

1. Urgent measures to support the liquidity of enterprises and export, introduced with Law Decree 23/2020

For all VAT-subjects

On 6 April 2020, urgent measures to sustain the liquidity of enterprises and export have been passed, in order to guarantee the necessary liquidity to the enterprises residing in Italy and affected by the epidemic Covid-19.

Temporary measures for support of enterprises' liquidity

First of all please note that the effectiveness of the newly introduced measures to support liquidity need the approval of the European Commission: we really hope in a short term approval!

The vehicle by which the Italian Government intends to direct such liquidity support is SACE S.p.A., a governmental company operating in the export financing.

SACE S.p.A., through the banking and credit system, will grant guarantees for any kind of financing applied for by enterprises having registered office in Italy, up to a total amount of Euro 200 billion, of which at least Euro 30 billion in favour of small and medium enterprises.

The guarantees of SACE S.p.A. will be issued on the following conditions:

- a) the guarantee shall be issued within 31 December 2020 (and therefore in relation to financings started within such term) for financings with a maximum duration of 6 years, with the possibility for enterprises to claim a pre-amortisation period of up to 24 months;
- b) as at 31 December 2019, the company requesting the financing did not fall into the category of companies in difficulty under Commission Regulation (EU) No. 651/2014 of 17 June 2014, and as at 29 February 2020 the company was not included in a bank's non-performing loans as defined by European law;
- c) the amount of the secured loan shall not exceed the greater of the following elements:

- 1) 25% of the company's annual turnover for 2019, as shown in the approved financial statements or in the certified data if the company has not yet approved the financial statement;
 - 2) double of the company's personnel costs in 2019, as evidenced by the approved financial statements or the certified data if the company has not yet approved the financial statements; if the company started its activity after 31 December 2018, reference shall be made to the estimated personnel costs for the first two years of activity, as certified and declared by the company's legal representative.
- d) the guarantee covers defaults on financing on an equal and pro rata basis between the guarantor and the beneficiary as follows:
- 1) 90% of the financing amount for companies with less than 5,000 employees in Italy and a turnover up to Euro 1.5 billion;
 - 2) 80% of the financing amount for companies with a turnover between Euro 1.5 and Euro 5 billion or with more than 5,000 employees in Italy;
 - 3) 70% for companies with a turnover of more than Euro 5 billion.

Please note that the guarantee is released on first request, is explicit and irrevocable and only covers financings or refinancings issued after entry into force of Law Decree 23/2020, for principal, interest and ancillary charges up to the guaranteed maximum amount.

The company benefiting from the guarantee shall undertake, for itself and for any other company belonging to the same group, not to approve any dividends distribution during the 12 months following the granting of the funding.

The company benefiting shall also engage to regulate employment levels by the means of Trade Union agreements.

The secured loan shall serve to support personnel costs, investments or working capital employed in production plants and business activities located in Italy, as substantiated and declared by the legal representative of the beneficiary company.

Support measures for export and internationalisation

The freshly released measures need to their effective applicability several previous provisions/conventions/resolutions. Again, the Italian Government has chosen SACE S.p.A. as vehicle for implementing the new measures to support exports, internationalisation and business investment.

SACE S.p.A. promotes the internationalisation of Italian production by prioritizing efforts in areas of strategic importance for the Italian economy - in terms of employment levels and impact on the country's economic system - as well as the carrying out of operations with countries of strategic importance for Italy.

For the operations mentioned above, SACE S.p.A. assumes the insurance and guarantees for risks defined as non-market risks under EU regulation, to the extent of ten percent of the capital and interest. Ninety percent of the insurance and guarantees is provided by the State, without joint and several liability. SACE S.p.A. issues the guarantees and insurance cover in its own name and on behalf of the State.

Support measures for business investments

The release of guarantees by the governmental guarantee fund for SMEs

Such guarantee type is accessible for enterprises with a maximum of 499 employees. The guarantee is released free of charge and up to a maximum amount per enterprise of Euro 5,000,000 and can cover between 80% and 100% of the requested financing, depending on type and amount of same.

For example the following guarantees can be issued:

- a guarantee covering 100% of the lending up to Euro 25,000 granted by the banks without any credit assessment (lending may amount up to Euro 35,000 if a guarantee cooperative, e.g. CONFIDI/GARFIDI, is involved in the operation);
- a guarantee covering 100% of the lending in favour of SMEs with a turnover up to Euro 800,000 and up to an amount of 15% of the turnover, i.e. up to a maximum amount of Euro 120,000 (in this case the governmental guarantee fund will carry out a credit assessment);
- a guarantee covering 100% of the lending is planned for the coverage of new financings in favour of enterprises with revenues of up to Euro 3,200,000, up to the minor amount between 25% of the turnover and Euro 800,000. In this case no credit assessment by the governmental guarantee fund is necessary, but a 100% coverage can be achieved only with the combination of a 90% governmental guarantee and a 10% CONFIDI/GARFIDI guarantee.

Please note that in case of operations for which banks or credit institutions have agreed, at their own account and due to the effects of the Covid-19 epidemic, the suspension of the amortisation instalments or the deferral of the only capital instalments or an extension of the financing, the duration of the previously released guarantee by the governmental guarantee fund shall be extended accordingly.

2. Suspension of the maturity dates of credit instruments, such as bank and postal cheques

For VAT-subjects

Basically, a suspension of the maturity date of credit instruments issued before the entry into force of the Law Decree 23/2020 is introduced. With regard to bank and postal cheques, the time limit for presentation for payment of the title in favour of the beneficiary is suspended. Beneficiaries may also present the cheque for collection during the suspension and the title may continue to be paid by the promisor on the date of presentation, provided that the issuer's account covers the cheque; should this not be the case (i.e. in the event of a shortage of funds), the suspension of the presentation period shall also apply to the issuer, with the consequent temporary inapplicability of the protest and penalties. The notice of revocation for uncovered cheques will therefore not be issued during the suspension period; if the notice of revocation has already been sent, the 60-day period for late payment enforceability will be suspended. All the elements necessary to verify the coverage/non-coverage of the cheque (such as the relevant bank account availability, lack of authorisation) and those to be considered for further action (e.g. protestability) will therefore only be assessed at the end of the suspension period.

In case of transmission to the Chamber of Commerce of protests and equivalent objections, even if they have already been published, the Chambers of Commerce will cancel them *ex officio*. With regard to the same period, the letters of information sent to the Prefect pursuant to article 8-bis, paragraphs 1 and 2 of Law 386/1990 are also suspended, and any notifications already sent to the Banking Risk Centre by intermediaries shall be cancelled. The banks will re-initiate the payment procedure for the titles only at the end of the suspension period.

3. Deferral of the entry into force of the new law on corporate crisis and insolvency

For VAT-subjects

The Law Decree 23/2020 disposes the deferral of the entry into force of the law on the reform of corporate crisis and insolvency pursuant to Law Decree 14/2019 until 1 September 2021; the entry into force of such law has thus been deferred for another year.

It is a procedural intervention which continues to allow the full application of bankruptcy law (Royal Decree 267/1942) and which temporarily waives the application of the stricter provisions of the new law on corporate crisis and insolvency.

4. Temporary suspension of mandatory measures in case of losses/reduction of the share capital in corporations

For all clients

As of the entry into force of the Law Decree 23/2020 and until 31 December 2020, articles 2446, second and third paragraph, 2447, 2482-bis, fourth, fifth and sixth paragraph, as well as article 2482-ter of the Italian Civil Code shall not be applicable, nor shall, during the same period, the reasons for the dissolution of the companies due to the reduction or loss of the share capital pursuant to articles 2484 no. 4 and 2545-duodecies of the Civil Code be applicable.

The purpose of this provision is to avoid that the total or partial loss of the share capital of corporations, which can also be ascertained from the financial statements to be approved as from 31 December 2019 and arisen as a result of the Covid-19 crisis, forces the directors to dissolve the company immediately, with the simultaneous loss of going-concern for companies that are basically fully functional, and with the concomitant risk of the directors incurring liability for non-conservative management under article 2486 of the Civil Code.

In fact, it is envisaged to waive, from the date of entry into force of Law Decree 23/2020 and until 31 December 2020, the application of the provisions of the Italian Civil Code concerning the mandatory reduction of the share capital by reasons of incurred losses and share capital reduction below the legal minimum. During the same period, the reason for the dissolution of the company due to reduction or loss of the share capital pursuant to articles 2484 no. 4 and 2545 duodecies of the Civil Code will not apply either, which means that the company's activities can continue even in case of negative equity for LLC/LC (or equivalent) or residual equity falling below the legal minimum provided for corporations.

The requirement to provide the shareholders with adequate information in the financial statements, as provided for in the regulations for public limited companies, continues to apply.

5. Temporary amendments of the principles for the preparation of financial statements

For VAT-subjects

When preparing the annual financial statements as of 31 December 2020, the valuation of the balance sheet items on the basis of the going concern principle in accordance with

article 2423 bis, paragraph 1, no. 1) of the Italian Civil Code, may still be applied, provided that business continuity was presented in the last annual financial statements approved before 23 February 2020, without prejudice to the provisions of article 106 of Law Decree 18/2020. The valuation criterion must be set out specifically in the notes to the financial statements, also by reference to the results of the previous annual financial statements.

The intended purpose of the new provision is to neutralise the effects of the current economic crisis due to the Covid-19 epidemic and to allow the enterprises to prepare and approve the annual financial statements, by assessing the balance sheet items in accordance with the principles of prudence and going concern, as well as by taking into account the economic function of the relevant asset and liability items in accordance with article 2423 bis, paragraph 1, no. 1) of the Civil Code. Therefore, if going concern was provided in the annual financial statements as at 31 December 2018, it should be assumed to be also existent in relation to the annual financial statements as at 31 December 2019, in consideration of the current circumstance which excludes the possibility to make economic and financial forecasts that could corroborate going concern for the next 12 months.

The extension of the 60-day deadline for approval of the annual financial statements for the 2019 financial year, ordinarily set at 120 days from the end of the financial year (this year 29 April 2020), as provided for by Law Decree 18/2020 will not be affected by the above; the annual financial statements as at 31 December 2019 can therefore be approved until 29 June 2020.

6. Temporary provisions for shareholder loans

For all clients

Articles 2467 and 2497-quinquies of the Italian Civil Code shall not apply on shareholder loans made as of the entry into force of Law Decree 23/2020 and until 31 December 2020. The new provision provides that the subordination mechanisms of shareholder loans or loans made by the holder of the management and coordination function shall not apply from the date of entry into force of Law Decree 23/2020 and until 31 December 2020.

7. Temporary provisions on appeals and requests for the opening of bankruptcy and insolvency proceedings

For all clients

All appeals under articles 15 and 195 of Royal Decree 267/2042 and article 3 of Legislative Decree 270/1999 submitted between 9 March 2020 and 30 June 2020 shall be considered not admissible. During the same period, the time limits referred to in article 69 bis of Royal Decree 267/1942 are suspended.

This new provision provides, in particular, that appeals and requests for the opening of bankruptcy and insolvency proceedings submitted in the period between 9 March 2020 and 30 June 2020 are not admissible, as well as a "standstill clause", during the same period, of the time limits provided for in article 69 bis of Royal Decree 267/1942. In order to avoid negative effects of the "standstill clause" on the creditors' protection, according to the principle of *par condicio creditorum*, the provision provides for the neutralization of the suspension period for the purposes of calculation of the time limits set by article 69 bis of Royal Decree 267/ 1942 for the filing of revocatory actions.

Such provision is induced by the consideration that according to the usual insolvency criteria countless companies would slide into insolvency, reason for which such restriction is imposed in order to avoid a foreseeable domino effect.

8. Deferral of tax and contribution payments

For VAT-subjects

The provision provides for the suspension of payments of tax withholdings and social security contributions, compulsory employment insurance premiums, and VAT for the months of April and May 2020 due by subjects that carry on a business, practice arts or other professions.

Such payment suspension shall apply, in relation to subjects with revenues or considerations in the previous financial year up to Euro 50 million, only in case they report, in March 2020 compared to March 2019 and April 2020 compared to April 2019, a decrease of revenues or considerations of at least 33%. For taxpayers with revenues or considerations in the previous financial year of over Euro 50 million such decrease must amount to 50% instead of the before said 33% (exception made for the residents of the five most affected provinces of Bergamo, Brescia, Cremona, Lodi and Piacenza, where the suspension of the VAT payments shall apply also for companies with a turnover of more than Euro 50 million in the previous financial year and a decrease of also only 33% based on the before mentioned calculation criteria).

The same deferral is provided for subjects who started their business activity after 31 March 2019. The suspended payments shall be carried out without penalties and interest in a single instalment in June 2020 or in five equal monthly instalments starting from June.

9. Extension of the suspension for payments of tax withholdings on self-employed incomes and on compensations on intermediation, agency, commission and business procurement transactions

For VAT-subjects

As already provided for in article 62 of Law Decree 18/2020 until 31 March 2020, the provision states that for subjects with revenues or considerations in the previous financial year up to Euro 400,000, the withholding agent is not required to apply the withholding tax on the revenue or consideration collected in April and May 2020 according to articles 25 and 25-bis of Presidential Decree 600/1973, provided that the concerned subject did not incur any expenditure on employees or assimilated work in the previous month. The tax withholdings shall be paid without penalties and interest in a single instalment within 31 July 2020 or in five equal monthly instalments starting from July 2020.

Anyone wishing to use the aforementioned deferral shall issue a declaration to the withholding agent stating that the revenue and consideration are not subject to withholding tax, inserting the following clause as justification in the relevant invoice: "Application for non-exertion of the withholding tax pursuant to article 62, paragraph 7 of Law Decree 18/2020".

10. Tax advances of June 2020 based on the forecasting method

For VAT-subjects

In the current epidemic emergency, taxpayers will preferably use the forecasting method for tax payments (IRPEF, IRES, IRAP) to avoid paying the advance payments for 2020 calculated on the basis of 2019, which at closure would probably be higher than the total amount of taxes due for 2020, thus creating a tax credit that could be used only over time by means of compensation. In order to take into account the uncertainty of the current economic situation, the new provision waives penalties and interest if the amount of advance payments for 2020 is at least eighty percent of the effective tax liability (at closure) for 2020.

11. Renewed term for payments suspended until 20 March 2020

For VAT-subjects

This provision considers the payments to be carried out according to article 60 of Law Decree 18/2020 (which were due within 16 March 2020 and were thereafter suspended until 20 March 2020) timely operated if carried out within 16 April 2020, given the great uncertainty reigning on that date.

12. Extended term for electronic filing and delivery of the certification of the withholding agent ("Certificazione Unica") 2020

For VAT-subjects

In order to grant the withholding agents more time to carry out their tax obligations and at the same time to allow the citizens and the tax advisors to gather the information necessary to complete their tax returns, the deadline by which withholding agents must submit to the concerned persons their certification (so called "Certificazione Unica") has been postponed from 31 March to 30 April 2020. It has also been disposed that no penalties shall apply if the electronic filing of the certification of the withholding agent to the Revenue Agency has been carried out after the term of the 31 March but still within 30 April 2020.

13. Extension of the validity period of the certification on tax regularity ("DURF") issued by the Revenue Agency

For VAT-subjects

The Law Decree 23/2020 explicitly extends the validity period of the certification on tax regularity ("DURF"), in the contracting field, issued by the Revenue Agency according to article 17-bis of the Law Decree 241/1997. The extension refers in particular to the certifications issued in February 2020 and extends their validity until 30 June 2020. Please note that such DURF certifications have a legal validity of four months, which is why such extension in many cases amounts to only a few days.

14. Suspension of the terms provided for the purposes of the “first home” tax incentive

For all clients

Considered that the epidemic emergency is causing difficulties in the conclusion of real estate sale and purchase contracts and the freedom of movement of persons, and in order to avoid that potentially interested parties lose the tax benefits for the purchase of the first home, the Law Decree 23/2020 provides for the suspension of the deadlines established by the relevant legal provisions between 23 February and 31 December 2020; such terms will start again at the end of this suspension period.

The deferral concerns in particular the terms according to note II-bis of article 1 of the Tariff attached to Presidential Decree 131/1986, namely the period of 18 months from the date of acquisition of the first home, within which the taxpayer must transfer his residence to the municipality where the real estate is located; the one-year period within which the taxpayer who has sold the property acquired with the “first home” tax benefits must acquire another real estate in order not to suffer the loss of these tax incentive, if the sale occurred within 5 years from the purchase; and/or the one-year period within which the taxpayer who has acquired a new real estate as his main residence must sell the (previous) property still owned by him. The period for reacquiring the main residence pursuant to article 7 of Law 448/1998 for the purpose of utilising the tax credit has also been extended.

15. Simplification in paying of stamp duties on electronic invoices

For VAT-subjects

The new provision amends article 17 of Law Decree 124/2019 and establishes the following: if the amount of stamp duty due on electronic invoices issued in the first quarter of the year is less than Euro 250 (but the total amount of stamp duty due for the first and second quarters exceeds the total amount of Euro 250), payment may be made within the deadline for payment of stamp duty on invoices issued in the second quarter of the year (i.e. within 20 July 2020). If the total amount due on electronic invoices issued in the first and second quarters of the year is less than Euro 250, payment of stamp duty for the first and second quarters may be carried out within the deadline for payment applicable to electronic invoices issued in the third quarter (i.e. 20 October 2020). This is without prejudice to the deadlines for payment of stamp duty on electronic invoices issued in the third and fourth quarters of the calendar year (respectively, 20 October 2020 and 20 January 2021).

16. Extension of the tax credit for sanitization measures

For VAT-subjects

The Law Decree 23/2020 extends the tax credit due for sanitizing the working environment and equipment, according to article 64 of Law Decree 18/2020, also to the expenses for the purchase of individual protection equipment (such as surgical masks, FFP2 and FFP3 masks, gloves, protective visors and goggles, protective suits and shoe covers) and the purchase and installation of other protective equipment that protects employees from infection or ensures the safe distance between employees (such as barriers and protective panels). Hand cleaning agents and disinfectants may also be taken into account.

It is confirmed that the tax credit is available to each beneficiary (company, self-employed person) up to a maximum amount of Euro 20,000, to the extent of 50% of the relevant costs incurred within 31 December 2020, and in any case within the maximum available amount of Euro 50 million.



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