



Italy: COVID-19 Clarifications from the tax authorities on VAT measures

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'Cure Italy' and 'Liquidity' Decree - Further VAT clarifications from the tax authorities

On 6 May 2020 the Italian tax authorities published Notice no. 11/E (the 'Notice'), providing some further guidance on VAT provisions laid down by the 'Cure Italy' Decree (Law Decree no. 18/2020, see our [Tax Alert](#) dated 20 March 2020) and the 'Liquidity' Decree (Law Decree 23/2020, see our [Tax Alert](#) dated 15 April 2020).

Postponement of VAT filings

The Cure Italy Decree (article 62) provided for a general postponement of the deadline for all tax obligations and filings (other than tax payments) falling between 8 March 2020 and 31 May 2020 to 30 June 2020, applicable to taxpayers whose fiscal domicile, registered office or operations centre is in Italy.

The Notice specified that this postponement applies to the following filings (now due by the end of June 2020):

- Annual VAT return for 2019 (original deadline: 30 April 2020).
- Q1 2020 TR form for quarterly refund claim (original deadline: 30 April 2020).
- Q1 2020 quarterly communication of VAT settlements (original deadline: 1 June 2020, as 31 May 2020 is a Sunday).
- Q1 2020 communication of cross-border transactions ('*Esterometro*' – original deadline 30 April 2020).

Deferral of VAT payments due for March and April 2020 for members of VAT pooling arrangements or VAT groups

Article 18 of the Liquidity Decree introduced a deferral of certain tax payments (VAT, WHT and social contributions - see our Tax Alert dated 15 April 2020) due in April and May 2020 for taxpayers whose fiscal domicile, registered office or operations centre is in Italy, amongst which:

- Businesses or professionals with revenues of **less than** EUR50 million in the previous fiscal year: if they have suffered a fall in turnover of at least **33 percent** in March 2020 compared to March 2019 and in April 2020 compared to April 2019.
- Businesses or professionals with revenues of **more than** EUR50 million in the previous fiscal year: if they have suffered a fall in turnover of at least **50 percent** in March 2020 compared to March 2019 and in April 2020 compared to April 2019.
- Businesses or professionals that started up after 31 March 2019.

The ITA had previously clarified that taxpayers adopting either VAT pooling arrangements or VAT group schemes (where, for instance the revenues/turnover may not be met by all the pooling/group members) were entitled to suspend VAT payments of all the pooling/group if the member(s) representing the majority of turnover/revenues of the pooling/group met the revenues/turnover decrease conditions.

The Notice clarified that if only some of the members met the conditions for the VAT payment deferral-considered singularly - without these conditions being met at a pooling/group level, the eligible members may benefit from the tax deferral and be excluded from the calculation of the VAT payable by the pooling/group by 18 May.

Postponement of VAT filings for non-established taxpayers that are VAT-registered in Italy

In article 62 of the 'Cure' Decree the postponement is literally reserved to taxpayers whose fiscal domicile, registered office or operations centre is in Italy, apparently excluding from the scope of the provision taxpayers not established but only VAT registered (through either a 'direct' registration or an Italian fiscal representative) in Italy.

The Notice however has interpreted the law provision even more extensively, acknowledging that the postponement of the VAT filings listed above also applies to non-established taxpayers VAT registered in Italy.

This clarification gives rise to further doubts whether non-established (but VAT registered) taxpayers could also be entitled to benefit from the deferral - under certain conditions - of VAT payments due by 16 April 2020 and 18 May 2020 (respectively for the monthly VAT settlements of March and April - see previous paragraph).

Again, the wording of the law seems to exclude non-established taxpayers from this provision (also considering that it is unclear whether the non-established taxpayers should test the revenues/turnover decrease conditions on Italian rather than on worldwide turnover). Nonetheless, if one applied the same extensive approach adopted by the Notice for the postponement of the VAT filings also to this provision, VAT registered taxpayers meeting the revenues' decrease condition could be entitled to benefit from the VAT payments' suspension at hand.

Pending confirmation from the ITA on this matter, non-established but VAT-registered taxpayers should not suspend VAT payments due by 18 May, on a prudential basis, to avoid the risk of penalties.

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