



# COVID-19: 'Relaunch Decree'

## Urgent measures to support healthcare, employment and the economy, and social policies

### Tax & Legal Alert

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#### Offices

##### Milan

Via Vittor Pisani 31, 20124  
T: +39 02 676441

##### Ancona

Via I° Maggio 150/a, 60131  
T: +39 071 2916378

##### Bologna

Via Innocenzo Malvasia 6, 40131  
T: +39 051 4392711

##### Florence

Viale Niccolò Machiavelli 29, 50125  
T: +39 055 261961

##### Genoa

P.zza della Vittoria 15/12, 16121  
T: +39 010 5702225

##### Naples

Via F. Caracciolo 17, 80122  
T: +39 081 662617

##### Padua

Piazza Salvemini 2, 35131  
T: +39 049 8239611

##### Perugia

Via Campo di Marte 19, 06124  
T: +39 075 5734518

##### Pescara

P.zza Duca D'Aosta 31, 65121  
T: +39 085 4210479

##### Rome

Via Adelaide Ristori 38, 00197  
T: +39 06 809631

##### Turin

C.so Vittorio Emanuele II 48, 10123  
T: +39 011 883166

##### Verona

Via Leone Pancaldo 68, 37138  
T: +39 045 8114111

This Tax & Legal Alert summarizes the main measures introduced by Law Decree no. 34 of 19 May 2020, which was published in Official Gazette no. 128 of 19 May 2020 and came into force the same day (the 'Relaunch Decree').

The Relaunch Decree has to be converted into law within 60 days of publication. Amendments might be made during the conversion process.

This Tax & Legal Alert covers the following topics:

1. **Measures to support employment**
2. **IRAP exemption**
3. **Tax credit relief**
4. **VAT measures and tax payment deferrals**
5. **Tax litigation and tax authority procedures**
6. **Export and excise measures**
7. **Step-up in the tax basis of business assets**
8. **Protection of savings in the banking sector**
9. **Measures to support business and the economy**

The 'Cure Italy Decree' cited in this Tax & Legal Alert is Law Decree no. 18/2020 of 17 March 2020; the 'Liquidity Decree' is Law Decree no. 23/2020 of 8 April 2020.

# 1. Measures to support employment

## 1.1 Ordinary Redundancy Scheme (CIGO)

### Extension of the scheme

The Relaunch Decree has extended the duration of social safety nets enabling employers who suspend or reduce their activity due to the COVID-19 outbreak to request the Ordinary Redundancy Scheme (CIGO), citing the 'COVID-19 emergency'. The 'COVID-19 emergency' CIGO subsidy, originally granted for a maximum period of nine weeks, between 23 February and 31 August 2020, has now been increased for a further five weeks for employers who have used up the nine-week period.

It is also possible to request the CIGO subsidy for a further four weeks between 1 September and 31 October 2020. However, employers in the tourism, trade fair, conference, amusement and entertainment sectors may access this four-week period prior to 1 September, on condition that they have fully used up the previous total period of 14 weeks.

### Conditions

The union consultation phase and, if required, talks between the company and trade union representative (which can be carried out online) remain obligatory in order to access CIGO.

Access to the 'COVID-19 emergency' CIGO should be requested by the end of the month following the one in which activities are reduced or suspended and is not subject to the ordinary verification process (the reasons for requests would normally be checked). If the application is submitted after this deadline, the wage subsidy cannot be backdated.

The deadline for submitting applications relating to periods of suspension or reduction of work that began between 23 February and 30 April 2020 was set for 31 May 2020. For applications submitted after this deadline, salary support measures cannot be backdated.

### Other eligible employers

'COVID-19 emergency' CIGO benefits are also extended to staff of employers enrolled in the Wage Supplement Scheme (FIS) and employing, on average, more than five members of staff. Upon simple request by the employer, direct payment of the benefit is issued by INPS.

Access to the 'COVID-19 emergency' CIGO for a maximum period of nine weeks, between 23 February and August 2020 (now extended by a further five weeks) is also available to:

- 1) companies that, on 23 February 2020, had already adopted an Extraordinary Redundancy Scheme (CIGS);
- 2) companies enrolled in the Wage Supplement Scheme (*Fondo di integrazione stipendi - FIS*) which on average employ more than five employees, even if on 23 February 2020 they were already using social security nets (*contratti di solidarietà*).

### Impact on the calculation of other periods

Periods of CIGO benefits granted due to the 'COVID-19 emergency' are irrelevant for the calculation of the maximum duration of ordinary CIGO.

The 'COVID-19 emergency' CIGO suspends and replaces wage subsidies already in place under existing social security nets and does not count for the purposes of: (i) the 24-month limit over the previous five years; (ii) the maximum limit of 30 months over the previous five years for industrial and artisan construction companies and the like, and for companies that carry out excavation works; (iii) the completion of the maximum period of 13 continuous weeks applicable to ordinary wage subsidies.

## 1.2 Exceptional Redundancy Scheme ('CIG in deroga')

This scheme has been extended to all private-sector companies to which the protection provided by the current rules on the suspension or reduction of working activities does not apply. Wage subsidies under this scheme are limited to workers who were employed on 25 March 2020.

An agreement between each region and the main trade unions will be necessary for companies with more than five employees, in order to stipulate the requirements and access to this scheme.

The 'CIG in deroga' subsidy, initially granted for a maximum period of nine weeks, between 23 February and 31 August 2020, has been increased by a further five weeks for employers who have used up those nine weeks. Wage subsidies can also be requested for a further period of four weeks between 1 September and October 2020.

The subsidies will be paid directly by the National Social Security Institute (INPS). For employers with production units located in multiple regions, the subsidy can be paid by the employer and subsequently reimbursed by INPS, also by offsetting social security contributions due and subsidies paid.

The 'CIG in deroga' for periods after the first nine weeks - as well as any periods already authorized by the regions and unused by the employer - will be granted by INPS at the employer's request. This application should include a list of employee beneficiaries and an indication of the hours of suspension per employee for the entire period. The application must be transmitted electronically to the local INPS office by 18 June 2020 or, once this deadline has elapsed, by the end of the month following that in which the period of suspension or reduction in work begins.

INPS will pay the benefit, subject to budget limits. If the budget limit has been reached, even as forecast spending, INPS cannot authorize the measures.

## 1.3 Renewal of fixed-term employment agreements

Employers may renew or extend fixed-term employment contracts until 31 August 2020 without having to justify this (normally, when renewing or extending a fixed-term contract after the first 12 months are up, justification has to be given).

## 1.4 Reduction in working hours and leave

The Relaunch Decree allows employees with children (including foster children) aged 12 or under to benefit from special parental leave, from 5 March until 31 July 2020. This age limit does not apply to children with certified disabilities enrolled in schools or in day care centres.

Leave is granted to one parent, for a continuous or split period of not more than 30 days, provided that neither parent is unemployed or benefits from a wage subsidy due to suspended employment. The period of leave - during which an allowance equal to 50 percent of the ordinary remuneration is paid to the employee - is covered by national contributions.

As an alternative to leave, there is the possibility of opting for a childcare allowance of up to EUR1,200 (the allowance increases to EUR2,000 for doctors, nurses, biomedical laboratory technicians, medical radiology technicians, health workers in the public, private and accredited health sectors and emergency service personnel deployed in relation to the COVID-19 outbreak). The allowance can be used for childcare over a continuous or split period of up to 30 days.

The allowance can be paid directly to the applicant in case of proven registration in summer camps, or use of supplementary services for children, local socio-educational services, centres with educational and recreational functions, or supplementary or innovative services for early childhood.

In addition to parental leave, parents who work in the private sector and have children aged 16 or under have the right to abstain from work while schools remain closed. In this case parents will not receive payment or accrue contributions. These workers cannot be made redundant and their jobs must be guaranteed, on condition that the other parent in the family is not receiving a wage subsidy or benefits and is not unemployed.

Workers who assist a family member with a serious disability<sup>(1)</sup> are granted an additional 12 days' leave. These additional days of leave must be taken in May and June 2020.

Days spent in quarantine by workers in the private sector, up to July 2020, are equated to days of paid sick leave and do not affect the period of days in which a sick worker's job is protected.

## 1.5 Suspension of the time limit for appealing dismissals

Until 17 August 2020, redundancy procedures<sup>(2)</sup> cannot be started. Similarly, procedures which began after 23 February 2020 are suspended.

Until this date the employer, regardless of the number of employees, cannot terminate workers' contracts for justified business reasons (i.e. *giustificato motivo oggettivo*).

## 1.6 Attention to health of workers

Public and private-sector employers are required to monitor health and safety aspects rigorously, especially in the case

of workers considered to be at high risk, due to their age or pre-existing medical conditions. Employers can request advice from the local INAIL office if they are not legally obliged to have an in-house doctor.

If a worker's health means that they cannot do certain tasks because of the risk of contracting COVID-19, the employer cannot use this as an excuse to terminate the employment contract.

## 1.7 New allowances for workers affected by the COVID-19 emergency

On certain conditions, depending on the category of worker, the Relaunch Decree grants the following allowances:

- *Self-employed workers with a 'coordinated and continuous collaboration' agreement*: these workers will receive an indemnity of EUR600 for April 2020. Those whose contract was terminated by 19 May 2020 are entitled to an indemnity of EUR1,000 for May 2020.
- *Self-employed workers with a VAT number*: in the event of a proven reduction of at least 33 percent in their income for March and April 2020, compared to their income for the same months in 2019, they will receive an allowance of EUR1,000 for May 2020.
- *Self-employed workers enrolled in the General Compulsory Insurance Scheme (AGO)*: an allowance of EUR600 is due for April 2020.
- *Seasonal workers in the tourism and spa sectors*: an indemnity of EUR600 is granted for April 2020. If their employment relationship terminated by 19 May 2020, they are entitled to an allowance of EUR1,000 for May 2020 (also applicable to temporary supply workers).
- *Fixed-term agricultural workers*: an allowance of EUR500 is granted for April 2020, on condition that they carried out at least 50 days of agricultural work in 2019.
- *Certain workers who are not employees or pensioners on the date they submit their application*: an allowance for April and May, equal to EUR600 per month, is paid to the following people.
  - Seasonal employees in sectors (other than the tourism and spa sectors) whose employment was involuntarily terminated between January 2019 and January 2020 and who worked for at least 30 days during this period.
  - Zero-hour contract workers who have worked for at least 30 days between January 2019 and January 2020.
  - Self-employed workers without a VAT number, who had temporary contracts<sup>(3)</sup> between January 2019 and 23 February 2020 and who were not under contract on 23 February 2020, provided that on that date they were already enrolled in the *INPS Gestione 'separate'* fund (but were not enrolled in other compulsory social security schemes) and had paid at least one month of contributions.

(1) As per Law no. 104/92.

(2) As per articles 4, 5 and 24 of Law no. 223/1991.

(3) Those governed by article 2222 of the Italian Civil Code.

- Sales reps who earned over EUR5,000 in 2019 from just one activity, who had an active VAT number, and who were registered in the INPS Gestione 'separate' fund on 23 February 2020 but no other mandatory social security schemes.

— *Workers registered in the showbusiness workers' pension scheme:* an allowance of EUR600 is granted for both April and May 2020. It is also paid to workers enrolled in the Entertainment Workers' Pension Fund, with at least seven daily contributions paid in 2019, if their income does not exceed EUR35,000. Those who are employees or pension holders on 19 May 2020 are not entitled to an allowance.

These allowances cannot be pooled. The amounts are paid by INPS as a one-off payment, upon request, and are not calculated as income.

The possibility to request the indemnity for March 2020 lapses on 3 June.

### **1.8 Additional residual resources for the Exceptional Cases Redundancy Scheme ('CIG in deroga')**

This scheme applies to workers who finished receiving the 'CIG in deroga' subsidy between December 2017 and December 2018 and who are not entitled to unemployment benefits. They are entitled to an indemnity equal to the 'CIG in deroga', including the notional contribution, up to 31 December 2020.

### **1.9 New Skills Fund**

For 2020, through company-level or local collective bargaining agreements, employer associations and trade unions can implement specific agreements to, among other things, redefine working hours, organizational and production needs and allocate a number of working hours to training courses.

The costs of training courses, including the related social security and welfare contributions, will be covered by a special fund called the 'New Skills Fund', set up at the National Agency for Active Labour Policies (ANPAL).

### **1.10 Remote working**

Until the end of the emergency, private-sector worker who have at least one child under the age of 14 are entitled to work from home, even without an individual agreement with their employer, on condition that the other parent in the family is not receiving a wage subsidy for suspended/terminated employment and is not unemployed. Employees can use their personal IT devices when working from home, if these are not provided by their employer.

Private-sector employers should inform the Ministry of Labour and Social Policies of the names of the employees and of the termination of the home-working period (using the documentation available on the Ministry's website).

### **1.11 NASpl and DIS-COLL unemployment allowances**

NASpl and DIS-COLL allowances which end between March and 30 April 2020 are extended for a further two months from the expiry date, provided that the recipient is

not a beneficiary of the allowances referred to in the Cure Italy Decree or Relaunch Decree. The amount paid for each additional month is equal to the amount of the last month paid.

### **1.12 Business support measures to reduce the risk of contagion in the workplace**

To facilitate implementation of the provisions to contain the spread of the COVID-19 virus in the workplace, INAIL offers special measures for those companies and individuals, registered in a Trade Register, which introduced and adopted measures to reduce the risk of contagion after 17 March 2020. These measures include the purchase of: (i) equipment for the isolation or protection of workers, including installation costs; (ii) electronic devices and sensors to separate workers; (iii) equipment for the isolation or separation of workers from non-workers and from employees of third-party companies supplying goods and services; (iv) devices to sanitize workplaces and systems to detect possible cases of contagion; (v) devices and other personal protective equipment.

These measures are incompatible with other benefits, also of a fiscal nature, concerning the same eligible costs.

### **1.13 Regularization of employment relationships**

From 1 June to 15 July 2020 employment relationships can be regularized by employers who are Italians, citizens of EU Member State or foreigners with a long-term residence permit. These employers can submit an application, upon payment of EUR400 for each worker, to conclude employment contracts with foreign citizens living in Italy, or to declare an existing irregular employment relationship with Italian or foreign citizens. The foreign citizens must have undergone digital fingerprinting before 8 March 2020 or have already been in Italy on that date. In both cases, they must not have left Italy since 8 March 2020.

From 1 June to 15 July 2020 a foreign citizen in possession of a residence permit that expired on or before 31 October 2019, without being renewed or converted into another residence permit, can request a temporary residence permit, upon payment of EUR160. This permit is valid only in Italy and lasts six months from the submission of the application, provided that the applicant was present in Italy on 8 March 2020, without having left, and prior to 31 October 2019 was: (i) a worker in the agricultural, livestock/breeding, fishing/aquaculture or related sectors; (ii) a carer, even for members of their family who were not self-sufficient, and even if not living with them; (iii) a domestic worker/home help. If, during the period of validity of the temporary residence permit, the citizen exhibits an employment contract or wage and social security documentation proving their employment in the above sectors, the permit is converted into a residence permit for work reasons.

The request is inadmissible if the employer has been convicted of certain crimes in the last five years, even with a non-definitive sentence. These crimes include:

- facilitation of illegal immigration to or from Italy, the recruitment of sex workers, the exploitation of sex workers or of minors, or slavery;
- unlawful recruitment and exploitation of workers.

Another reason why the request to convert a residence permit into a work permit may be rejected is failure by the employer to sign the residence contract at the so-called 'one-stop immigration shop' or to subsequently hire the foreign worker (except in cases of force majeure).

Foreign citizens are not admitted to the emergency procedures described above if:

- an expulsion order has been issued;
- they are a 'reported person' and therefore are refused entry into the country, even on the basis of international agreements in force with Italy;
- they have been convicted, even under a judgment that is not yet final, of crimes against personal freedom, drug crimes, or facilitation of illegal immigration to or from Italy, or the recruitment of sex workers, or the exploitation of sex workers or minors;
- they are considered a threat to public order or the security of the state or of one of the countries with which Italy has signed agreements for the abolition of controls at internal borders and the free movement of persons.

From 19 May until the conclusion of the process of regularizing undeclared employment relationships, criminal and administrative proceedings against the employer and the worker are suspended, with regard to, respectively: (i) the employment of workers for whom a declaration has been presented; (ii) illegal entry and residence in Italy.

Criminal proceedings against employers for the following offences are not suspended: (i) facilitation of illegal immigration to or from Italy, recruitment of sex workers, exploitation of sex workers or minors, slavery; (ii) illicit recruitment and exploitation of workers.

## 2. IRAP exemption

Article 24 of the Relaunch Decree introduces an IRAP (local business tax) exemption for (i) companies with revenues of up to EUR250 million and (ii) self-employed workers with revenues of up to EUR250 million. These parties will not have to pay the following.

- The IRAP balance for FY 2019 (this exemption does not affect the advance IRAP payments for FY 2019).
- The first IRAP instalment for FY 2020: 40 percent of the total advance payment theoretically due for 2020 or - in the case of taxpayers to which a special forecast tax compliance regime applies - 50 percent. This first instalment is excluded from the calculation of the final IRAP balance for 2020.

This exemption does not apply to banks, financial institution, insurance companies, public administrations or public entities.

## 3. Tax credit relief

### **3.1 Incentives for energy retrofits, anti-seismic reinforcements, installation of photovoltaic systems and charging stations for electric vehicles (Article 119)**

#### **3.1.1 Energy retrofits ('*Ecobonus*') and anti-seismic reinforcements ('*Sismabonus*')**

Article 119 of the Relaunch Decree increases the tax relief for energy retrofits and anti-seismic reinforcements made between 1 July 2020 and 31 December 2021 to 110 percent. This tax incentive applies to work carried out on (i) condominiums (and is thus available to all apartment owners and tenants, whether individuals or companies), (ii) detached one-family houses classed as an individual's primary residence and not used for business purposes, (iii) apartments used as second homes within a condominium. The 110 percent deduction for anti-seismic reinforcements also applies to detached houses even if they are not the primary residence.

The tax deduction is 110 percent because the state steps up the actual costs by 10 percent, thus allowing taxpayers to deduct more than they have actually spent.

The tax relief - to be split between the property owners/tenants (in the case of apartments in a condominium) and to be taken in equal instalments over five years - may be used for:

1. insulating external walls covering at least 25 percent of the building (*Ecobonus*);
2. replacing old heating, hot water and air conditioning systems with certain new systems (*Ecobonus*);
3. for rendering buildings in earthquake-prone areas more quake-resistant and also for purchasing earthquake-proof homes (*Sismabonus*).

To qualify for the tax relief, these improvements must raise the property's energy efficiency ratings by at least two bands or bring it into the top band. The energy efficiency rating must be certified by a qualified technician before and after the work takes place.

#### **3.2.2 Photovoltaic systems and charging systems for electric vehicles**

Provided they are combined with one or more of the energy retrofit or earthquake-proofing measures listed above, all the energy-efficiency improvements indicated in article 14 of Law Decree no. 63/2013 are also eligible for 110 percent tax relief, subject to the existing caps explained below. These improvements include the installation of photovoltaic panels and their connection to the national grid, as well as the installation of charging systems for electric vehicles in buildings.

In the case of photovoltaic systems, expenses of up to EUR48,000 can be deducted, as is the case under previously existing legislation. In any event, the maximum deduction allowed is EUR2,400/kW (nominal capacity).

If an integrated storage system is installed at the same time as the photovoltaic system (or afterwards), this qualifies for the same amount of tax relief. In this case, however, the maximum deduction allowed is EUR1,000/KWh (storage capacity).

In the case of photovoltaic plants installed separately from an energy retrofit or earthquake proofing but as part of the renovation of an existing property or construction of a new one, the maximum deduction allowed is EUR1,600/kW (nominal capacity).

### 3.2 Conversion of tax deductions into a discount and into a transferable tax credit (Article 121)

Deductions can be made directly by taxpayers through their tax returns. Alternatively, article 121 of the Relaunch Decree introduces two other options.

1. Taxpayers can opt for a discount (equal to the deduction) on the price of the improvements. The discount is applied in the invoice of the supplier, who can then recover the amount by claiming it as a tax credit, which can be transferred afterwards to other parties, including banks and financial intermediaries.
2. Taxpayers can convert the tax deduction into a tax credit, to be used in the same number of instalments as the deduction would have been. Again, this tax credit can be subsequently transferred to other parties, including banks and financial intermediaries.

To qualify for an immediate discount or the tax credit, the taxpayer must have all the necessary details and documentation endorsed by a qualified tax adviser<sup>(4)</sup> or tax service center (CAF).

Moreover, improvements qualifying for Ecobonus tax relief must be certified by authorized technicians, who should confirm that they meet the necessary standards and that the costs are reasonable. In the case of improvements qualifying for the Sismabonus relief, their efficacy must be certified by the qualified professionals in charge of planning, directing and inspecting the work. These professionals must also certify that the costs are reasonable.

Anyone who issues false statements or certificates for 110 percent deductions will be given a fine ranging from EUR2,000 to EUR15,000 for each one issued. False statements or certificates will result in loss of the tax relief.

Transfers of tax credits and payment discounts are also extended to all construction work done under pre-existing legislation in order to renovate properties<sup>(5)</sup>, retrofit properties and make them more earthquake proof<sup>(6)</sup>, restore facades of existing buildings<sup>(7)</sup>, install 'stand-alone' photovoltaic systems<sup>(8)</sup>, and install charging stations for electric vehicles inside buildings.

In all cases (110 percent deduction or deductions made under pre-existing schemes), if the tax deduction requirements are not met, even partially, the Revenue Agency will recover the corresponding tax credit from the beneficiary/ies of the tax relief, plus interest and penalties. If one or more beneficiaries breaches the rules, the supplier who has applied the discount and the tax credit transferee will be jointly and severally liable as well. If, instead, the tax credit is unlawfully used, even partially, by the supplier or the transferee, the relevant amount - plus interest and penalties - will be recovered from them alone.

(4) Those referred to in article 3(3)(a) and (b) of Presidential Decree no. 322/1998.

(5) Those referred to in article 3(3)(a) and (b) of Presidential Decree no. 322/1998. (2) As per article 16-bis (1)(a) and (b) of the Italian Income Tax Code.

(6) As per articles 14 and 16 of Law Decree no. 63/2013.

(7) As per article 1 (219) of Law no. 160/2019.

(8) As per article 16-bis (1)(h) of the Italian Income Tax Code.

Individuals must give online notification of their election to the Revenue Agency, following the guidance to be issued, with other implementation measures, by the Director of the Revenue Agency within 30 days of the entry into force of the Relaunch Decree.

### 3.3 Tax credit for advertising expenses (Article 187)

The Cure Italy Decree raised the tax credit for advertising expenses incurred in 2020 to 30 percent. The Relaunch Decree has increased this further, to 50 percent.

### 3.4 Transfers of tax credits arising from measures issued in the context of the COVID-19 outbreak (Article 122)

Between 19 May 2020 and 31 December 2021, taxpayers that have taken one of the tax credits introduced by the Cure Italy Decree and by the Liquidity Decree are entitled to transfer them (totally or partially, at the taxpayer's option) to third-party buyers, including banks, financial institutions and financial intermediaries.

The tax credits covered by this measure are the following:

- i. Rental/lease/concession fees for buildings:** the tax credit<sup>(9)</sup> amounts to 60 percent of the monthly fees for real estate used to pursue industrial, commercial, artisan, agricultural, tourism or professional activities. The beneficiaries are enterprises or the self-employed, provided that<sup>(10)</sup> their income from such activities did not exceed EUR5 million during the tax period preceding that in force on 19 May 2020 (this requirement does not apply to hotels or holiday farms). The tax relief also covers monthly fees for real estate used by non-commercial entities, listed third-sector entities<sup>(11)</sup> and religious organizations to pursue their institutional activities. The tax relief applies to fees for March, April and May 2020<sup>(12)</sup>, provided that the turnover of the renter/lessee/licensee fell by at least 50 percent in April 2020 compared with April 2019.
- ii. Investments to adapt production facilities and workplaces to COVID-19 health legislation:** the tax credit amounts to 60 percent of the costs of such health and safety improvements<sup>(13)</sup> in 2020 and is capped at EUR 80,000.
- iii. Sanitization of workplaces and purchase of COVID-19 protection devices:** the tax credit amounts to 60 percent of the costs indicated in article 125 of the Relaunch Decree and is capped at EUR60,000. The beneficiaries of the tax relief are enterprises, professions, associations, foundations and other private entities (including third-sector and religious organizations).

(9) The tax credit cannot be combined with that indicated in article 65 of the Cure Italy Decree, for the same costs.

(10) As stipulated in article 28 of the Relaunch Decree.

(11) This means entities registered in a special public register.

(12) In the case of taxpayers operating in the tourism industry, the tax relief applies to fees for April, May and June.

(13) This means certain listed investments to implement health and safety requirements and measures to contain the spread of the COVID-19 virus, pursuant to article 120 of the Relaunch Decree.

These tax credits can, at the taxpayer's discretion, be:

- used directly by the taxpayer; or
- wholly/partially transferred to third parties, including banks and financial intermediaries.

The transferee can use the tax credit to offset its own tax payments, just like the original beneficiary of the tax credit could have done. Any portion of the tax credits that is not used in the tax year can be carried forward to the subsequent tax year but cannot be claimed as a refund.

The transfer of the tax credit does not prevent the tax authorities from assessing whether all the preconditions for the tax credit were met by the original beneficiary. Transferees are liable only for the use of the tax credit and not for its amount.

## 4. VAT measures and tax payment deferrals

### 4.1 No VAT rate increase in 2021 (Article 123)

The Budget Law for 2020 established that the VAT rates in Italy - both the 22 percent standard rate and the 10 percent reduced rate - would automatically increase as of 1 January 2021<sup>(14)</sup>, unless certain budgetary targets were reached by that date. The Relaunch Decree repeals this mechanism: unless the law is changed in the meantime, the 22 percent standard and 10 percent reduced VAT rates will remain in force in 2021.

### 4.2 Reduced VAT rate for supplies of medical devices (Article 124)

The Relaunch Decree introduces a super-reduced 5 percent VAT rate for supplies of certain goods needed to tackle the COVID-19 outbreak. These goods include: ventilators for use in intensive and sub-intensive care; multi-parameter monitoring systems (also portable ones); infusion pumps for drugs and peristaltic pumps for enteral nutrition; endotracheal tubes; helmets for assisted positive pressure ventilation; masks for non-invasive ventilation; suction systems; humidifiers; laryngoscopes; vascular-access devices; electric vacuum cleaners; intensive care monitoring systems; portable echotomography machines; electrocardiographic machines; digital tomography machines; surgical masks; FFP2 and FFP3 masks; protective clothing such as latex, vinyl and nitrile gloves, visors and protective glasses, protective suits, protective shoes and overshoes, headgear, waterproof gowns, and surgical gowns; thermometers; hand-sanitizer detergents; wall-mounted disinfectant dispensers; hydroalcoholic solutions; 3 percent peroxide; emergency trolleys; RNA extractors; COVID-19 diagnostic equipment; swabs for clinical analysis; sterile test tubes; equipment for the construction of field hospitals.

However, supplies of the above products made by 31 December 2020 will be VAT-exempt, with the right to recover VAT.

(14) See our [Tax Alert](#) dated 8 January 2020.

## 4.3 Further deferral of tax payments and social security contributions (Articles 126 and 127)

The Relaunch Decree has further extended certain tax payment deadlines (which had already been extended by the Cure Italy Decree and the Liquidity Decree - see our Tax Alert dated [20 March 2020](#) and [15 April 2020](#))

### 4.3.1 Tax payment deferral for falls in turnover

This deferral applies to certain taxpayers whose fiscal domicile, registered office or operations center is in Italy.

- 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.

If the above conditions are met for March and April 2020, the deadlines for payments due in **April and May 2020** respectively are extended for:

- withholding and similar taxes
- VAT
- social security contributions and mandatory insurance premiums.

For payments of withholding and similar taxes and of social security contributions and mandatory insurance premiums, non-profit entities - including charities and recognized religious bodies pursuing their institutional, non-business activities - are eligible for the deferral.

For VAT payments due in April and May 2020, businesses and professionals whose fiscal domicile, registered office or operations center is in the provinces of Bergamo, Brescia, Cremona, Lodi or Piacenza are eligible for the deferral on one condition only: that 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 (no revenue thresholds).

In all the above cases, the deferred payments can be made either in a lump sum **by 16 September 2020** or in up to four equal monthly instalments (the first instalment is due by 16 September 2020). Any amounts already paid are not refundable.

### 4.3.2 Payment deferral for taxpayers in the 'red zone'

This deferral applies to payments of social security contributions and mandatory insurance premiums falling due between 23 February 2020 and 30 April 2020 and to be made by taxpayers whose fiscal domicile, registered office or operations center is in one of the municipalities within the 'red zone' (*Casalpusterlengo, Codogno, Vò Euganeo*, etc.<sup>(15)</sup>). These payments are now due either in a **lump sum by 16 September** or in up to **four equal monthly instalments** (the first instalment is due by 16 September 2020). Any amounts already paid are not refundable.

The same applies to payments for withholding taxes due by the same taxpayers and falling due between 21 February 2020 and 31 March 2020.

### 4.3.3 Tax payment deferral for taxpayers operating in industries heavily impacted by the COVID-19 outbreak

Under the Cure Italy Decree and the Liquidity Decree, sports associations, sports clubs, operators of sports facilities, gyms, swimming pools, fitness centers and similar facilities, operators in the tourism and hotel industry, travel agents, tour operators, event organizers, providers of vehicle hire and passenger transport, cultural entities (museums, nature reserves etc.), betting offices, non-profit organizations etc., expressly listed in article 61 of the Cure Italy Decree, could benefit from the suspension (until 31 May 2020) of:

- payments of withholding tax on wages and suchlike, falling due between 2 March and 30 April 2020;
- payments and compliance deadlines for social security contributions, mandatory insurance premiums and related obligations, falling due between 2 March and 30 April 2020;
- VAT payments due in March 2020.

Sports associations and sports clubs now benefit from a longer suspension period, until 30 June 2020.

In all the above cases, the deferred payments can now be made either in a **lump sum** (and the related compliance obligations fulfilled) by **16 September 2020** or in up to **four equal monthly instalments**. The first instalment is due by 16 September 2020. Any amounts already paid are not refundable.

### 4.3.4 Tax payment deferral for taxpayers with a turnover of below EUR2 million

The Cure Italy Decree extended to 31 May 2020 (for taxpayers with a turnover of below EUR2 million in the previous fiscal year and fiscal domicile, registered office or operations center in Italy) the deadlines falling between 8 and 31 March 2020 for:

- payments of withholding taxes on wages and suchlike
- VAT payments
- payments of social security contributions and mandatory insurance premiums.

In the case of VAT payments, there is no turnover threshold for businesses and professionals whose fiscal domicile, registered office or operations center is in the Provinces of Bergamo, Brescia, Cremona, Lodi or Piacenza.

(15) See Attachment 1 to the Prime Ministerial Decree of 1 March 2020.

Under the Relaunch Decree, these deferred payments can be made either in a **lump sum** by **16 September 2020** or in up to **four equal monthly instalments** (the first instalment is due by 16 September 2020). Any amounts already paid are not refundable.

### 4.3.5 Withholding tax payment deferral for taxpayers with a turnover of less than EUR400,000

The Cure Italy Decree provided that taxpayers with (i) a fiscal domicile, registered office or operations center in Italy, and (ii) a turnover of less than EUR400,000 in the fiscal year preceding that in which the decree came into effect, would not be subject to withholding tax on revenue or equivalent income received between 17 March 2020 and 31 May 2020 (provided they had no employee or employee-equivalent costs/expenses in the previous month).

Under the Relaunch Decree, the tax not levied by withholding agents can be paid directly by the taxpayer in one lump sum by 16 September 2020 or in up to **four equal monthly instalments** (the first instalment is due by 16 September 2020). Any amounts already paid are not refundable.

### 4.4 Transmission of daily payment details by retailers (Article 140)

In April 2019<sup>(16)</sup> a new obligation was introduced, requiring retailers to electronically report their daily takings to the tax authorities, within 12 days of the date of sale. There was also a six-month grace period, during which retailers could report these details by the end of the following month, without facing any penalties.

The Relaunch Decree extends this grace period to 1 January 2021 for retailers whose turnover does not exceed EUR400,000.

### 4.5 Tax receipt lottery (Article 141)

The start of the tax receipt lottery<sup>(17)</sup> has been postponed from 1 July 2020 to 1 January 2021.

### 4.6 Prepopulated VAT ledgers and VAT returns (Article 142)

The entry into force of the rules<sup>(18)</sup> on prepopulated VAT ledgers has been postponed from 1 July 2020 to 1 January 2021. Under these rules, the Revenue Agency will prepopulate the (i) input and output VAT ledgers and (ii) quarterly VAT settlement reports due by VAT taxpayers established in Italy and will make them available inside the taxpayer's personal tax account on the Revenue Agency website.

The Relaunch Decree also confirms that, starting with the annual VAT return for 2020 (the *IVA 2021* return), the Revenue Agency will prepopulate the annual VAT return and make it available inside the taxpayer's personal tax account on the Revenue Agency website.

(16) Law Decree no. 34 of 30 April 2019 - See our [Tax Alert](#) dated 2 July 2019.

(17) Introduced by Law no. 232 of 11 December 2016.

(18) Introduced by Law Decree no. 124 of 26 October 2019 - see our [Tax Alert](#) dated 30 October 2019.

#### **4.7 Stamp duty on e-invoices (Article 143)**

The Relaunch Decree postpones, from 1 January 2020 to 1 January 2021, the entry into force of the new rule on stamp duty introduced last year<sup>(19)</sup>. Under this rule the Italian Revenue Agency will automatically check that e-invoices comply with stamp duty requirements and could apply penalties ranging from 100 percent to 500 percent of the stamp duty for non-compliant e-invoices.

#### **4.8 Offsetting of a credit for one kind of tax against liabilities for another kind (Article 147)**

For fiscal year 2020, the annual cap on the offsetting of a credit for one kind of tax against liabilities for another kind has been increased to EUR1,000,000 (it was EUR700,000 previously).

#### **4.9 Trading of daily newspapers, periodicals, and their respective inserts and supplements (Article 187)**

As an exception to the ordinary rules, and just for 2020, VAT on sales of daily newspapers, periodicals, and their respective inserts and supplements<sup>(20)</sup> will be calculated on the number of delivered or dispatched copies, reduced by 95 per cent (instead of 80 per cent). Article 187 does not cover (i) pornographic material or (ii) newspapers and periodicals supplied with products other than inserts/supplements.

### **5. Tax litigation and tax authority procedures**

#### **5.1 New rules for tax court hearings and specific provisions for stamp duty (Article 135)**

The Relaunch Decree has introduced new regulations regarding tax court hearings, which can be held from a remote location via videoconferencing.

From 8 March to 31 May 2020, the deadline for tax courts to apply penalties or to ask for the settlement of omitted or delayed stamp duty payments has been suspended.

#### **5.2 Increase in the services offered by the tax authorities to encourage taxpayer compliance (Article 139)**

To increase tax compliance, the Ministry of Finance will introduce new specific targets for tax authorities to be met in FYs 2020-22, aimed at optimizing assistance and consultancy services offered to taxpayers. The new services will include boosting online assistance and speeding up the payment of tax refunds.

#### **5.3 Suspension of any amounts due for tax bills (so-called 'avvisi bonari') (Article 144)**

The Relaunch Decree provides that tax payments due between 8 March and 31 May 2020, following the service of tax bills (after automatic checks of tax returns), can be paid by 16 September 2020, as either a one-off payment or in four monthly instalments.

(19) By Law Decree no. 34 of 30 April 2019 - see our [Tax Alert](#) dated 2 July 2019.

(20) Those indicated in article 74(1)(c) of the Italian VAT Act (Presidential Decree no. 633/72).

#### **5.4 Suspension of the offsetting of tax credits against tax debts (Article 145)**

In 2020 the Italian tax authorities will refund the full amount of tax credits to taxpayers, without offsetting existing tax debts. This is to inject liquidity into the economy.

#### **5.5 Postponement of the deadline to pay any amounts due following tax assessments and postponement of the deadline to appeal before the first-level tax court (Article 149)**

For tax assessment notices, whose deadline to pay or to appeal expires between 9 March and 31 May 2020, the following new deadlines apply:

- 16 September 2020 for payment (as full acceptance) of the assessment notice;
- 16 September 2020 to appeal against the assessment notice in court;
- 16 September 2020 for payment of instalments related to pre-hearing compromise, mediation or judicial conciliation procedures.

#### **5.6 Suspension of checks pursuant to article 48-bis of Presidential Decree no. 602 of 1973 - payments by public administrations (Article 153)**

From 8 March until 31 August 2020 certain measures, usually applied by public administrations or public companies when paying invoices, are suspended. For instance, authorities cannot suspend or block the payment of invoices to taxpayers even if they have tax debts.

#### **5.7 Extension of the payment deadlines for items assigned to tax authority collection agents (Article 154)**

The Relaunch Decree has extended certain deadlines introduced by Cure Decree, providing that:

- from 8 March until 31 August 2020, all payments due to tax authority collection agents have been suspended;
- from 8 March until 31 August 2020, the instalment plans for taxpayers are still valid even if the taxpayer fails to pay a maximum of ten, and not necessarily consecutive, instalments;
- until 10 December 2020, the taxpayer is entitled to settle payments due under the 'amnesty program'.

#### **5.8 Extension of the deadlines to serve notices of tax assessments, penalties, tax credit recovery and tax irregularities (Article 157)**

Tax notices issued by the tax authorities with a 31 December 2020 deadline will not be served to the taxpayer until the following year (between 1 January and 31 December 2021).

These notices - which include notices of tax assessments, penalties, undue tax credit recovery and tax irregularities - will not accrue interest in the postponement period.

## 5.9 Suspension of the pre-hearing compromise procedure (Article 158)

The Relaunch Decree has clarified that the 90-day suspension period for a pre-hearing compromise procedure is added on to the COVID-19 suspension of 64 days (from 9 March to 11 May 2020).

## 6. Export and excise measures

### 6.1 Measures to promote Italian export and the internationalisation of the economy (Article 48)

There are three main measures:

- The 'Integrated Promotion Fund'<sup>(21)</sup> has been boosted by EUR250 million. The Ministry of Foreign Affairs and International Cooperation can use these funds to contract with public and private bodies and purchase specialist advice on how to promote internationalization of the national economy.
- The reference to the limits imposed by the Cure Italy Decree<sup>(22)</sup> on *de minimis* aid for non-repayable co-financing<sup>(23)</sup> has been deleted. This means that it can exceed the maximum amount established by European law, although the obligation to notify the European Commission remains.
- The Relaunch Decree ratifies the UAE's decision, in the wake of the COVID-19 pandemic, to postpone Dubai Expo 2020 to 2021. At the same time, extra funding has been provided for Italy's stand and for the workers to be engaged for the event.

### 6.2 Payments on account for excise duty on natural gas and electricity (Article 129)

Monthly payments on account for excise duty on natural gas and electricity for the period May-September 2020 may be made by paying 90 percent of the ordinary amount.

The balance must be paid in a single instalment by 31 March 2021, in the case of natural gas, and by 16 March 2021, in the case of electricity. Alternatively, it is possible to split the balance into 10 equal monthly rates, to be settled between March and December 2021, without any interest. Any credit will be deducted, in the ordinary way, from payments on account made after submission of the annual return.

Instead, payments on account for the period October-December 2020 must be calculated and paid in the usual way, as per articles 26 and 56 of the Excise Act.<sup>(24)</sup>

## 6.3 Postponement of certain new excise duty requirements (Article 130)

The operation of certain rules, introduced<sup>(25)</sup> at the end of last year, has been deferred.

- The date by which it will become compulsory for certain additional parties to apply to the Customs Agency (*Agenzia delle dogane e dei monopoli*) for an operating licence has been moved to 1 January 2021 (from 30 June 2020). The additional parties in question are operators of private, agricultural or industrial warehouses that are larger than 10m<sup>3</sup> and operators of dispensers of fuel used for private, agricultural or industrial purposes, connected to tanks whose total capacity exceeds 5m<sup>3</sup> (in addition to those already specified in article 25(1) and (2)(b) of the Excise Act).
- From 1 January 2021, it will be necessary for:
  - i. the holders of storage facilities<sup>(26)</sup> with a capacity of more than 10m<sup>3</sup> but not more than 25m<sup>3</sup>;
  - ii. the operators of distribution equipment<sup>(27)</sup> connected to tanks whose total capacity is more than 5m<sup>3</sup> but no more than 10m<sup>3</sup>;

to keep the fuel loading and unloading records in accordance with simplified procedures to be established by the Director of the Customs Agency.

- The start of the new system to track the circulation of lubrication oils<sup>(28)</sup> (and certain other NC 3403 products, transported in bulk or in containers larger than 20 liters) has been postponed to 1 October 2020<sup>(29)</sup>. The tracking system will involve the compulsory issue of a new administrative code (*codice amministrativo di riscontro*) by the Customs Agency.
- The introduction of the compulsory installation of INFOIL - a computerized management system for the holding and handling of petrol and diesel fuel - by the operators of tax warehouses<sup>(30)</sup> with a storage capacity of not less than 3,000m<sup>3</sup> has been postponed to 31 December 2020.
- The date by which it will become necessary to submit online consignment notes<sup>(31)</sup> for products subject to excise duties has been moved to 30 September 2020.
- The date by which the Director of the Customs Agency must publish<sup>(32)</sup> details of the procedures and deadlines for the online reporting of the quantities of electricity and natural gas transported and consumed has been postponed to 31 December 2020.

(21) Set up in accordance with article 72 of the Cure Italy Decree.

(22) Article 72(1)(d) and (d-bis) of the Cure Italy Decree.

(23) As regulated by articles 107 and 108 of the Treaty on the Functioning of the European Union and subsequent legislation.

(24) Legislative Decree no. 504 of 26 October 1995.

(25) By Law Decree no. 124 of 26 October 2019, converted - with amendments - into law by Law no. 157 of 19 December 2019 (the '2020 Budget Law').

(26) The holders referred to in article 25(2)(a) of the Excise Act.

(27) The operators referred to in article 25(2)(c) of the Excise Act.

(28) Regulated by article 7-bis of the Excise Code (which was introduced by article 7 of Law Decree no. 124/2019).

(29) Article 130(1)(b) of the Relaunch Decree.

(30) Those indicated in article 23(3) and (4) of the Excise Code.

(31) Those indicated in article 12 of the Excise Code.

(32) In accordance with article 12 of Law Decree no. 124 of 26 October 2019.

Moreover, article 130(2) of the Relaunch Decree:

- introduces changes to make the monitoring of small quantities of lubrication oils, transport and packaging more efficient;
- replaces article 25(4) of the Excise Act with the following: *operators of private, agricultural and industrial warehouses, with a capacity of more than 10m<sup>3</sup> and not more than 25m<sup>3</sup>, and operators of automated dispensers of fuel used for private, agricultural or industrial purposes, connected to tanks whose total capacity exceeds 5m<sup>3</sup> but not more than 10m<sup>3</sup>, shall, from 1 January 2021, be required, instead of submitting an activity start-up declaration, to give notification of their activities to the local office of the Customs Agency. These operators shall be issued with an identification code. They shall keep loading and unloading records in accordance with simplified procedures to be established by the Director of the Customs Agency.*

#### **6.4 Deferred payment of excise duty on energy products released in March (Article 131)**

The payment of excise duty on energy products released for consumption in March 2020 will be considered timely and, therefore, not subject to penalties or interest charges for late payment if made by 25 May 2020.

#### **6.5 Payment of excise duty on energy products (Article 132)**

In view of the COVID-19 emergency, monthly payments on account may be made - for April, May, June, July and August 2020 only - by paying 80 percent of the ordinary amount within the normal deadlines. The payment for energy products released for consumption in April must be made by 25 May 2020. The residual 20 percent for each month must be paid by 16 November 2020, together with the excise duty on energy products released for consumption in October. No interest will be charged.

#### **6.6 Postponement of the plastic tax and sugar tax (Article 133)**

1 January 2021 is now the start date for application of the rules introducing (i) the tax on 'MACSI' (the Italian term for single-use products that are used for packaging, protection or delivery of goods or foodstuffs and that are made, totally or partially, out of synthetic organic polymers), and (ii) the tax on the consumption of sugary drinks.

#### **6.7 Deferred payment of customs duties (Article 161)**

There is a 60-day extension, without any interest or penalties, for customs duty payments falling due between 1 May 2020 and 31 July 2020 and made in accordance with the procedures laid down by articles 78 and 79 of Presidential Decree no. 43 of 23 January 1973. In cases of serious economic or social difficulties, this extension can be granted, on request, to customs debit account holders covered by article 61(2)(o) of the Cure Italy Decree or article

18(1) and (3) of the Liquidity Decree, e.g. companies providing transport services, companies that - among other conditions - have seen a 33 percent or 50 percent fall in turnover.

#### **6.8 Payment of excise duty in different instalments (Article 162)**

This new rule allows the keepers of energy tax warehouses and of alcohol/alcoholic beverage tax warehouses, who must normally pay excise duty in monthly instalments, to alter the frequency of the payments between the date of the Relaunch Decree and 30 November 2020 (which is the due date for the payment of excise duty on products released for consumption in November). To pay at shorter or longer intervals, warehouse keepers must apply to the Customs Agency, explaining the reasons for their financial difficulties. These must be supported by documentary evidence and be verifiable. The new arrangement is subject to the Customs Agency's acceptance of the application and the excise duty for the whole of the above period must be paid in full by 30 November.

### **7. Step-up in the tax basis of business assets**

The Relaunch Decree renews the possibility for individuals and non-commercial entities to step up the tax basis of business assets and to pay substitute tax on the difference. The assets covered by this measure are (i) investments held in non-listed entities and (ii) land (both building and agricultural). These assets must be owned on 1 July 2020.

The 11 percent substitute tax can be paid in a maximum of three equal annual instalments, the first of which is due on 30 September 2020. Late payment interest of 3 percent per annum is charged on the other instalments.

To support the step-up in the tax basis of the above assets a sworn appraisal must be prepared and certified by 30 September 2020.

### **8. Protection of savings in the banking sector**

#### **8.1 State guarantees for newly issued bonds (Articles 165 and 166)**

To preserve financial stability the Relaunch Decree authorizes the Ministry of Economy and Finance, over the next six months, to guarantee bonds issued by Italian banks, for a total amount of up to EUR19 billion.

The state guarantee will be subject to (i) verification by the Bank of Italy or the European Central Bank that the bank meets the capital requirements laid down by EU Regulation No 575/2013 and (ii) approval by the European Commission.

Even if the bank applying for the aid does not meet the above requirements, it will be eligible as long as it still has positive equity and urgently needs a liquidity boost.

## **8.2 State aid to facilitate the orderly compulsory administrative liquidation of small banks (Articles 168, 169, 170, 171 and 172)**

This measure is designed to ensure that compulsory administrative liquidation processes beginning after 19 May are managed in an orderly manner. It applies to the liquidation of small banks with total assets of up to EUR5 billion but not to the liquidation of cooperative credit banks (*'banche di credito cooperativo'*). Under the Relaunch Decree, the Ministry of Finance is authorized to grant state aid to facilitate another bank's purchase of the failing bank's assets and liabilities, business/business units and account portfolios.

These measures include the conversion into tax credits of the deferred tax assets of the bank in liquidation or of the purchaser (even if not recognized in the financial statements), the granting to the purchaser of a guarantee (express, free of charge, on first demand, unconditional and irrevocable) on some of the items transferred, and aid to the purchaser if these measures are insufficient.

The measures are subject to (i) confirmation by the European Commission that they are compatible with EU legislation on state aid and (ii) a Ministry of Economy and Finance decree, which must take Bank of Italy indications into account.

Such transfers are considered as transfers of business units for VAT purposes<sup>(33)</sup> and, where due, the registration tax, *imposta ipotecaria* tax and *imposta catastale* tax on the transfer deeds are fixed at EUR200 each.

The purchaser and the seller are subject, respectively, to bridge-bank rules and bank-resolution rules<sup>(34)</sup>, which treat such transfers as tax-neutral.

Income attributable to measures supporting a transfer is excluded from the calculation of the transferee's IRES and IRAP bases. In accordance with article 2(1)(b) of Presidential Decree no. 633/1972, sales and contributions of businesses/business units to companies or other entities are not treated as VATable supplies of goods.

## **9. Measures to support businesses and the economy**

### **9.1 Equity consolidation for medium-sized businesses: focus on financial instruments (Article 26)**

The Relaunch Decree has implemented equity consolidation measures for businesses that have a registered office in Italy and fulfil other requirements. These include certain levels of revenue (as defined in the Relaunch Decree), a fall in revenue in March and April 2020 of at least 33 percent compared to the same period last year, due to the COVID-19 outbreak, and a share capital increase paid in full between 19 May and 31 December 2020.

(33) In accordance with article 2(1)(b) of Presidential Decree no. 633/1972, sales and contributions of businesses/business units to companies or other entities are not treated as VATable supplies of goods.

(34) As laid down by article 15 of Law Decree no. 18 of 14 February 2016 (converted into law by Law no. 49 of 8 April 2016).

One of these measures involves the creation of a fund to assist small and medium-sized businesses. Called the *Fondo Patrimonio PMI*, it will be used to underwrite - up to 31 December 2020 and for an amount proportionate to the capital increase and the business's revenue - bonds or debt securities issued by the company and repayable six years or, if repaid in advance, three years after the underwriting.

Businesses that take advantage of this measure must undertake not to approve or make, until the financial instruments have been fully repaid, any distribution of reserves, purchase of own shares or quotas and/or repayment of shareholder loans. They must also pledge to use the financing for staff costs, investments or working capital used for business in Italy.

This measure is subject to authorization from the European Commission.

### **9.2 'Relaunch fund' and refinancing of other funds (Articles 27 and 31)**

To help relaunch Italy's economic and production system in the wake of the COVID-19 outbreak, Cassa Depositi e Prestiti S.p.A. is authorized to set up a ring-fenced pool of assets, to be provided by the Ministry of Economy and Finance. This will be called the 'Relaunch Fund' (*Patrimonio Rilancio*).

The fund will be used to support joint-stock companies (SpAs) that (i) have a registered office in Italy, (ii) do not operate in the banking, finance or insurance sector, (iii) have an annual turnover of more than EUR50 million. Cassa Depositi e Prestiti S.p.A. will be able to use the fund to invest, preferably, in convertible bonds and capital increases, and, in the event of strategic transactions, to purchase shares listed on the secondary market.

Should the fund be unable to meet its obligations, the state will automatically act as ultimate guarantor.

For 2020 the Relaunch Decree also gives a EUR30,000 million boost to the fund used by SACE S.p.A. (Italy's Credit Export Agency) to guarantee bank loans<sup>(35)</sup>. The fund used to guarantee loans made to SMEs<sup>(36)</sup> has been boosted by approximately EUR4,000 million.

### **9.3 Securitization of non-performing bank loans: state guarantee (Article 32)**

Article 32 of the Relaunch Decree gives securitization companies and servicers greater autonomy in contracting in securitization transactions for which the securitization company has requested, or will request, a GACS guarantee (*Garanzia Cartolarizzazione Sofferenze*) from the state. Under a CAGS, the state agrees to act as the ultimate guarantor of the senior securities.

(35) As per article 1 of the Liquidity Decree - see our Tax Alert of 9 April 2020.

(36) As per article 2(100)(a) of Law no. 662 of 1996.

In view of the practical difficulties caused by the COVID-19 emergency, such as longer debt collection times, the Relaunch Decree authorizes the Ministry of Economy and Finance (as the ultimate guarantor), upon request by the securitization company, to allow certain changes to the securitization contracts and other documents, provided that the changes have been agreed between the securitization company and the servicer. In this way it is possible to suspend - for one or more payment periods - the mechanism whereby prompt payment of the servicer's fees is conditional on it meeting certain debt collection targets.

#### **9.4 SACE guarantee for insurers of trade receivables (Article 35)**

To safeguard trade, as well as insurance services for businesses hit by the economic fallout of the COVID-19 epidemic, SACE S.p.A. (Italy's Credit Export Agency) will guarantee registered credit insurers of short-term trade receivables that sign up for this scheme. SACE will guarantee 90 percent of the pay-outs made as a result of claims related to trade receivables maturing between 19 May and 31 December 2020. A EUR2,000 million fund has been set up for this purpose.

The state will act as the ultimate guarantor and the SACE guarantee is an express, unconditional, irrevocable first-demand guarantee, with no right of recourse.

This guarantee mechanism is subject to approval by the European Commission, as per article 108 TFEU.

#### **9.5 Participation in the European Investment Bank's Pan-European Guarantee Fund and in the new European scheme to provide temporary support to reduce unemployment risks during the emergency (Article 36)**

The Relaunch Decree authorizes the Ministry of Economy and Finance to enter into the necessary agreements with the European Investment Bank (EIB) so that Italy can join the Pan-European Guarantee Fund. The ministry is also authorized to provide an unconditional and first-demand guarantee to the EIB for an overall amount of EUR1,000 million.

As explained in the report accompanying the Relaunch Decree, the guarantee fund would enable the BEI to issue guarantees and direct or indirect loans to SMEs, mid-caps, large corporations and public bodies. If a guarantee is enforced, the BEI would pay the amounts to the beneficiaries and then ask the Member States participating in the fund to pay their pro rata share, according to an agreed time frame.

The Ministry of Economy and Finance is also authorized to (i) agree with the European Commission on how Member States should counter-guarantee the risks to be assumed by the EU under a new European scheme to provide temporary support to reduce unemployment risks during the COVID-19 emergency, and (ii) issue the relevant national guarantee.

#### **3.6 Bolstering of support for innovative start-ups (Article 38)**

To bolster support for innovative start-ups throughout Italy, the Relaunch Decree allocates:

- additional resources of EUR100 million (for 2020) for the refinancing of relief granted in the form of soft loans;
- EUR10 million for relief granted in the form of non-repayable contributions towards the purchase of services from public or private bodies that aid the development of innovative enterprises;
- additional resources of EUR200 million (for 2020) to the 'Venture Capital Support Fund' set up<sup>(37)</sup> to support investments also in innovative SMEs<sup>(38)</sup>.

The length of time for which innovative start-ups can remain enrolled in the special section of the Trade Register has been extended by 12 months.

#### **3.7 Support from regional and other local authorities (Articles 55, 56 and 61)**

Drawing on their own resources, regional authorities, autonomous provinces, other local authorities and chambers of commerce can also adopt aid measures, in line with the Communication from the Commission C(2020) 1863 - 'Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak'.

The aid can be provided by these bodies, directly or through banks or other authorized lending institutions, for a maximum period of six years, in the form of loan guarantees or cheap loans.

This type of aid cannot be given to businesses that were already in financial difficulty on 31 December 2019 and it can only be granted until 31 December 2020. It is also subject to approval by the European Commission, as per article 108 TFEU.

(37) Under article 1(209) of Law no. 145/2018.

(38) Those indicated in article 4 of Law Decree no. 3/2005.

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## Contacts

**KPMG in Italy**

**Tax & Legal**

E: [it-fmksamarketing@KPMG.IT](mailto:it-fmksamarketing@KPMG.IT)

[kpmg.com/it](https://kpmg.com/it)

[kpmg.com/it/socialmedia](https://kpmg.com/it/socialmedia)



[kpmg.com/app](https://kpmg.com/app)



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