 2020 and 31 March 2020 relating to :

- Withholding taxes on employment and similar income applied in the capacity as tax substitutes
- Withholding taxes on regional and municipal additional charges applied in the capacity as tax substitutes
- VAT
- social security **contributions** and **premiums** for compulsory insurance

The suspended payments shall then be **made** in a one-off payment **within** 31 May 2020, or in installments (**up to a maximum of 5 monthly installments** of equal amount) starting from May 2020. Also, in this case, any amount already paid will not be reimbursed.



Paragraph 7 of article 62 provides that, under certain conditions, **those having revenues not exceeding 400.000 euro in the tax period preceding** the one under way on 17 March 2020 (when "Cura Italia" decree came into force), **may be exempt from withholding taxes on revenues earned from 17 March until 31 May 2020.**

Article 18 (d.l. "Liquidity") – Suspension of tax payments and social insurance contributions

For payments due in April and May 2020, this article provides for a suspension of the expiration date, as long as a reduction in the turnover or revenues has occurred in the month before the one in which the suspension enters into force, compared to the same month of the previous tax period.

In particular, for **natural and legal persons engaged in business activities, arts or professions** deadlines are suspended for **April and May 2020** for payments in self-liquidation **relating to**:

- Withholding taxes on employment and similar income, applied in the capacity as tax substitutes;
- Withholding taxes on regional and municipal additional charges applied in the capacity as tax substitutes;
- social security contributions and premiums for compulsory insurance
- VAT

Article 26 (d.l. "Liquidity") – Simplifications for the payment of the stamp duty on electronic invoices

The payment of stamp duty on electronic invoices may be made for the first quarter of the year, within 20 July, or for the first and second quarter within 20 October, depending on the amount due.

2. Other tax measures in support of household and business liquidity

Article 63 (d.l. "Cura Italia") - Benefit for employees

This article provides for the payment of a benefit of 100 euro to employees whose total income for the previous year does not exceed 40.000 euro, and who, during the emergency period determined by COVID-19, have continued to work in their office premises during the month of March 2020.

Article 64 (d.l. "Cura Italia") – Tax credit for costs borne for the sanitization of working environments

A tax credit is allowed, amounting to 50% of the costs borne for the sanitization of working environments and tools up to a maximum of 20.000 euro.

Article 30 (d.l. "Liquidity") – Tax credit for the purchase of protection devices for working premises



Fondazione Nazionale dei Commercialisti

A tax credit is allowed for the costs borne in 2020 to purchase individual protection devices and for the purchase and installation of other safety devices for workers protection.

Article 65 (d.l. "Cura Italia") – Tax credit for shops and workshops

A tax credit is allowed, amounting to 60% of the rent paid by shops and workshops in March 2020.

Article 66 (d.l. "Cura Italia") – Tax incentives for donations in cash and in nature in support of the measures to combat the health emergency caused by COVID-19

Donations, both in cash and in nature, made in 2020 by natural persons and non commercial bodies, in favor of the State, regions, territorial local bodies, public entities or institutions, foundations and not-for-profit organizations, give right to a gross tax deduction for the purposes of the income tax, equal to 30 % up to a maximum of 30.000 euro.

Article 67 (d.l. "Cura Italia") – Suspension of the deadlines set for the activities to be carried out by tax authorities' offices

From 8 March until 31 May 2020, the deadlines concerning liquidation, control, assessment, tax collection and litigation activities carried out by the offices of the tax authorities are suspended.

Article 68 (d.l. "Cura Italia") – Suspension of the deadlines for the payment of tax burdens assigned to tax collection agents

The article provides for the **suspension of the deadlines for payments** expiring in the period from **8 March** to **31 May 2020**, deriving from tax bills issued by tax collection agents, and from executive assessment notices issued by the Revenue Agency for the purposes of income taxes, VAT and IRAP as well as from notices of debit issued by social security institutions. The suspended **payments** shall be **made** in a one-off payment within the next month after the end of the suspension period, i.e. **within 30 June 2020**.

Article 70 (d.l. "Cura Italia") – Enhancement of Customs and Monopoly Agency

The measures set forth in this article are aimed at increasing the personnel of the Customs and Monopoly Agency, in consideration of the extra work required to enhance the control activities.



3. Measures to support employment

Extension to the whole national territory of the special measures concerning social welfare programs

A range of useful instruments has been provided for employers to deal with the suspension or reduction of the working activities, these instruments essentially concern three areas: simplification of the procedures; coordination of the measures; extension of the application scope of the wage subsidy.

Article 19 (d.l. "Cura Italia") – Special rules dealing with the ordinary pay of wage subsidy and ordinary allowance

Employers may suspend or reduce the working activities submitting a request for the granting of the ordinary pay of wage subsidy for a maximum of nine weeks for periods starting from 23 February 2020 to 31 August 2020.

Article 20 (d.l. "Cura Italia") – Ordinary pay of wage subsidy for companies already in Extraordinary Wages Guarantee Fund

Companies that, at the date Decree 23 February 2020 n. 6, entered into force, had already under way an Extraordinary Wages Guarantee Fund may submit a request for the granting of the ordinary pay of wage subsidy for a maximum of nine weeks.

Article 21 (d.l. "Cura Italia") – Ordinary allowance for employers having solidarity allowance already in place

These employers may submit a request for the granting of the ordinary allowance for a period not exceeding nine weeks. Also, in this case, the granting of the ordinary pay suspends and replaces the solidarity allowance already in place.

Article 23 (d.l. "Cura Italia") – Leave and allowance for workers due to COVID-19 emergency

This article regulates the use of parental leave and special leave for parents working as employees with special needs of family care.

Periods of leave shall be paid with an allowance of 50 % of the compensation.

Article 24 (d.l. "Cura Italia") – Extension of the duration of leave pay

The days of monthly paid leave for the assistance of persons with disabilities are increased from 4 to 12.



Articles 27, 28, 29, 30, 31 e 38(d.l. "Cura Italia") – Allowance

An allowance of 600 euro is provided for:

- Self-employed professionals with an active VAT number as of 23 February 2020;
- Workers having continuous and coordinated contractual relationships in place at the same date.

Allowance is provided, as of today, only for the month of March 2020.

Allowances shall be paid, upon request, by INPS, within the general expense limits provided for each category of beneficiary.

Article 42 (d.l. "Cura Italia") –INAIL provisions

Starting from 23 February 2020 until 1° June 2020, limitation and prescription periods are suspended for what concerns the requests to be submitted to INAIL (National Institute for the Prevention of Accidents at Work)

Article 44 (d.l. "Cura Italia") – Creation of a Fund for the income of last resort for workers damaged by COVID-19

The Government has created a Fund named "Fondo per il reddito di ultima istanza" (*Fund for the income of last resort*), to guarantee an allowance (within a spending limit of 300 million euro for 2020) for employees and self-employees having "*terminated, reduced or suspended their activity or employment relationship*", as a consequence of the virus outbreak.

The income support consists of an allowance of 600 euro for March 2020, granted to the following individuals (provided that they have complied with the social security obligations for the year 2019):

- a) Individuals who, in 2018, had a total income not exceeding 35.000 euro and whose activity has been "*limited due to the restrictive measures*" adopted to deal with the health emergency.
- b) Individuals who, in 2018, had a total income ranging from 35.000 and 50.000 euro, who have "terminated", or "reduced", or "suspended" their activity as a consequence of the virus outbreak and, to this purpose, the following parameters apply (art. 2):
 - Termination of the activity: VAT number cancelled between 23 February and 31 March 2020;
 - b. Reduction or suspension of the activity: reduction equal to, or exceeding, 33% of the income (determined based on revenues-costs with the application of cash basis) of the first quarter of 2020, compared with the income of the first quarter of 2019.

Measures for the suspension and extension of the deadlines for the submission of the application for welfare and social security benefits

Art. 34 (d.l. "Cura Italia") – Extension of the limitation period in the field of welfare and social security

Starting from 23 February 2020 and until 1° June 2020, the elapsing of limitation and prescription



periods relating to welfare, social security and insurance services provided by INPS and INAIL is suspended.

Art. 37 (d.l. "Cura Italia") – Suspension of the deadlines for the payment of social security contributions and premiums for compulsory insurance for domestic workers

The deadlines relating to social security obligations and payments and to premiums for compulsory insurance for domestic workers expiring between 23 February and 31 May 2020 are suspended.

Deadlines will start running anew from 1°June 2020, payments may be made also in installments.

Article 1 (d.l. "Liquidity") – Temporary measures to support businesses liquidity

Until 31 December 2020, through SACE, the banking system will be provided with guarantees to support the granting of new loans *"under any form"*. The maximum overall amount of SACE commitments is equal to 200 billion euro, of which 30 billion at least are in support of small and medium sized entities as defined in European Commission's Recommendation n. 2003/361/EC, including self-employed workers and professionals with VAT number, who have used up all of the capacity to access the Fund.

The guarantees cover new financing or refinancing granted to the entity after the entry into force of this decree, per capital, interest and ancillary charges up to the maximum amount guaranteed and are issued under the following conditions:

- a) within 31 December 2020, for financing with a maximum duration of 6 years, with the possibility of using a pre-amortization for up to 24 months;
- b) as of 31 December 2019, the beneficiary undertaking shall not be comprised in the category of undertakings in difficulty, according to EU Regulation n. 651/2014 of the Commission of 17 June 2014, and as of 29 February 2020 shall not be comprised among the non-performing exposures of the bank, as defined according to EU regulations;
- c) the amount of the loan baked by a guarantee does not exceed the highest of the following elements:
 - 1) 25% of annual turnover for 2019, as resulting from financial statements or tax return;
 - 2) twice the amount of costs for personnel borne in Italy referred to 2019, as resulting from the last financial statements or certified data if the undertaking has not issued the financial statements yet;
- d) the guarantee operates in percentage between 70% and 90% in inverse proportion to the size of the financed undertakings.

In case the beneficiary undertaking has more than 5.000 employees in Italy and a turnover exceeding 1,5 billion, the issue of the guarantee is also subject to the decision taken with a decree of the Ministry of Economics and Finance, taking into account the role that the undertaking benefiting of the guarantee plays in Italy in the following areas:





- 1. contribution to technical development;
- 2. membership of logistical and supply network;
- 3. impact on key and strategic infrastructures;
- 4. impact on employment levels and employment market;
- 5. specific weight within a strategic production chain.

Art. 2 (d.l. Liquidity) – Measures to support businesses export, internationalization and investments

SACE S.p.A. is entitled to issue guarantees under any form in favor of banks, national and international financial institutions for loans granted to Italy-based undertakings, within the maximum overall amount of 200 billion. SACE commitments are provided with State guarantee on first demand.

Article 13 (d.l. Liquidità) - Central guarantee fund for SMEs

The use of the Guarantee fund for SMEs is extended until 31 December 2020:

- the guarantee is granted for free;
- the maximum amount guaranteed is increased to 5 million per single undertaking with a number of employees up to 499;
- the direct guarantee, with a few exceptions, is of 90% of the overall amount of each loan, and the duration of the operations shall be up to 72 months. The maximum amount of the loan may not exceed, alternatively, the following parameters:
 - two times the annual wage bill of the beneficiary as of 2019 or the last available year;
 - 25% of the overall turnover of the beneficiary for 2019;
 - Requirements, confirmed by a self-certification, relating to the costs for working capital and investment costs /in the following 18 months, for small and medium sized enterprises, and in the following 12 months, in case of undertakings with a number of employees up to 499;
- a 100 % guarantee is provided for SMEs and natural persons carrying out business activities, arts
 or professions, that self-certify having suffered damages due to COVID-19 pandemic. Loans can
 total up to 25% of turnover, as reported in the last financial statements or in the last submitted
 income tax return, for a maximum of 25.000 euro. In this case, banks may grant the loans also
 before the Guarantee fund green light. Moreover, according to this measure the loan has a
 duration up to 72 months and a pre-amortization of at least 24 months, with a coverage only of
 loan origination fees and a maximum interest rate established in the decree. It must be a new
 loan, that determines an amount of exposure above the one existing at the time of the entry
 into force of the decree;
- a guarantee is provided that may arrive up to 100%, also cumulated with other guarantees, provided by Confidi or other competent body, to undertakings with total revenues not exceeding 3.200.000 euro, whose activity has been damaged due to Covid-19 emergency. The guarantee shall cover loans whose value may not exceed 25% of revenues. The granting of the loan shall refer to a new financing at the date of the present decree;
- The maximum amount for micro-credit transactions is increased to 40.000 euro (art. 111, d.lgs. n. 385/1993), and updating of D.M. 17 October 2014, n. 176.





Article 49-bis (d.l. Cura Italia) – Central guarantee fund for SMEs

For a period of 12 months, starting from 2 March 2020, SMEs, with head offices or local branches in one of the municipalities comprised in the "red areas" are provided with guarantees together with further tax relieves.

Article 56 (d.l. Cura Italia) – Financial support to micro, small and medium sized enterprises impacted by COVID-19

This article provides for a suspension, until 30 September 2020, of the deadlines of performing debt exposures towards banks and financial intermediaries, in favor of Italian micro enterprises and SMEs, self-employed workers and professionals with a VAT number.

Article 11 (d.l. Liquidità) – Suspension of the expiration deadlines of negotiable instruments

The provision in d.l. n. 23/2020 establishes a moratorium on the expiration deadlines relating to bills of exchange, promissory notes and other negotiable instruments issued before the date of the entry into force of the decree until 30 April 2020.

Article 57 (d.l. Cura Italia) – Support to the liquidity of the undertakings impacted by COVID emergency through guarantee mechanisms

The measure is aimed at enhancing the liquidity of the economic system, with the following provisions:

- banks, with the support of Cassa depositi e prestiti (CDP State controlled fund and deposit institution), can more easily grant loans to undertakings having suffered a reduction in turnover due to the health emergency;
- the State can grant "counter-guarantees" up to a maximum of 80% of the exposures assumed by the CDP and under market conditions, with the evident effect of multiplying the resources available to the system.

Moreover, the mechanism allows to eliminate any phenomenon of moral hazard since the interested parties (also the banks) would all take a part of the risk:

- CDP can take up to 80%;
- MEF (Ministry of economy and finance) can take up to 80% of CDP's risk (i.e. 64%);
- The bank takes the remaining risk, that is 20%.

Article 72 (d.l. Cura Italia) – Measures for internationalization

A fund to be distributed, named "Fondo per la promozione integrata" (fund for integrated promotion) is established with an initial allocation of 150 million euro for 2020, aimed at developing a few initiatives in support of Made in Italy.

Article 78 (d.l. Cura Italia) – Measures for agricultural and fishing industries

This article provides for the creation of a fund with an allocation of 100 million euro for the full coverage of the interest payments accrued in the last two years on loans underwritten by agricultural



and fishing undertakings.

Article 80 (d.l. Cura Italia) - Increase in the allocation of development contracts

The measure provides for an increase of 400 million of the financial resources allocated to development contracts supporting investments whose amount exceeds 20 million in the industrial, touristic and environmental protection sectors.

Measures for self-employed workers and professionals

Article 54 (d.l. Cura Italia) – Implementation of the Solidarity Fund for mortgages for first-time home buyers ("prima casa", so called "Fondo Gasparrini")

The measure extends to 9 months the possibility to access the Solidarity Fund for the suspension of the payment of the installments of the mortgage for first-time home buyers also to self-employed workers and professionals.

Measures in the field of justice

Article 83 (d.l. Cura Italia) – New urgent measures to respond to the health emergency due to COVID-19 and limit its effects in the field of civil, criminal, fiscal and military justice

The suspension of procedural deadlines is extended to 11 May 2020.

In the field of fiscal justice article 29 of the Decreto "Liquidità" extends the obligation to use the rules of the telematic tax proceedings.

Article 84 (d.l. Cura Italia) – New measures to respond to the health emergency due to COVID-19 and limit its effects in the field of administrative justice

For what concerns the administrative proceedings, this article introduces a suspension period until 11 May, with a few exceptions.

Article 85 (d.l. Cura Italia) – New urgent measures to respond to the health emergency due to COVID-19 and limit its effects in the accounting justice

As long as they are compatible, the mentioned articles 83 and 84 apply to all the functions carried out by the **Corte dei Conti** (Italian Court of Auditors). Also, for these activities the **suspension period** is extended **to 11 May 2020**

Measures relating to the approval of companies' and entities' financial statements

Article 106 (d.l. Cura Italia) – *Provisions on the companies' meetings*





As an exception to the general rule, the ordinary meeting is convened within **180 days** of period end.

During ordinary and extraordinary meetings, the use of electronic tools is allowed.

For what concerns financial information to be provided in financial reports and statements, the Warning notice n. 6 of 9 April 2020 issued by Consob (Italian authority for the oversight of financial markets) solicits companies to highlight, with the greatest possible transparency – as required in the international financial reporting standards – the effects that the health emergency may produce on the company's activities, with particular reference to both financial statements ended on 31 December 2019 and currently under approval, and the following ones.

More specifically, for what concerns audit engagements of listed issuers, having Italy as Home Member State, and of issuers of financial instruments widely disseminated among the public according to art. 116, d.lgs. n. 58/1998, that apply international financial reporting standards, auditors are invited to pay close attention to audit procedures provided for by ISAs that may apply in the particular circumstances created by the health emergency. To this purpose reference shall be made to CEAOB *Statement* adopted on 24 March 2020.

Finally, with reference to the oversight activity of the Board of statutory auditors of listed entities, also in its capacity as committee for the internal control and statutory audit *ex* art. 19, d.lgs. n. 39/2010, the members are invited to: *i*) improve the exchange of information with the management body in charge of preparing the draft financial statements; *ii*) promote an effective and timely communication with the audit team, in order to mutually exchange useful information to carry out the respective tasks, also according to art. 150, paragraph 3, of the TUF (Consolidated Finance Act).

Article 35 (d.l. Cura Italia) – Provisions for the Third sector

The deadlines set on 30 June 2020 have been extended to allow the adaptation of the entities' statutes and bye-laws to held the meetings in simplified form; the possibility is also provided to defer the approval of the financial statements of not-for-profit entities, voluntary organizations and associations for social advancement already registered in the special registers, whose deadline expires during the emergency period.

An extension of the deadline to 31 October 2020 is also provided for the facilitated adaptation of the statutes with the provisions of the Code of not-for-profit entities, voluntary organizations and associations for social advancement and, always as of 31 October 2020, of the deadline set for the approval of the financial statements.

Urgent measures to grant going concern of businesses impacted by COVID-19 emergency

Article 5 (d.l. Liquidità) – Deferral of the entry into force of the new Code of company crisis and insolvency provided for by legislative decree 12 January 2019, n. 14

The Law Decree provides for the deferral to 1° September 2021 of the entry into force of the new Code of company crisis and insolvency (Legislative decree, D.Lgs 12 January 2019, n. 14).





Article 6 (d.l. Liquidità) - Temporary provisions concerning the capital reduction

From 9 April to 31 December 2020 a reduction or loss of share capital shall not be considered as a ground for the winding up of an entity.

Article 7 (d.l. Liquidità)- Temporary provisions concerning the standards for the reparation of the financial statements

According to art. 7, d.l. n. 23/2020, in the preparation of the financial statements for financial year 2020, the assessment on the items may however be made based on the going concern assumption (art. 2423-*bis*, first paragraph, n. 1, civil code) provided that such assumption existed in the previous financial statements ended before 23 February 2020. The assessment criterion adopted by the entity shall be adequately disclosed also by making reference to the results of the previous financial statements.

Article 9 (d.l. Liquidità) - *Provisions concerning pre-bankruptcy agreement procedure and restructuring agreements*

By means of the postponements of procedural deadlines, this provision is aimed, on one hand, at safeguarding the implementation of pre-bankruptcy agreement procedures and restructuring agreements already validated which, as a consequence of the current health emergency, could be irremediably compromised; on the other, at granting the debtor, before validation, the possibility to develop a new proposal of pre-bankruptcy or restructuring agreement, or to go on with an unilateral modification of the original compliance terms.

Article 10 (d.l. Liquidità) - *Temporary provisions concerning petitions and filings for bankruptcy and insolvency*

With reference to filings for bankruptcy and insolvency, a special provision has been included that all petitions for bankruptcy may not be filed between 9 March 2020 and 30 June 2020.

Urgent measures concerning the exercise of special function in strategic sectors

Measures are provided to extend the so-called Golden Power decree and aimed at increasing the instruments already available to safeguard investors and guarantee the markets' transparency and efficiency.

These measures are intended to enhance, mainly until 31 December 2020, the special powers conferred to the Government to safeguard the structure of the companies operating in strategic industries, which comprise, besides traditional ones such as defense, national security, energy, transports and communications, also financial, credit and insurance, food farming and health industries.