

**PROVISIONS REGARDING
EXTRAORDINARY AND URGENT MEASURES TO COPE WITH THE
EPIDEMIOLOGICAL EMERGENCY CAUSED BY COVID-19**

DECREE LAW No. 34 OF MAY 19, 2020 “RILANCIO” (RECOVERY)

Update of May 22, 2020

**BUSINESS ISSUES
TAX ISSUES
LABOUR LAW ISSUES
CORPORATE ISSUES**

Measures to support innovative (video-games manufacturing industry) start ups (Article 38)

Article 38 of Decree Law No. 34 of May 19, 2020, the so-called “*Decreto Rilancio*” (Recovery Law Decree), lays down a set of rules to support national innovative start-ups, namely those newly established companies that have as for both exclusive or prevailing company purpose the development, the production and/or marketing of innovative with a high technological value goods and services (in each economic sector), *pursuant to* Article 25 of Decree Law No. 179 of 2012 converted by Law No. 221 of 2012, both in their starting phase and during the social life.

First and second paragraph of the captioned provision rule indeed set forth the strengthening of the measures in favour of existing innovative start-ups, through allocation of further economic resources specifically addressed to: (i) the refinancing to the extent of 70% or 80% for the start-ups with offices in earthquake zones, of the subsidised loan programmes provide for in the context of the so-called “Smart e Start Italia” measure (Euro 100 million for the year 2020) and (ii) the granting of reliefs in the form of non-repayable grants for the purchase of services performed by business incubators, startup accelerators, innovation hubs, business angels and other – public or private entities – operating for the development of innovative companies, in accordance with the (EU) Regulation No. 1407/2013 (Euro 10 million for the year 2020), transferring the Ministry of Economic Development, by means of decree to be adopted within sixty days, the task of defining conditions and procedures for the granting of benefits.

From the different perspective of the capitalisation of such companies, the Government, foresees at the following third paragraph, an extension of the scope of application of the “Fund to support the *venture capital*” established pursuant to Article 1, paragraph 209, of Law No. 145 of 2018, assigning additional Euro 200 million to exclusively support innovative companies (for example innovative start-ups and SMEs) to promote investments, even through the signing of participative financial instruments, of subsidised loans, of convertibles bonds and/or of others, referring once again to the Ministry of Economic Development the recognition of the procedures of implementation of the reliefs and also regulating the co-investment relationships between the resources laid down in this paragraph and those of regulated or qualified investors.

In terms of supporting and incentivizing research and development activities for the year 2020 throughout their national territory, the Government has determined to extend the scope of application of tax benefits in favour of Universities and Research Institutes upon execution of “*extra muros*” (off-site) research contracts also to innovative start-ups availing themselves of such qualified co-operation relationships.

Following fifth paragraph introduces an extension of twelve months to (i) the period of permanence of innovative start-ups in the special section of the companies’ register as well as (ii) to possible limitation periods from access to public incentives and for the revocation of these latter, with the express exclusion in relation to item (i) of the validity of the extension with the purposes of the use of the tax and social security allowances in force.

Sixth paragraph also provides, for the whole duration of 2020, an amount in favour of innovative start-ups and SMEs equal to Euro 200 million to be found among the amounts already allocated through the SMEs Guarantee Fund provided for by Law No. 226 of 1996 to which innovative companies may have access in accordance with the procedures set forth by the *pro-tempore* legislation in force, included those laid down lastly by Decree Law of April 8, 2020. The following seventh and eighth paragraphs amend the forecasts existing on incentives for the investment of natural persons taxpayers in innovative start-ups and SMEs, adding two new rules identified respectively in Article 29 *bis* of Decree Law No. 179 of 2012 converted by Law No. 221 of 2012 and in paragraph 9 *ter* of Article 4 of Decree Law No. 3 of 2015 converted by Law No. 33 of 2015.

More specifically, both provisions introduce for the above-mentioned taxpayers who invested in the capital of innovative companies, tax benefits, *sub specie* (sub-kind) of deduction from the gross income tax of the same, in the extent of fifty (50) per cent of the capital invested directly or by means of Undertakings for Collective Investments, provided that such investments concern innovative start-ups and SMEs enrolled within the respective special sections of the companies register, are contained within a maximum of annual Euro one hundred thousand (100,000) and provided that the investment is maintained for almost three years under penalty of expiration from the same benefit with subsequent obligation for the taxpayer to return the amount deducted increased of legal interests. The tax benefits in question are granted pursuant to EU Regulation No. 1407/2013 on the so-called “*de minimis*” aids.

Indeed, with regard to the measures aiming at incentivizing the participation of natural persons to innovative start-ups, sixth paragraph of the provision *de qua* (under consideration) has halved for the year 2020 the quantitative limits (from 1 million to 500,000 Euro and from 500,00 to 250,00 Euro) of the participating instruments that foreign persons must hold to obtain the issue of a quarterly residence permit laid down in the Consolidated Law on immigration. Following seventh paragraph extended the scope of application of the specific aid scheme aiming at supporting the creation and the development of innovative start-ups in the “Territory of the seismic crater of the Central Italy”, that is the territory of the municipalities affected by the seismic events of 2016 and 2017.

Despite the purpose declared in the heading of the provision in question, the following paragraphs (from the eighth to the fourteenth) introduce, in a non-exhaustive manner, in our set of rules, some measures aiming at adjusting the Italian system to provisions already adopted by other EU Countries for the support to companies operating in the sector of design and development of the digital entertainment industry. In this perspective, the fund called “First Playable Fund” with an initial allocation for the year 2020 equal to Euro 4 million has been established at the Ministry for Economic Development.

The above-mentioned fund aims at supporting the conception and pre-production phases of videogames intended for commercial distribution, as well as the creation of the related prototypes, by means of the provision of non-refundable aids, to the extent of (50) fifty per cent of the eligible expenditures and within an amount between Euro 10,000 and Euro 200,000 for each prototype.

Such non-refundable aids shall be used only for the creation of prototypes and shall be disbursed to the applicant companies that (i) have registered office in the EU territory, (ii) are subject to taxation in Italy as a result of their tax residence, or for the presence of an operating office in Italy to which the prototype is attributable, (iii) have minimum share capital (fully paid-in) and net equity not less than Euro 10,000 (both for companies established as joint-stock companies and for production individual companies or established as partnerships) and (iv) own a 58.2 or 62. ATECO classification (that is: software edition and IT consultancy service and activities connected to the software edition).

As for the eligible expenditures to benefit from the reliefs, reference is made to expenditures coming from: (i) working performances carried out by the companies personnel in the activities of creation of prototypes; (ii) professional performances commissioned to freelance professionals and/or other companies aiming at the creation of prototypes; (iii) technical equipment (hardware) purchased for the creation of prototypes; and (iv) purchase of software licences for the creation of prototypes.

Finally, the provision sets forth that the companies provided with the requirements to access to the benefit must create the prototype within eighteen (18) months from the recognition of the admissibility of the application by the Ministry of Economic Development to which the task of regulating, by means of decree to be issued within sixty days from the entry into force of the “*Decreto Legge Rilancio*” (Recovery Law Decree) the procedures of submitting of applications, the criteria for the selection of the same, the eligible expenditures, the methods to provide the subsidy, the modalities of verification, the control and expenditure reporting and the causes of forfeiture and/or revocation from the benefit are transferred.

Provisions related to the payment of IRAP (Italian Regional Tax on Productive Activities) (Article 14)

Companies with volumes of revenues not exceeding 250 million and self-employed professionals with fees not exceeding 250 million are not required to pay the balance due for the tax period 2019, or are not required to pay the first instalment, equal to 40% of the IRAP advance payment for the tax period 2020 (such amount remains excluded also upon payment of the IRAP balance 2020). The obligation of payment of the advance payments for the tax periods 2019 remains mandatory.

The enforcement of the provision is excluded for banks and for other bodies and financial companies as well as insurance companies, Administrations and public bodies.

Equity strengthening of medium-sized companies (Article 26)

In terms of diversification of the aids to companies, and, in order to prevent from possible business undercapitalisations, the Government provided an articulated system of tax concessions and of financial support measures directed to encourage equity injections by shareholders in medium-sized companies with offices in the national territory.

Article 26 of Decree Law No. 34/2020 requires the meeting of different conditions in order to use the expected benefits. More specifically, the conferring shareholders should be granted a tax credit equal to 20% of the amounts conferred, whilst, as regards recapitalized companies, a different criterion of calculation of the tax credit, linked to the losses generated and to the net equity of the company is envisaged. This last relief requires the occurrence of additional and stricter conditions in order to be granted. Furthermore, the provision sets forth the establishment of a fund aiming at the signing of the financial instruments (bonds or debt securities) issued by companies after recapitalization.

The validity of all measures foreseen remain subject to the release of a specific authorization by the European Commission, pursuant to Article 108, paragraph 3, of TFEU (Treaty on the Functioning of the European Union).

Concerned Entities

The reliefs provided by the new legislation concern the equity strengthening of joint-stock companies, as public limited companies, companies with unlimited responsibility, limited liability companies, even simplified and of cooperative companies, with the exclusion of financial intermediaries and of financial and non-financial holding companies, having registered office and administrative office in Italy and having:

- a) an amount of revenues (Article 85, paragraph 1, letters a) and b), of T.U.I.R. (Consolidated Law on Income Tax) exceeding 5 million Euro and up to 50 million Euro in relation to the tax period 2019. The minimum threshold rises up to 10 million if the company intends to adhere to the fund established for the issue of participative financial instruments connected to the capitalization;
- b) because of the epidemiological emergency caused by COVID-19 in the months of March and April 2020, suffered an overall drop in the amount of revenues (Article 85, paragraph 1, letter a) of T.U.I.R. (Consolidated Law on Income Tax), compared to the same period of the previous year, to an extent not less than 33%;
- c) resolved and carried out an increase of capital against payment fully paid-in after the entry into force of the decree, and by 31 December 2020.

Moreover, it is foreseen that, the recapitalized company, in order to access to the tax credit, as well as, in order to carry on with the issue of financial instruments intended to be signed by the newly-established "Asset Fund for SMEs" must:

- have a situation of social security and tax regularity;
- comply with the provisions in force concerning planning and building, labour, prevention of accidents and environment protection regulations:

- not be included among companies that have received and afterwards, not refunded or set aside on a blocked account, the aids considered unlawful or incompatible by the European Commission;
- not fall within the restrictive conditions laid down in Article 67 of Legislative Decree No. 159 of September 6, 2011.
- not be carried out, towards directors, shareholders and beneficial owner, a definitive sentence, in the last five years, for crimes committed in violation of the rules to fight evasion concerning income and value added taxes in the cases in which the ancillary penalty referred to in Article 12, paragraph 2, of Legislative Decree No. 74/2000 has been applied;
- upon specific additional conditions, register a number of employees lower than 250 persons.

Tax benefits

The captioned provision sets forth that shareholders, natural persons or legal entities benefit from a tax credit equal to 20% of the amounts conferred for the cash contributions carried out by December 31, 2020 for the share capital increase of one or more companies. The maximum investment of the cash contribution on which the tax credit must be calculated, shall not in any event exceed Euro 2,000,000.

Moreover, the provision sets forth as *conditio sine qua non* for the credit entitlement that the shareholding resulting from the contribution is owned at least up to December 31, 2023 and that no reserves are distributed before January 1st, 2024.

The underlying rationale of the provision is to guarantee to the small-and medium-sized enterprises an adequate equity structure, preventing over-indebtedness crisis, therefore it is expected that, if before January 1st, 2024 the company receiving the contribution approves the distribution of reserves, of any kind, or does not own the shareholding acknowledged after the capital increase anymore, the tax benefit will be considered as forfeited and the shareholders will be required to the obligation to return the deducted amount, together with legal interests.

The recognised credit combines with possible other aid measures provided by any entity from which the company has benefited pursuant to paragraph 3.1 of the Communication of the European Commission setting up a “temporary Framework for the State aid measures to support the economy in the current emergency caused by COVID-19” and on which basis such aids cannot exceed the limit of Euro 800,000.

The tax credit accrued can be used from the tenth day following that of submission of the income tax return related to the tax period in which the investment was made and in the followings up to depletion. The credit recognised should be offset, pursuant to Article 17 of Legislative Decree No. 241/1997, without being subject to the limits laid down in Article 1, paragraph 53 of Law No. 244/2007 and referred to in Article 34 of Law No. 388/2000.

Recapitalised companies, indeed, if they meet the additional requirements established by the regulations, should be granted, after approval of financial statements 2020, a tax credit equal to 50% of the losses exceeding 10% of the net equity, up to congruent 30% of the capital increase made by December 31st, 2020. The distribution of any kind of reserves before January 1st 2014 by the company entails the expiration from the benefit and the obligation to return the amount together with legal interests.

Even in this case, the credit recognised combines itself with possible other aid measures, granted by any entity, from which the company benefited itself pursuant to paragraph 3.1 of the Communication of the European Commission setting up a “temporary Framework for the State aid measures to support the economy in the current emergency caused by COVID-19” and on which basis such aids cannot exceed the limit of Euro 800,000.

The transferee company may use the tax credit recognised starting from the tenth day following that of submission of income tax return related to the tax period in which the investment was made and in the followings up to depletion. The credit recognised can be offset, pursuant to Article 17 of Legislative Decree No. 241/1997, without being subject to the limits laid down in Article 1, paragraph 53 of Law No. 244/2007 and referred to in Article 34 of Law No. 388/2000.

Tax credit for lease payments of properties for non-residential use and business leasing (Article 28)

For persons carrying on business activity, art or a liberal profession, the tax credit to the extent of 60% of the monthly amount of the lease payment of properties for non-residential use intended for the carrying out of the industrial, commercial, craft, agricultural, touristic activity or for the usual and professional exercise of self-employment activities is confirmed. The tax benefit is also recognised to non-commercial bodies, included the third sector bodies and religious institutions civilly recognised, in relation to the lease payment, leasing or concession of properties for non-residential use intended for the carrying out of the institutional activity.

The credit is due to entities with revenues or fees not exceeding Euro 5 million in the previous tax period.

The tax credit is due to hotel facilities regardless of the business volume recorded in the previous tax period.

Necessary condition to be entitled to the tax credit brought in line with the amount paid in the tax period 2020 with reference to each of the months of March, April and May, is that the lessees entities, if carrying out a business activity have suffered a drop in turnover or in compensations of at least 50% in the month of reference compared to the same month of the previous tax period.

The tax credit accrued can be used in the income tax return related to the tax period of the expenses incurred that is in off-set, pursuant to Article 17 of Legislative Decree No. 241/1997, after the occurred payment of the leases.

The tax credit cannot be combined with the tax credit referred to in Article 65 of Decree Law No. 18/2020 (the so-called *Cura Italia*), converted, with amendments, by Law No. 27/2020, in relation to the same expenses incurred.

Amendments to Article 44 establishing the Fund for the income of last instance in favour of workers affected by the virus COVID-19 (Article 78)

The compensation of Euro 600 granted for the month of March 2020 for supporting the revenues of professionals enrolled within the compulsory social security bodies governed by private law is confirmed even for the months of April and May 2020

New compensations for workers affected by epidemiological emergency caused by COVID-19 (Article 84)

For entities that in the month of March 2020 have benefited from the compensation laid down in Articles 27, 28, 29 and 30 of Decree Law No. 18/2020 (the so-called *Cura Italia* Decree), converted with amendments by Law No. 27/2020, the same compensation equal to Euro 600 is confirmed even for the month of April 2020.

To self-employed professionals who have an active VAT number at the date of the entry into force of the Decree who are registered under the separate Management regime, who are not members of pension or other compulsory social security scheme, who have suffered a proven reduction of at least 33% of the income of the second two-month period 2020, compared to the income of the second two-month period 2019, are granted a compensation for the month of May 2020 equal to one thousand Euro.

Prohibition of cumulation of benefits (Article 86)

Prohibition of cumulation among the several benefits provided by the Decree among those of Articles 78, 84, 85 and 98 is expected, as well as for the benefits referred to in Article 44 of the Decree Law No. 18/2020 (the so-called *Cura Italia* Decree). Such benefits may be indeed cumulated with the ordinary disability allowance.

Provisions concerning sports workers (Article 98)

For the months of April and May 2020 a compensation of Euro 600 is granted in favour of sports workers employed with collaborative relationships, recognized by the company Sport e Salute S.p.A.. The compensation does not contribute in forming the income and it is not granted to earners of other employment income and of the citizenship income. To entities who already benefit for the month of March 2020 from the compensation pursuant to Article 96 of Decree Law No. 18/2020 (the so-called *Cura Italia* Decree) the same compensation equal to Euro 600 is disbursed, without necessity of further application, also for the months of April and May 2020.

Tax Incentives for the energy efficiency, earthquake bonus, photovoltaic and charging station for electric vehicles (Article 119)

The deduction rate laid down in Article 14 of Decree Law No. 63/2013 due for specific measures for energy efficiency, earthquake risk reduction, installation of photovoltaic plants and columns for charging electric vehicles has increased up to 110%, as long as the costs incurred and remained held by the taxpayer, between July 1st, 2020 and December 31st, 2021, providing at the same time the use of the deduction in 5 instalments of equal amount for each tax period.

Entities recipients of the benefit are natural persons (as long as they are not carrying out companies, arts or professions), co-owners and IACP (public housing association).

Tax credit for the expenses for complying with the requirements of working environments (Article 120)

As regards the expenses aimed at complying with safety measures for the re-opening of business activities, a tax credit equal to 60% of the expenses incurred in the year 2020 for a maximum of Euro 80,000 for each recipient is provided for. The provision sets forth a list of investments to which the benefit is allowed.

The tax credit may be cumulated with other benefits for the same expenses, however within the limit of the costs incurred and it may be used exclusively as off-set and it is transferable to other entities, including credit institutions and other financial intermediaries. The possible beneficiaries of the tax credit are operators with activities opened to the public, typically bars, restaurants, hotels, theatres and cinemas, and others expressly indicated in annex 1 to the decree in question.

With one or more decrees of the Ministry of the Economic Development, in cooperation with the Minister for Economic Affairs and Finance, the admissible additional expenses or the entities entitled in addition to those indicated at paragraph 1, may be identified.

Transformation of tax deductions in discount on the amount due and in transferable tax credit (Article 121)

For entities that in the years 2020 and 2021 carried out interventions of:

- recovery of the building heritage pursuant to Article 16-*bis*, paragraph 1, letters a) and b), of TUIR (Italian Tax Consolidated Text);
- a) energy efficiency referred to in Article 14 of Decree Law No. 63/2013 and referred to in paragraphs 1 and 2 of Article 119 of this decree;
- b) adoption of anti-seismic measures referred to Article 16, paragraphs from 1-*bis* to 1-*septies* of Decree Law No. 63/2013 and referred to in paragraph 4 of Article 119 of this decree;
- c) recovery or renovation of the front of the existing buildings, including the mere external cleaning or painting, under article 1, paragraph 219, of Law of December 27, 2019 no. 160;

- d) installation of photovoltaic plants referred to in Article 16-*bis*, paragraph 1, letter h) of TUIR, including the measures referred in paragraphs 5 and 6 of Article 119 of this decree;
- e) installation of columns for charging electric vehicles referred to in Article 16-*ter* of Decree Law No. 63/2013 and referred to in paragraph 8 of Article 119 of this decree;

The provision introduces the possibility to opt, alternatively: (i) for a contribution of the same amount of the investments carried out, in the form of discount on the consideration due, advanced by the supplier who carried out the interventions and recovered by the latter in the form of tax credit, with the possibility of following transfer of the credit; or (ii) for the transformation of the corresponding amount of the tax credit deduction to be used also in off-set, with the option also of subsequent transfer to other entities, including credit institutions and other financial intermediaries.

Transfer of tax credit recognized by measures issued to cope with the emergency caused by COVID-19 (Article 122)

The provision introduces, in an experimental way – up to December 31st, 2021 – the possibility for beneficiaries of tax credits introduced to cope with the epidemiological emergency caused by COVID-19 to opt, instead of using them directly, for the transfer, even partial, of the same tax credit to other entities, including credit institutions and other financial intermediaries.

The provision refers to a measure of the Italian Revenue Agency's Director for the definition of the implementation modalities of the provisions, included those related to the exercise of the option, to be carried out electronically.

Elimination of the safeguard clauses concerning VAT and excise duty (Article 123)

The provision sets forth the abrogation of paragraph 781 of Article 1 of Law No. 190/2014, by this way it eliminates definitively the so-called "safeguard clauses" that from January 2021 would have predicted an automatic change in increase of VAT rates and those concerning excise duties on some motor fuel products.

Reduction of VAT rate for the supply of goods necessary for the containment and management of the epidemiological emergency caused by Covid-19 (Article 124)

A reduction of the VAT rate to 5% is expected for the sale of face-masks and other medical devices and for personal protective equipment, expressly identified by the provision, and specifically in table A, part II-*bis*, attached at the Decree of the President of the Republic No. 633/1972.

Furthermore, as regards the sale of such goods, a higher favourable regime is agreed for a transitorial period, foreseeing that the same, until December 31st, 2020, are VAT exempt, without prejudice to the right to the tax deduction payed on the purchases and on the import of goods and services linked to such exempted operations.

Tax credit for the sanitization and purchase of protection equipment (Article 125)

For taxpayers carrying out business activity, arts and professions, non commercial bodies, including bodies of the Third sector and religious institutions civilly recognised a tax credit is granted to the extent equal to 60% of the expenses incurred in 2020 for the sanitization of environments and of the instruments used, as well as for the purchase of personal protective equipment (PPE) and of other equipments aiming at guaranteeing the health of workers and of users.

The tax credit is due up to a maximum of Euro 60,000 for each beneficiary.

The provision lists the eligible expenditures for the tax credit and points out that the tax credit may be used in the income tax return related to the tax period during which it is recognized, that is to offset the amount with the F24 form, starting from the day following that of the identification of the same, without application of the limits referred to in Article 1, paragraph 53, of Law No. 244/2007 and referred to in Article 34 of Law No. 388/2000.

Extension of the terms for the recovery of suspended payments collection (Article 126)

The payments suspended pursuant to Article 18, paragraphs 1, 2, 3, 4, 5 and 6 of Decree-Law No. 23/2020 (the so-called *Decreto Liquidità* – Liquidity Decree) are extended and may be carried out, without application of penalties and interests, in a single solution within September 16, 2020 or through instalment plan, up to a maximum of four monthly instalment of equal amount, with the payment of the first instalment by September 16, 2020.

The new provision clarifies that in any case there is no refund of what already paid.

Moreover, Article 19 of Decree Law No. 23/2020 (the so-called *Decreto Liquidità* – Liquidity Decree) is amended; this latter provides that the amounts received between March, 31st 2020 and May 31st, 2020, by entities with revenues or fees not exceeding Euro 400,000, are not subject to withholding taxes laid down in Articles 25 and 25-*bis* of the Decree of the President of the Republic No. 600/1973 from the withholding agent, upon submission of specific tax return from the recipient. In particular, the new provision introduces for the above-mentioned entities the possibility to pay the withholding taxes concerning the suspension in a single payment by September 16, 2020 (instead of July 31st, 2020 originally established by Decree Law No. 23/2020), that is in a maximum of four monthly instalments of equal amount, with the payment of the first instalment by September 16, 2020 (instead of the month of July 2020).

Finally, the payments suspended by Article 5 of Decree Law No. 9/2020 are extended to September 16, 2020.

Extension of the terms of collection recovery for entities referred to in Articles 61 and 62 of Decree Law No. 18 of March 17, 2020, converted, with amendments by Law No. 27 of April 24th, 2020 (Article 127)

The payments suspended pursuant to Articles 61 and 62 of Decree Law No. 18/2020 (the so-called *Decreto Cura Italia* – *Cura Italia* Decree), converted with amendments with Law No. 27/2020 are extended and may be carried out, without application of penalties and interests, in a single payment by September 16, 2020 (deadline that was expected to expire as of May 31st) or through instalment plans, up to a maximum of four monthly instalments of equal amount, with the payment of the first instalment by September 16, 2020.

The same payments are extended from May 31st, 2020 to June 30, 2020 for specific categories of taxpayers: national sport federations, national promotional sport entities, associations and professional sports companies and amateur sports clubs.

Credit safeguarding laid down in Article 13, paragraph 1-*bis* of Tuir, namely the supplementary treatment referred to in Article 1 of Law No. 21 of April 2nd, 2020 (Article 128)

Regarding the receivable of Euro 80 referred to in Article 13, paragraph 1-*bis* of TUIR (the so-called *Bonus Renzi*) and the supplementary compensation of Euro 100 laid down in Article 1 of Decree Law No. 3/2020, converted, with amendments, by Law No. 21/2020, due, respectively, up to June 30, 2020 and from July 1st, 2020 to employees meeting the requirements provided for by the mentioned provisions, the rule envisages that these are recognised even in the case in which the employee results insufficient for the effect of the lowest employment income generated in the year 2020 because of the consequences connected to the epidemiological emergency caused by COVID-19.

Deferral of the validity of the provisions on the tax on the consumption of single-use items and on the tax on the consumption of sweetened drinks (Article 133)

The validity of the provisions establishing the tax on the consumption of single-use items (MACSI) is deferred to January 1st, 2021, and the effective date of the validity of the rules introducing and governing the tax on the consumption of sweetened drinks is postponed until the same date.

Amendments to the IVAFE (an Italian Wealth Tax on Foreign Property) regulation for entities other than natural persons (Article 134)

The provision, with the purpose of making, for IVAFE purposes, the compensation provided for the current accounts and saving passbooks of entities other than individuals (that is, for non commercial bodies and for partnerships and their equivalent pursuant to Article 5 of TUIR resident in Italy holding financial activities abroad) uniform to those set forth for natural persons, for stamp duty purposes, intervenes by amending paragraph 20 of Article 19 of Decree Law No. 201/2011. In particular:

- the extent – equal to that of the stamp duty (Euro 100 on annual basis) – for which the IVAFE applies on current accounts and saving passbooks of entities other than natural persons is determined;
- the maximum extent of the tax due to entities other than natural persons is established to an extent equal to that provided for the stamp duty (14 thousand Euro).

Provisions relating tax justice and court fee (Article 135)

For remote hearings the new legislation allows the use of the remote connection not only for the processual parties but also for judges and administrative staff. In particular it is provided that only the parties may require the remote hearing in the appeal or in the first act of defence or with following act to be notified to the counterparts: such requirement shall be carried out before the communication of the notice of discussion hearing.

The tax courts, on the basis of the criteria fixed by the President of the Commissions, may order the remote hearing and therefore authorize the secretariat to communicate to the parties the carrying out of the hearing by means of remote connection.

On the court fee, the deadline for the calculation of the penalties imposed for total or partial delayed payment, are suspended from March 8 to May 31st, 2020. For the same period, also the deadline provided for the issue of the notification to pay the court fee is also suspended. In this respect, it is recalled that with the *Liquidità* (liquidity) Decree Law to the secretariats of Tax Commissions have been allowed to notify the penalty resulting from the omitted or partial payment of the court fee even through certified electronic mail in the elected domicile, or, in the absence of such indication, through the filing at the Secretariat's office of the chancellor's office of the competent judicial authorities. The provision allows the notification via certified electronic mail even if the imposition of the penalty is contained in the notification to pay.

Incentives for investments in the real economy (Article 136)

The article introduces a measure of structural nature aimed at incentivizing investments, both in the form of risk capital and of debt capital, in the real economy and, in particular, in the world of non-listed companies, strengthening the capacity of long-term savings plans (the so-called *PIR*) to direct private savings towards the business world.

The measure, based on the general legislation envisaged for *PIR* from Article 1, paragraph from 100 to 114 of the Budget Law for 2017, tends to direct in consistent way the investments towards companies of smaller dimension granting the possibility to investors to establish a second *PIR* with more specific investment constraints.

Extension of the re-determination of the purchase cost of lands and of stocks not traded on regulated markets (Article 137)

A reassertion of the appreciation of the value of stocks not traded and of lands is approved for the assets owned as of 1st July 2020. The provisions, already postponed, lastly, as a result of the Budget Law for 2020 (Law No. 160/2019), are accompanied by the possibility of an additional re-determination of the purchase cost of lands and of stocks owned as of 1st July, 2020.

The rates of the above-mentioned substitute tax are established to the extent of 11%: (i) both for stocks, that as of 1st July, 2020, result qualified pursuant to Article 67, paragraph 1, letter c) of TUIR, and for non-qualified stocks; (ii) both for building lands and with agricultural purpose.

The substitute taxes may be paid in instalments up to a maximum of three monthly instalments of equal amount, starting from the date of September 30, 2020. On the amount of the following instalments, at the first the interests to the extent of 3% per year are due, to pay contextually.

The drafting and the oath of the appraisal must be carried out by September 30, 2020.

Alignment of approval terms for TARI (garbage disposal fees) and IMU (Property tax) rates with the deadline for approval of the 2020 budget (Article 138)

The regulatory intervention aligns the terms for the approval of resolution deeds concerning TARI and IMU as of July 2020.

Strengthening of the promotion activities of the voluntary compliance by taxpayers and orientation of services offered by tax agencies after the health emergency resulting from the spread of the outbreak caused by COVID-19 (Article 139).

The provision aims at strengthening and encouraging the promotion of the voluntary compliance of tax duties from taxpayers. For such purpose, it is provided that the conventions between the Minister for Economic Affairs and Finance and tax agencies establish that for tax agencies, starting from the 3-year period 2020-2022, specific goals aiming at optimising assistance and advisory services offered to the taxpayers, favouring, where possible, the online use of the same services and improving the disbursement of tax refunds to citizens and to companies in view of guaranteeing higher liquidity to the economic system in the current economic conjuncture.

Storage and transmission of data of daily amounts due (Article 140)

The non-application of penalties for the operators who are not able to equip themselves by July 1st, 2020 of a telematic recorder or to use the web procedure made available by the Italian Revenue Agency, is extended to 1st January 2021. Without prejudice to the obligation for such entities to issue sale or tax receipts, record the amounts due and sending electronically on a monthly basis to the Italian Revenue Agency the data of daily amounts due in accordance with the technical rules envisaged by the ruling of July 4th, 2019 of the Italian Revenue Agency's Director

Postponement of the effective date of the processing service by the Italian Revenue Agency of the pre-filled drafts of the VAT documents (Article 142)

The provision intervenes postponing to January 1st 2021 the effective date of the processing service, from the Italian Revenue Agency, of the pre-filled drafts of the VAT documents, that is VAT registers and VAT periodic settlements communications. The trial of the process of preparation of drafts of VAT tax returns for the operations related to the tax period 2021 is confirmed.

Postponement of the automatic procedure for the settlement of stamp duty on electronic invoices (Article 143)

The adoption of the automated procedure for the settlement of stamp duty on electronic invoices is postponed to January 1st, 2021.

Relief of time expiration effects and payment suspension for tax due following automated and formal inspection of the tax returns (Article 144)

The relief of time for payments expiring between March 8, 2020 and the day before the entry into force of the decree, also for the ongoing instalment plans, of the amounts required through communications of the results of the control laid down in Articles 36-*bis* and 36-*ter* of the Decree of the President of the Republic No. 600 of 1973, 54-*bis* of the Decree of the President of the Republic No. 633 of 1972 (the so called tax payment slip) is provided for, as well as through communications of the results of the settlement concerning incomes subject to separate taxation.

The provision also sets forth the suspension of the same payments about to expire in the period between the entry into force of the decree and May 31st, 2020.

Such payments shall be carried out in a single payment by September 16, 2020 or in 4 monthly instalments of equal amounts starting from September 2020 expiring on the 16th of each month.

Suspension of offset between tax credits and tax debits registered with the Italian Revenue Agency (Article 145)

The provision allows to carry out refunds towards all taxpayers without applying the offset procedure referred to in Article 28-*ter* of the Decree of the President of the Republic No. 602/1973. Hence, it will be possible to carry on with tax refunds without prior offsetting with tax debits registered with the Italian Revenue Agency.

Increase of the annual limit of receivables to be offset through F24 Form (Article 147)

Starting from the year 2020, the annual limit for the offsetting of receivables pursuant to Article 17 of Legislative Decree No. 241/1997 and for the refund on tax account, set by Article 34, paragraph 1, first sentence of Law No. 388/2000 at 700 thousand Euro, is risen to 1 million Euro.

Changes regarding the regulation of synthetic tax reliability indexes (ISA) (Article 148)

The synthetic tax reliability indexes (No. 175) have replaced the previous sector studies and parameters from the tax period 2018.

The provision introduces for the tax periods 2020 and 2021 measures aimed at adjusting the legislation on *ISA* in order to consider the effects of extraordinary nature linked to the health emergency caused by the spread of COVID-19 also through the identification of new specific causes of exclusion from the application of the same *ISA*.

In particular, it is provided that, through the maximum appreciation of the information already in the availability of the financial administration, avoiding the introduction of new tax returns charges, specific methodologies based on analysis and processing using already available databases are defined.

It is also provided that additional necessary data and information are identified to improve the appraisal of the individual state of crisis.

For tax period 2018, the Italian Revenue Agency and the Italian Financial Police also take the level of tax reliability resulting from the application of the indexes for the following tax period 2019 into account. Similarly, for the tax period 2020, also the highest level of tax reliability resulting from the application of the *ISA* for the previous tax periods 2018 and 2019 is taken into consideration.

Suspension of payments and of the appeals of notices of assessments with adhesion, conciliation, rectification and settlement of recovery of tax credits (Article 149)

A set of payments linked in general to the macro-category of taxation deeds are postponed to September 16, 2020. More specifically it deals with payments resulting from revenue claims, that would naturally expire in the period between March 9 and May 31st, 2020, in relation to:

- 1) notices of assessments with adhesion;
- 2) conciliation agreement;
- 3) mediation agreement;
- 4) settlement deeds subsequent to attribution of income;
- 5) settlement deeds for omitted registration of lease contracts and different contracts;
- 6) recovery deeds of unduly used tax credits;
- 7) payment notices for omitted, lacking or late payment of the registration fee, successions and donation duties, substitute tax on loans.
- 8) payments in acquiescence of assessments notices

The extension applies also to possible instalments of the amounts claimed in such deeds; that is, therefore, that if both in the period between March 9 and May 31st, 2020 one or more instalments of the postponement plan would be about to expire, these are also postponed to September 16, without penalties.

Payments for the facilitated resolutions (Decree Law No. 119/2018) have also been postponed, with the consequence that it won't be any forfeiture if the amounts due in this period have not been paid.

All payments postponed may be carried out, without sanctions and interests, in a single payment by September 16, 2020 or by means of instalment plans up to a maximum of 4 monthly instalments of equal amount, expiring on the 16th of each month.

The deadlines for notification of the first instance appeal are changed.

It must be pointed out that the *Cura Italia* Decree introduced a suspension of time limits from March 9 to May 11, 2020 and therefore 64 days should be added up to the ordinary procedural time-limits.

Such forecast, still in force, regards all procedural fulfilments, the appeal's lodge, the related filing, possible briefs, the appeal, the cross-appeal, appeal filed with the Court of Cassation, the related appearances before the court etc...

It deals with a suspension involving in general the procedural time-limits.

The "*Decreto Rilancio*" (*Recovery Law Decree*), has introduced a news regarding only the lodging of the appeal at first instalment relating to some deeds expressly identified.

As regards the following deeds:

- settlement deeds subsequent to attribution of income;
- settlement deeds for omitted registration of lease contracts and different contracts;
- recovery deeds of unduly used tax credits;
- payment notices for omitted, lacking or late payment of the registration fee, successions and donation duties, substitute tax on loans.

there seem to be no particular application problems.

It deals with provisions that can normally be appealed within 60 days from the notification with the consequence that in the hypothesis in which the mentioned deadline expires "naturally" in the period between March 9 and May 31, the appeal may be lodged by September 16, 2020.

It goes without saying that in the different hypothesis in which the 60 days expire later than May 31st, 2020, these will not be extended to September, but may possibly benefit "only" from the suspension of the deadlines foreseen for the health emergency. Obviously the length of such suspension will depend on the day of notification of the provision.

Modalities of recovery of undue payments on social security benefits and compensations subject to withholding tax at source (Article 150)

The intervention regards the cases in which the employer may claim the restitution of the amounts unduly paid.

The provision added paragraph 2-*bis* to Article 10 of TUIR providing that the restitution of the amounts to the subject provider must take place net of deductions carried out at the moment of their provision.

Deferment of the suspension period of the notification of suspension provisions administrative licence/authorisation for the exercise of the activity/enrollment in registers and professional orders (Article 151)

Decree Law No. 18/2020 suspended up to May 31st, 2020 the deadlines of control and assessment by the offices of the tax authorities among those provided (Article 12 of Legislative Decree No. 471/97) for the notification and execution of deeds of suspension of the licence or of the authorisation to the exercise of the activity that it the same activity and the provisions of suspension of the registration to registers or professional orders regarding the entities (companies, traders and self-employed workers) to which more violations of obligations of issue of sale receipts, tax receipts, certifications of considerations or obligations of regularization of purchase of technical means for telecommunications have been contested.

The end of the implementation period of such activities is extended to January 31st, 2021, in view of the fact that the most of entrepreneurial, commercial and professional activities, had already tackle with a long period of closure after the provisions adopted to cope with the health emergency following to the epidemic caused by COVID-19.

Such extension does not apply towards those who commit, after the entry into force of the decree, even only one of the four mentioned separate infringement.

Suspensions of the foreclosures of the tax collection agent on salaries and pensions and of the verifications on the blocking payments of the Public Administration (Articles 152 and 153)

The obligations resulting from third-parties foreclosures carried out in the period between the entry into force of the “recovery” decree and August 31st, 2020 from the tax collection agent related to salaries/pensions and similar pays seized are suspended.

The same sums are taken from the pledge, allowing the third-party, also in case of assignment from the judge, to allocate the above-mentioned amounts available to the debtor.

The amounts accrued by the tax collection agent are indeed definitely purchased and non-refundable, prior to said date.

Up to August 31st, the block of payments provided for by Article 48-*bis* of the Decree of the President of the Republic No. 602/1973 cannot be applied. The debtor can therefore receive the payment of the amounts of which is creditor towards the Public Administrations, even in the case in which is in default, for an amount equal almost to Euro 5,000.00 to the obligation of payment resulting from the notification of one or more notices of payment.

Extension of the period of suspension of tax collection agent’s activities (Article 154)

The suspension of the payment’s deadlines of activities entrusted to the tax collection agent that was previously scheduled on May 31st, 2020 is extended to August 31st, 2020.

For the extension plans existing as of March 8, 2020 and for the acceptance measures issued with reference to the applications submitted up to August 31st, 2020, the debtor’s forfeiture from the instalment plans agreed by the tax collection agent and the other effects of such forfeiture provided for by the law, are determined in the event of non-payment of ten, instead of five instalments.

The payment deadline of instalments of the so-called “third tax collection settlement” (“*rottamazione-ter*”) and of the so-called “in full and final settlement” (“*saldo e stralcio*”) expiring on February 28 and March 31st, 2020, previously deferred to May 31st, 2020, is modified.

The following is allowed: 1) payment of all instalments of such facilitation institutes expiring on the ongoing year by December 10, 2020 (the “tolerance” of five days cannot be applied to this last deadline); 2) to ask for the deferment of payment of debts included in the tax returns of acceptance to the facilitated resolutions for which the applicant has not fulfilled its payment obligations.

Extension of the notification deadlines of taxation deeds (Article 157)

The notices of assessment, objection, penalty assessment, tax credit recovery, settlement and adjustment, for which the forfeiture deadlines expire between March 9 and December 31st, 2020 are issued by the end of the year, but notified in 2021, except in cases that cannot be deferred and in urgent cases (violations constituting a crime or for which the hazard of collection is acknowledged). The choice of extending of one year the notification of deeds is undoubtedly singular, whilst the issue must occur by 2020. For this purpose the processing and issuance will be also proved from the date of processing resulting from the Agency information systems, including document management systems. It deals with information presumably existing through an access to documents, except that the offices do not decide to attach such data to the notified deeds. The most delicate issue regards the identification of the measures concerning the extension.

Substantially, the decree refers the notification of all taxation deeds whose forfeiture deadlines expire between March 9 and December 31st, 2020, without prejudice to the provisions laid down in paragraph 1 of Article 67 of the *Cura Italia* Decree, to the year 2021.

Such provision suspended the deadlines related to settlement, verification, assessment, collection and litigation activities by tax authorities from March 8 to May 31st. As clarified by reports No. 11 and No. 8 of 2020, even in consideration of the provisions of Article 67, paragraph 4, it deals with “the forward displacement of the lapse of the terms for the same duration of the suspension”.

More specifically, everything that ordinarily expire by December 31st, 2020 is “extended” to the number of days between March 8 and May 31st, 2020, that is 85 days.

It follows that the adjustments of all tax returns of 2015 would not expire any longer on December 31st, 2020, but on March 26, 2021 (by virtue of the mentioned 85 days) and therefore the new provision on the extension of the notification of one year would not be applied.

To this end, the provision has expressly set forth it is not necessary to calculate such extension and therefore, in other words, it makes reference to the “natural expiration date” as of December 31st, 2020. Therefore, all notices of adjustment and assessment expiring by the end of the year will be notified by 2021.

Until next December 31st we do not proceed to the sending of a set of deeds, communications and invitations, including, among them, tax payment slips, the requests of formal check (Article 36^{ter} of the Decree of the President of the Republic No. 600/73); d) notices of assessment of the surtax of the vehicle tax; notices of assessment of the vehicle taxes, notices of assessment for omitted or late payment of the tax on governmental concessions for the use of mobile phones.

Even in this case such deeds are notified, sent or made available in the period between January 1st and December 31st, 2021, except in cases that cannot be deferred and in urgent cases, or with the purpose of fulfilment of tax obligations requiring the concomitant payment of taxes.

The deadlines for the notification of the notices of payment are extended of one year, resulting from:

- the settlement activity (tax payment slips) and the formal checks (Article 25, paragraph 1, letters a) and b) of the Decree of the President of the Republic No. 602/73);

- the tax returns submitted in the year 2018, for the amounts due after the settlement activity;
- withholding agents' tax returns submitted in the year 2017
- the tax returns submitted in the years 2017 and 2018 for the amounts due after the activities of formal check

Cumulation of the suspension of court terms and of the suspension related to the adhesion procedure (Article 158)

By means of a rule for the authentic interpretation, it was pointed out that the suspension of the Covid deadlines (Article 83, paragraph 2, of Decree Law No. 18/2020) is to be added to another suspension (of 90 days) envisaged ordinarily by the assessment with adhesion procedure.

Holidays tax credit (Article 176)

A receivable is introduced in favour of family households with an ISEE income not exceeding Euro 40,000, for the tax period 2020, for payments linked to the use of services offered at national level by tourist accommodation companies, by agritourisms and by bed&breakfast. The receivable will be used by a single member for each family household, in the maximum extent of Euro 500 for each family household.

The receivable so provided decreases with the decrease of the members of the family household: for this reason, it will be granted a receivable equal to Euro 300 for the family households composed of two persons and equal to Euro 150 for those composed of one person.

Exemption from the municipal tax proper-*IMU* for the touristic sector (Article 177)

In order to ease the recovery of the touristic sector it is provided that the payment of the first *IMU* instalment is not due, State-amount and Municipality-amount, expiring on June 16, 2020 for owners of real estates classified in the cadastral category D/2, that is real estates of agritourisms, tourist resorts, youth hostels, camping places, provided that the related owners are also managers of the activities carried out therein.

The provision also sets forth the same relief for beach resorts, that is, maritime, lake, rivers resorts as well as for spas.

Tax credit for advertisement investments (Article 186)

In order to cope with the crisis of advertisement investments, an amendment of the legislation provided for by the first paragraph of Article 98 of Decree Law No. 18/2020 (the so-called *Cura Italia* Decree) is introduced. The provision set forth by Decree Law No. 18/2020 introduced for 2020 an extraordinary regime of access to tax credit already in force pursuant to Article 57-*bis* of Decree Law No. 50 of April 24, 2017.

The new amendment is oriented to increase from 30% to 50% the maximum amount of the investment entitled to the tax credit.

Tax credit for the purchase of newsprint (Article 188)

The provision introduces, on an extraordinary basis for the year 2020, a tax credit for the purchase of the paper used for the print of books and newspapers, as tax support measure to the publishing sector.

In particular, the provision provided that publishing companies of books and of newspapers and periodicals enrolled with the register of the operators of communication shall be granted a tax credit equal to 8% of the expenditure incurred in the year 2019 for the purchase of the paper used for the printing of titles published and of books, within the expenditure ceiling of 24 million Euro for the year 2020.

Tax credit for digital services (Article 190)

The publishing companies of newspapers and periodicals registered within the register of the operators of communication employing at least one employee with a permanent contract shall be granted a tax credit equal to 30% of the actual expenditure incurred in the year 2020 for the acquisition of server, hosting and broadband services for titles published in digital format, within the ceiling of Euro 8 million for the year 2020, which constitutes the expenditure's ceiling.

Tax credit for research and development activities in the in South areas (Article 244)

The measure foresees the increase, in the Regions of southern Italy and for investments on production plants located in the aforementioned regions, of the general measure of tax credit for the investments of research and development referred to in paragraph 200 of Article 1 of Law No. 160/2019, also in order to ease the research activity concerning Covid-19. The increase is set out in compliance with the limits and conditions provided for by the Union legislations.

The new Decree includes many news which result both in expressly set out measures to the benefit of workers – those introduced by the Third Title regarding the change of the provisions included in Law no. 27/2020 and converting the *Cura Italia* Decree (Article I) and with urgent and direct contribution in relation to work (Article II) – and measures which are indirectly related to the subject matter with provisions (at present programmatic) included within the framework of the legislation governing support and aid to enterprises included in the Second Title. Moreover, we indicate, among measures related to work under Title VIII, those articles regarding Air Transport (articles 202-204).

We will proceed to examine the relevant news according to this order.

Third Title

Personal protective equipment (article 66)

Article 66, amending article 16 of Legislative Decree 18/81 on the matter, extended the provision according to which the surgical masks are to be considered as personale protective equipment also for volunteers (both healthcare and not) and the workers carrying out household and family services who, performing their activities, cannot keep the safety distance of one metre.

Extension of the measures regarding wage subsidies and ordinary allowances (article 68 and following)

Article 68 brings relevant changes to article 19 of law decree no. 18 of March 17, 2020 converted with amendments by law no. 27 of April 24, 2020 and establishes towards the same beneficiaries the chance to enjoy the wage subsidy and the ordinary allowance for a maximum period of eighteen weeks, of which fourteen weeks can be enjoyable for periods starting from February 23 to August 31st, 2020 and four weeks enjoyable for periods starting from September 1st to October 31st, 2020. The chance to benefit from the further 5 weeks in the period starting from February 23 to August 31st, 2020 is restricted to those enterprises which already have fully enjoyed the 9 weeks previously allowed. If, therefore, the enterprises have been authorized to a number of weeks lower than 9, before enjoying the new period, these latter must request the authorization to the reference body (Region / Ministry). The time limit to make the requests referred to suspension periods within February 23, 2020 and March 31st, 2020 is established at May 31st, 2020; if the request is made after such last date, the authorization cannot be allowed for periods earlier than a week from the date of submission. As regards Ordinary Earnings Supplement Funds (*CIGO*) and Wage Subsidies Fund (*FIS*), it will be necessary to start the combined information, consultation and examination which must be carried out also electronically, if applicable, within the 3 days subsequent to the day of prior communication. Moreover, the beneficiaries of ordinary allowance are intitled to receive the family allowance in relation to the adopted pay period and according to the same conditions of the workers with normal working hours.

Article 69 amends Article 20 of the *Cura Italia* Decree in relation to ordinary wage subsidies as regards those enterprises which already are in extraordinary redundancy fund and provides the possibility to request the ordinary wage subsidies and the ordinary allowance for a maximum period of eighteen weeks with related increase of the budget limit. The chance to benefit from further 5 weeks during the period between February 23 and August 31st, 2020 is restricted to those enterprises which already have fully enjoyed the 9 weeks previously allowed.

Significant changes are made by article 70 in relation to redundancy fund in exception. Such provision introduces the same changes described above. The obligation to reach a labour agreement by those employers who terminated their activities pursuant to the compliance with the urgent measures issued to cope with the epidemiological emergency caused by COVID-19 has been re-established. Article 70 introduces simplification measures allowing the employers - who do not anticipate the relevant wages – to ask *parte qua* for direct payment by National Social Welfare Institution (*INPS*).

Finally, the private employers, on the basis of the provisions included in the “*Decreto Rilancio*” (*Recovery Law Decree*) and only after having fully enjoyed the period of redundancy fund of 9 weeks set forth by *Cura Italia* Law Decree and following, may obtain to benefit from further 5 weeks and, after having used all 14 weeks, may request further 4 weeks by means of a new procedure. Those enterprises which have to ask for the redeundancy fund in exception shall make the request directly to National Social Welfare Institution (*INPS*) and no longer to Regions (except for those having offices in different regions) within 15 days of the suspension of the activity indicating the personal data of beneficiaries and workers. The National Social Welfare Institution (*INPS*) will authorize the requests in 15 days and anticipate 40% of the authorized hours (and this is related to all emergency redundancy fund); the balance of the remaining 60 % or the recover of the sums possibly not due, will take place after sending the documents containing the hours of redundancy fund actually enjoyed.

Parental leaves and paid time off (articles 72 and 73)

Article 72 extended to **30** days the period of parental leave from work (rolling or split work) already provided for by Article 23 of Legislative Decree no. 18/81, enjoinable by private employees being parent of sons younger than 12 years old and extended the time-limit of possible enjoyment until July 31st, 2020. The allowance granted to the working parents equal to 50% of the remuneration and the leave period is fully covered by notional contribution.

This allowance is also extended to parent with sons younger than 16 years old (previously the provision was addressed to parents having sons of an age “between 12 and 16 years old”) – on condition that in the family unit there is no other parent benefiting from income support instruments in case of suspension or termination of the working activity or non – worker -, the right to abstain from work for the whole period of suspension of educational services for children and of educational activities of all levels, without any provision of allowances or notional contribution, with prohibition of dismissal and right to retention of employment.

The second paragraph of article 72 extended *baby sitter* bonus from 600 to 1200 euro (it is redoubled for those who have not yet requested or obtained it). This sum may be used by the applicant also for the registration to child care (for instance summer centers) and is however inconsistent with the “nursery school” bonus.

Article 73 amending article 24 of Legislative Decree no. 18/81, provided for further overall **12 days** of paid time off under Law no. 104/92, enjoyable in May and June 2020.

Sick days (art. 74)

Article 74 amending article 26 of Law Decree no. 18/81, extended to July 31st, 2020 the time-limit (already fixed at April 30) within which the period spent by the private employee in lock down with active surveillance or trust stay at home is considered as sick days (let’s remind it, this is not to be calculated for purposes of time of respite).

Cumulation of benefits provided by the *Cura Italia* Decree Law with the ordinary invalidity allowance (Article 75)

Article 75, amending Article 31 of Decree Law No. 18/81, provides for the compatibility of the benefits governed for the protection of workers affected by the emergency Covid-19 with the ordinary invalidity allowance.

Intervention regarding dismissals for objective justified reasons (article 80)

Article 80 amending Article 46 of Decree Law No. 18/81 extended the prohibition of individual and collective dismissals, for already ongoing economic reasons, bringing it overall, to **five months**, to next August 17.

The Government measure, however, announced for days, must be read “in parallel” to the provisions of the Decree increasing of additional four weeks the subsidies of wage top-ups, guaranteed now, as referred, up to August 31st and with the rules contained in the second title (however only programmatic) that envisage economic measures aiming at protecting the employment levels (Article 43) and aids with regard to subsidies for the payment of wages of employees in order to avoid dismissals during the COVID-19 pandemic (Article 60).

An important news contained in the provision consist moreover, in the prediction of suspension up to (new) deadline of “ban” of dismissals, not only for the procedures for collective dismissal (for which the suspension was established by Article 46 of the so-called *Cura Italia* Decree), but also for the “ongoing” procedures for individual dismissal on the basis of justified objective reason referred to in Article 7 of Law No. 604 of 1966, before local labour Inspectorates (however, in fact, already suspended for direct initiative of the Inspectorates, with the closure of the Offices). It is not clear, given that the rule does not cover this issue, which can be the “destination” of the procedures which, waiting the result of negotiations among the parties involved at their beginning, could have been concluded with agreement of consensual termination before *ITL* (National Labour Inspectorate) (with the employee’s entitlement to use the NASPI benefit, otherwise precluded as a consequence of agreements of consensual termination in other conciliation procedures).

The employers are granted the possibility to revoke dismissals for objective justified reasons established in the period immediately prior to the entry into force of the ban (February 23, 2020-March 17, 2020), without charges and penalties (by way of derogation from the provision which requires, for the validity of the revocation, that the same is communicated to the employee by 15 days from the date of challenge of the dismissal) on condition that, at the same time of revocation, the employer requires for the employees concerned the COVID exceptional wages guarantee fund with effective date from the already effective date of the dismissal. It should be noted that, apparently, the revocation is cost-free for employers, but the employees, after having been “re-employed” (the employment relationship is recovered seamless), shall not be dismissed up to August 17 and the reason of the termination shall be redrafted again.

Health surveillance (Article 83)

Article 83 of the Decree, as far as concerned, requires also private employers, up to the date of end of the state of emergency for national risk (January 31, 2021), an “exceptional” encumbrance for health surveillance – to be implemented through the Competent Physician – of employees who are most exposed to the risk of contagion in view of specific factors expressly identified by the same rule. For employers who are not obliged, in general, pursuant to Article 18, first paragraph, letter a) of the Decree Law No. 81, to the appointment of the Competent Physician, the health surveillance may be required from INAIL (that will provide it through its own physicians) or the same employers may appoint a competent physician limited to the emergency period.

Second paragraph of the provision points out that the unsuitability for the task that may be ascertained within the activity of surveillance as outlined shall not in any case justify the employee’s dismissal.

Benefit for professionals, continuous and coordinated contracts, agricultural, entertainment, seasonal and tourism workers (Article 84)

The article provides for new benefits for self-employed workers. In particular, self-employed professionals and persons with continuous and coordinated contracts, already recipients for the month of March of the compensation equal to Euro 600, are granted a compensation of equal amount also for the month of April 2020.

Self-employed professionals registered under the separate Management regime and who are not pension holders or not registered in other compulsory forms of social security, who have suffered proven losses (reduction of at least 33% of the income of the second two-month period 2020, compared to that of the second two-month period 2019) are granted a benefit for the month of May 2020 equal to Euro 1000.

For employees with continuous and coordinated contracts registered under the separate management, who are not pension holders or not registered in other compulsory forms of social security, having specific requirements, a benefit for the month of May 2020 equal to Euro 1000 is granted. For self-employed workers registered under the special managements of the AGO (*Assicurazione Generale Obbligatoria*) Compulsory General Insurance already recipients for the month of March 2020 of the compensation equal to Euro 600 a compensation of equal amount also for the month of April 2020 is disbursed. For seasonal employers of tourism or spas already recipients for the month of March 2020 of the compensation equal to Euro 600 a compensation of equal amount also for the month of April 2020 is disbursed. The same compensation is granted to agency-supplied workers, employed in user undertakings operating in the same sectors at specific conditions. Seasonal employees of the tourism sector and of spas who unintentionally terminated the labour relationship between January 1st, 2019 and March 17, 2020, who are not pension holders or neither of employment relationship, nor of NASPI, are granted a compensation for the month of May 2020 equal to Euro 1000. The same compensation is granted to agency-supplied workers, employed in the user enterprises operating in the same sectors at specific conditions. To the workers of agricultural sector already recipient for the month of March of the compensation laid down in Article 30 of the Decree-Law No. 18 of March 18, 2020, equal to Euro 600, a compensation of amount equal to Euro 500 is disbursed for the month of April 2020.

Moreover identified employees and self-employed workers that as a result of the epidemiological emergency caused by COVID-19, terminated, reduced or suspended their activity or their employment relationship, provided that they are not holder of other long term work contract, different from the intermittent contract and are not pension holders are granted a compensation equal to Euro 600 for each month for the months of April and May. These are seasonal employees belonging to different sectors from that of tourism and spas who unintentionally terminated the employment relationship in the period between January 1st 2019 and January 31st, 2020 and who have carried out the working performance for almost thirty days in the same period; the intermittent workers, who have carried out the working performance for almost thirty days in the period between January 1st, 2019 and January 31st, 2020; self-employed workers, without VAT number, not registered in other compulsory forms of social security that in the period between January 1st, 2019 and February 23, 2020 were holders of occasional independent contracts pursuant to Article 2222 of the Italian Civil Code and who have not an existing contract as of February 23, 2020, provided that they are already registered at the same date to the separate Management with transfer in the same time span of almost a monthly grant; individuals in charge of doorstep sales with annual income 2019 exceeding Euro 5,000 and with active VAT number and registered under the Separate Management and not registered to other compulsory forms of social security.

For workers registered under *FPLS* (Fondo lavoratori dello spettacolo) (Fund for workers in the Entertainment Industry) having specific requirements a compensation of Euro 600 is disbursed for the months of April and May 2020, provided that they are not holders of employment relationship or holder of pension at the date of the entry into force of the provision in question. All aforementioned compensations do not contribute to form the income and are disbursed by INPS in a single payment, respecting a predetermined limit of total expenditure.

An *ad hoc* provision for the possible integration of the same compensations with the benefit of the citizenship income is established. Finally, a forfeiture rule (15 days) on the possibility

to request the benefit for the month of March 2020 for various categories of workers is established.

In conclusion for self-employment workers registered under the INPS management for VAT numbers and continuous and coordinated contracts, the compensation of Euro 600, already provided for the month of March, is repeated exactly the same only for April. Artisans, traders and farmers are granted the compensation upon registration under the social security management, whilst the holders of VAT numbers and persons with continuous and coordinated contracts are required that the VAT number or the contractual relationship are “active” on February 23, 2020. For the month of May the amount will be of at least Euro 1000, but with different requirements and rules.

Benefit for domestic workers (Article 85)

A benefit equal to Euro 500 is provided for the months of April and May 2020 for the benefit of domestic workers (not cohabitant with the employer) that, as of February 23, 2020, owned one or more labour contracts of total period exceeding 10 weekly hours. The above-mentioned benefit cannot be combined with other compensations linked to Covid-19 and to recipients of the emergency income and to pension holders or persons with other permanent contract of employment.

New competences Fund (Article 88)

In order to allow the progressive recovery of the post-emergency activity, Article 88 provides the establishment of a Fund (with an initial budget of Euro 230 million) at the National Agency of active employment policies that – if the forecasts of collective labour contracts at a company or territorial level, signed by the most representative respective associations at national level, that is from *RSU* (Single Trade union representation) realizing agreements on working time arrangements for changed organizational and production needs – the companies can use to finance working times to be used instead for the training of workers.

The provision, far from the immediate operation, set forth that criteria and modalities of application of the measure and of use of the resources must be established with a further decree of the Minister of Labour in consultation with the Minister for the Economy and Finance, to be issued within 60 days from the entry into force of the “*Decreto Rilancio*” (*Recovery Law Decree*).

Smart working (Article 90)

The provision in question, by means of Article 90, introduces an important news on smart working in the sense of expanding the categories of workers who are entitled to work remotely.

In the key of incentivizing the Institute, the right of the worker parent of a minor aged up to 14 to perform smart working, even in absence of individual agreements is now established. The right is subject to the condition that the other parent is also currently employed and not beneficiary of income support instruments (in the case of suspension or termination of the own activity) and provided that, obviously, such modality is compatible with the performance characteristics.

The extension is valid up to the end of the state of epidemiological emergency (the final deadline of July 31st has been extended to additional six months (Article 16).

The performance may be carried out also by means of IT instruments owned by the employee if the same are not provided by the employer.

The private employer’s duty to meet the disclosure requirements on matter remains confirmed.

NASPI Unemployment Benefit (Article 92)

Article 92 provides for the extension of additional two months (from the day of original expiration date) of the NASPI and DISCOLL benefits in favour of those, who, otherwise, would have ended their use in the period between March 1st and April 30, 2020. The

extension consists in the disbursement of an amount, for each month, equal to that of the last monthly payment due for the original supply.

The extension is subject to the failure to use, in the same period, by the recipient of other COVID benefits provided by the decree in question or by the previous decree (No. 18/20)

Fixed-term contracts (Article 93)

Article 93, with the declared purpose to cope with the restart of the activities after the COVID-19 emergency does not allow employers, by way of derogation from Article 21 of Decree Law No. 81/2015, up to the date of August 30, 2020, to renew and/or extension of existing fixed-term contracts also in the absence of the conditions identified by Article 19, first paragraph of the same Decree No. 81/2015 (the so-called special single causes laid down in the Dignity Decree “*Decreto Dignità*”).

The provision, this time of general nature, adds to the forecast (that remains therefore in force) contained in the law converting the “*Cura Italia*” Decree, provision that, worth remembering being in derogation from the general provision which excludes the possibility to activate new fixed-term contracts for employers who use the social shock absorbers, provided the possibility of extension and renews (with special single cause) of contracts in favour of companies that activate COVID shock absorbers (*CIGO* – ordinary redundancy fund, *FIS* - salary supplement fund, *CIG in deroga* - exceptional wages guarantee fund), during the period between February 23, 2020 and August 30, 2020.

The news of the (transitional) exemption from the obligation of indication of the special single causes entails that, up to August 30, 2020, the contracts with no specified reason currently under execution may legitimately carry on (the so-called extension) also beyond the time frame of 12 months and entails that expired/about to expire contractual relationships (with the stipulation of new contracts between the same entities) may be renewed, without the need of addition of a one of the conditions provided for by the legislation in accordance with the Institution’s “regime” (see letters a) and b) of aforementioned Article 19).

Some notes on the critical points of the provision, hoping that the interpretation doubts resulting from the lack of clarity of the text are solved with the conversion law.

The express reference to the need to face with the restart of activities in the *incipit* of the provision in question, may be interpreted (wrongly, in our opinion) as meaning that containing the use from employers who must “reopen” after the emergency, when in fact the possibility of derogation, resulting from the summary explanatory memorandum, would seem really to have a general scope.

The provision does not contain an express reference to the staff leasing contracts (differently from the derogation in favour of employers who have accessed to the COVID shock absorbers). Nevertheless, it must be considered that the derogation to the specific single causes finds application also to staff leasing relationships, in accordance with the reference contained in Article 34 of Decree Law No. 81/2015 at Article 21 of the same decree (the provision subjected to derogation from that in question) for the definition of the legislation of the employment relationship between the provider and the worker.

It is not clear if August 30, 2020 will be the date by which the existing relationship (pursuant to extension/renewal) shall cease, or if extensions or renewals may be legitimately signed up to such last date.

Support measures for companies for the reduction of the risk of infection in the workplaces (Article 95)

Article 95, with the declared intention to ease the implementation of the provisions referred to in Protocol Government/Social Partners March 14-April 24, 2020, provided the

promotion by INAIL of extraordinary measures in favour of companies which have carried out measures for the reduction of the risk of infection in the workplaces through the purchase of equipments and/or devices listed in the first paragraph of the provision.

Please be advised: they are measures that are expressly declared (fourth paragraph) incompatible with other benefits, including tax benefits, concerning the same costs.

Air transport (Articles 202, 203, 204)

Article 202, by reason of the impact that the emergency situation had on the branch, identifies the establishment of a new subsidiary company wholly owned by MEF, that is a company with public majority shareholdings with a significant capital resources hopefully aimed to the reorganization and re-launching of air transport.

The definition of the essential assets of such company is established by the implementation decree which shall be adopted by the Ministry of Economy and finance, in cooperation with the Ministers of Infrastructure and Transportation, Economic Development, Labour and Social Affairs as resolved in the conversion of Law Decree 18/2020. It is therefore a mere programmatic provision.

Article 203 introduces for the air carriers and the connected companies the obligation to apply to the employees a wage not lower than that provided for by CCNL for the captioned field. The breach of the aforesaid obligation will lead to the application of administrative penalties which are allocated to Solidarity Fund for the field of air transport and for the activities of the Civil Aviation Authority (ENAC). Article 204 identifies as further support instrument to the field the devolution to the Solidarity Fund of 50% of the resources deriving from the increase of the fees for boarding.

*

Second Title

Fund for the preservation of employment levels and the continued management of the companies (article 43)

Article 43 sets forth the establishment at the Minister of Economic Development of a Fund (with a budget of Euro 100 million for 2020) expressly aimed to the saving and restructuring of two categories of companies:

- companies owners of historic brands of national interest (enrolled in the register under article 185 bis of Legislative Decree no. 30/85);
- limited liabilities companies with at least 250 employees who found themselves in a difficult economic situation.

It is a support instrument (however, by now, non operational, standing by for a Decree issued by the Minister of Economic Development setting out management and functioning procedures and requirements of the Fund and establishes the further requirements to those companies which will be able to use it) aimed to be used under business conditions where the termination of the activity or its outsourcing outside the national territory lead to a relevant social and economic impact. The companies will be required to give notice to the Minister of Economic Development of the actions/opportunities to reduce the crisis employment impacts (the information subject to notification are listed under the fourth paragraph).

The employment benefits of the instrument are intended as indirect, in connection with the continued management of the companies which is guaranteed in this way.

Aids by way of subsidies for the payment of wages of the employees to avoid dismissals during the pandemic of COVID-19 (article 60)

Article 60 provides the chance to Regions, Provinces, autonomous Provinces (also by actions of Coordination during Conference), the other regional authorities and the Chambers of commerce to adopt aids, out of their own resources, for the principal purpose and by the

ways indicated in the inscription of the provision, in favour of companies of certain field or regions or of certain sizes, particularly affected by COVID 19. They are the so called selective aids (pursuant to article 107, comma 1 of *TFUE*) which must meet the conditions under the Communication of the European Commission C (2020) 1863 “Temporary Framework for the

State aid measures to support economy in the current emergency of COVID -19” and subsequent amendments. The subsidies will support the wage costs, including the employers’ and welfare shares and the costs incurred for autonomous workers. The monthly subsidy (whose charge may be backdated to February 1st, 2020) may be allowed to the extent not higher than 80% of the gross monthly earnings for a maximum of twelve months, for those employees who otherwise would have been dismissed after suspension of reduction of the corporate activities due to the pandemic and on condition that the employees continue to continuously (the autonomous workers are only to be intended as work advisors *co.co.co.*) carry out the activity during the period in which the aid is allowed.

Therefore, also the provision under examination is mere programmatic.

Capital strengthening of medium-size companies (article 26)

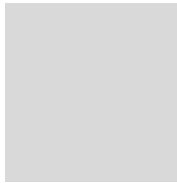
Issue of financial instruments

Article 26 of Recovery Law Decree “*Decreto Rilancio*”, beyond the fiscal benefits already illustrated above, also provides for a measure of financial support to be used necessarily meeting the conditions already mentioned in the previous section of this newsletter regarding tax issues (in particular, we remind that, in order to benefit from this measure, the resolution and a capital strengthening not lower than Euro 250,000 are necessary by the end of 2020).

In this respect, article 26 of Recovery Law Decree “*Decreto Rilancio*” provides for the establishment of a specific fund called “Property Fund SME” aimed to the subscription of bonds or debt securities (respectively for joint-stock companies and limited liabilities companies) – which the Recovery Law Decree “*Decreto Rilancio*” defines, jointly, as financial instruments -, issued by the asset companies, for a maximum amount equal to the lowest amount between three times the amount of the capital increase and 12,5% of the incomes as per article 85, paragraph 1, letters a) and b), of the Consolidated Tax Act related to the tax year 2019. A different maximum amount is provided for if the company benefits from publicly guaranteed secured loans pursuant to the Communication of the European Commission of March 19, 2020 related to the “temporary Framework for the State aid measures to support the economy in the current emergency caused by COVID-19”. The Manager of the Fund is Invitalia S.p.A. (National Agency for inward investment promotion and enterprise development).

The issuing company may issue the financial instruments by way of derogation from the limits provided for by the first paragraph of article 2412 of the Italian Civil Code, which allows, in the ordinary way, the issue of bonds for an overall amount not exceeding the double of the share capital, legal reserve and available reserves resulting from the last approved financial statements. Moreover, it is provided that the Fund loans for the reimbursement of the financial instruments issued under the Recovery Law Decree “*Decreto Rilancio*”, if the asset company is subject to bankruptcy or other insolvency procedure, are met after any other loan but before shareholders loans pursuant to article 2467 of the Italian Civil Code (namely those granted in a situation of unbalances connection between the net worth and debt capital or in a financial situation of the company in which a contribution would have been reasonable). The asset company must undertake: (i) not to resolve or carry out, from the date of the application to intervene of the Manager and until the full reimbursement of the financial instruments, distributions of reserves and purchases of treasury shares or shares and not to proceed to the reimbursement of shareholdings; (ii) to allocate the loan allowed by the Manager by the subscription of the financial instruments to support labour costs, investments or circulating capital used in production plants and business activities located in Italy; and (iii) to provide the Manager with a regular report with contents, frequency and modalities indicated by this latter, in order to allow the verification of the commitments made.

The interests on the principal amount accrue on yearly basis and are paid at the date of the reimbursement. The financial instruments are reimbursed by the issuing company after six years of the subscription. It is understood that the company has the chance to reimburse the financial instruments in advance after three years of the subscription. The purposes whose achievement may lead to a reduction of the reimbursement value are indicated in article 26 of the decree of the Ministry of Economy and Finance (to be issued together with the Minister for Economic Development).



DISCLAIMER

The information contained in this document must not be considered as exhaustive, nor is intended to express an opinion or provide legal or tax advice, nor does it exclude the need to obtain specific opinions on individual cases.

THE CONSULTANCY FIRM

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