

Your World First

CMS

Law . Tax

CMS Newsletter | 23 March 2020

# Coronavirus Tax Relief Measures

## CONTENTS

1. Conversion into a tax credit of the Deferred Tax Assets (DTA) on Net Operating Losses (NOL) and ACE surpluses carried forward
2. Mini extension of payments
3. Deferment of tax obligations
4. Employee bonus
5. Tax credit for workplace sanitization expenses
6. Tax credit for shops and stores
7. Donations
8. Suspension of the time limits for assessment, control, audit and collection and extension of the statute of limitations
9. Suspension of the deadlines for payment of the loads entrusted for compulsory collection
10. Suspension of the terms of tax justice
11. Advertising investment tax credit
12. Extension of the terms for convening shareholders' meetings

The following is a summary of some of the tax provisions that have been introduced in Italy by the Decree Law no. 18 of 17 March 2020 (hereinafter the “Decree”), better known as the “Cura Italia” Decree and that are of most interest to Companies.

---

### 1. Conversion into a tax credit of the Deferred Tax Assets (DTA) on Net Operating Losses (NOL) and ACE surpluses carried forward (Art. 55)

In order to help companies in liquidity crisis, companies with claims against defaulted debtors have the option of converting DTA (even if they are not recognized on the balance sheet) related to NOL that have not yet been used and ACE surpluses that have not yet been deducted, into a tax credit.

The benefit is available to parties who, having recognized in the financial statements trade or financial receivables owed by defaulting debtors (debtors whose failure to make payments lasts for more than ninety days from the due date), sell them for consideration by December 31, 2020 to unrelated companies within the meaning of Article 2359 of the Italian Civil Code or to companies different from those controlled, directly or indirectly, by the same party.

The amount that can be converted into a tax credit is capped to the DTA related to the volume of NOL and ACE surplus not exceeding 20% of the nominal value of the receivables sold (in any case up to a maximum nominal value of 2 billion Euro, to be computed as the aggregate volume of receivable sold at group level). The conversion takes place on the effective date of the assignment of the receivables and from the same date the assets in question can no longer be used to reduce income.

The option is exercised in accordance with the procedures set out by Article 11 of Decree Law no. 59/2016 (which, inter alia, provides for the payment of an annual fee of 1.5% of the amount of deferred tax assets converted into credit if certain conditions are met).

The tax credit is not interest-bearing, does not contribute to the formation of the taxable base for Corporate Income Tax and IRAP purposes, can be used as an offset pursuant to art. 17 of Legislative Decree no. 241/97 without limit of amount, can be transferred pursuant to art. 43-bis and 43-ter of Presidential Decree 602/73 or requested for reimbursement.

---

### 2. Mini extension of payments (Art. 60)

All payments to public administrations, including those relating to social security and welfare contributions and premiums for compulsory insurance, due on March 16, 2020, are extended to March 20, 2020.

---

### 3. Deferment of tax obligations (Art. 62)

All taxpayers have the right to defer to June 30, 2020, without the application of penalties, tax obligations expiring in the period between 8 March 2020 and 31 May 2020. However, the deferral does not apply in relation to:

- tax payments;
- withholding taxes at source and other withholding taxes related to the regional and municipal surtax;
- electronic transmission of employee income statement and other similar certifications (which remains due on March 31, 2020).

As an exception to the above, for companies and self-employed workers with revenues and compensation not exceeding 2 million Euro in the tax period prior to the Decree coming into force, the following self-liquidation payments, that would fall due between March 8, 2020 and March 31, 2020, are suspended:

- withholding taxes on income from employment and assimilated income as well as the withholdings related to regional and municipal tax surcharges;
- VAT;
- social security and welfare contributions and premiums for compulsory insurance.

For companies and self-employed workers in the provinces of Bergamo, Cremona, Lodi and Piacenza the suspension of VAT payments applies regardless of the size requirement.

Suspended payments will have to be made, without the application of penalties and interest, on May 31, 2020, or, alternatively, they can be made in up to a maximum of 5 equal monthly instalments starting from May 2020.

Finally, further favourable measures are provided for taxpayers with revenues and compensation not exceeding 400 thousand Euro.

---

#### 4. Employee bonus (Art. 63)

Companies, in their capacity as withholding tax agents, are required to pay to their employees a bonus of 100 Euro which does not contribute to the total taxable income of the employee. The bonus must be prorated to the number of days that the employee has been actually present at his/her workplace in March 2020.

The bonus is payable only if the employee has declared a total income from employment of no more than 40 thousand Euro in the previous year and must be paid in the month of April or, in any case, by the end of the year.

The bonus paid can be recovered by the companies pursuant to art. 17 of Legislative Decree no. 241/97 as an offset against other taxes due.

---

#### 5. Tax credit for workplace sanitization expenses (Art. 64)

For the tax period 2020, a tax credit of 50% of the costs of sanitizing the work environment and work tools up to a maximum of 20,000 Euro (and until the maximum total allocation of 50 million Euro has been exhausted) is granted to companies and self-employed workers. The relevant implementing provisions will be defined by an inter-ministerial decree to be adopted within thirty days from the date of entry into force of the Decree.

---

#### 6. Tax credit for shops and stores (Art. 65)

A tax credit is introduced in the amount of 60% of the rent due by companies in March with respect to the places where the activity is carried out, located in buildings classified in category C1 (the rule does not apply to commercial activities still open by order of the D.p.c.m. 11/03/2020). The credit can only be used as an offset to other taxes.

---

#### 7. Donations (Art. 66)

It is introduced the deductibility from the tax base for corporate income tax and IRAP of donations in cash and in kind made to support measures to contrast the epidemiological emergency by COVID-19, to foundations, associations, committees and bodies identified by decrees of the Prefects of the respective Provinces. As a result of the reference to Article 27 of Law no. 133/99, the provision according to which goods transferred free of charge are not considered as unrelated to the exercise of the business, as well as the provision that such transfers are not subject to the gift tax, should also apply.

For individuals and non-commercial entities, on the other hand, 30% of the donation value will be deducted from the gross tax due, up to an amount of Euro 30 thousand.

---

#### 8. Suspension of the time limits for assessment, control, audit and collection and extension of the statute of limitations (Art. 67)

The deadlines relating to assessment, control, audit, collection and litigation activities to be carried out by tax offices are suspended from March 8, to May 31, 2020.

The same suspension applies to the time limits set for responding to the requests for rulings, including those to be made following the submission of additional documentation, and for their regularisation.

The terms for responding to the application for rulings submitted during the period of suspension, as well as those for their regularisation, start to run from 1 June 2020.

The time-limits for activities that can be delayed and not having an urgent nature, consisting, inter alia, of responses to requests for access to administrative acts and civic access to data and documents, are suspended.

The statute of limitation expiring on December 31 2020 is extended by two years.

---

#### 9. Suspension of the deadlines for payment of the amounts entrusted for compulsory collection (Art. 68)

Payments due in respect of notice of payment issued by collection agents, enforceable notices of assessment and payment orders, debit notices, tax injunctions and notices of assessment issued by the Customs Agency falling due in the period from 8 March to 31 May 2020 are suspended and will become due within June 30, 2020 (however, any payments already made do not give any right to reimbursement).

---

#### 10. Suspension of the terms of tax justice (Art. 83)

The completion of any judicial act related to the proceedings before the Tax Court, including those for the notification of appeals to the Tax Courts of First Instance and the complaint proceedings are suspended from March 9, 2020 to April 15, 2020.

The hearings related to the pending proceedings, both public and not public, shall be postponed ex officio

until after 15 April 2020.

The same provisions also apply to proceedings pending before the Supreme Court.

---

#### 11. Advertising investment tax credit (Art. 98)

For 2020, the tax credit for advertising cost is expected to apply to 30% of the total cost (instead of applying to just 75% of incremental cost compared to the previous year).

It is also envisaged that electronic communications for credits to be reserved will be sent between September 1 and September 30 of 2020. This is without prejudice to the validity of any communication already made in this month of March.

---

#### 12. Extension of the terms for convening shareholders' meetings (Art. 106)

By way of derogation from the provisions of Articles 2364, paragraph 2, of the Italian Civil Code. (for S.p.a. and S.a.p.a.) and 2478-bis (for S.r.l.), or from the provisions of the Articles of Association - which may not provide for the possibility of postponing the deadline for the approval of the financial statements - it is established that the ordinary shareholders' meeting required to approve the 2019 financial statements may be called within 180 days from the end of the financial year (i.e. by 28 June next). With the notice of call of the Shareholders' Meetings, it will also be possible to provide, also by way of derogation from the various provisions of the Articles of Association, for the expression of the vote by electronic means or by correspondence and the participation in the Shareholders' Meeting by means of telecommunications devices. It will also be possible to establish that the meeting shall be held exclusively by means of telecommunications devices that guarantee the identification of participants, their participation and the exercise of voting rights, without, in any case, the need for the chairman, secretary or notary public to be in the same place.

For the S.r.l. it will also be possible to vote by written consultation or by written consent.

Companies with listed shares have the right to designate for ordinary or extraordinary shareholders' meetings, also as an exception to the provisions of the Articles of Association, the representative provided for by Article 135-undecies of Legislative Decree no. 58/98 and to provide in the notice of call that participation in the shareholders' meeting shall take place exclusively through the same designated representative, who may

also be granted proxies and/or sub-delegations pursuant to Article 135-novies of Legislative Decree no. 58/1998.

These provisions apply to Shareholders' Meetings convened by 31.7.2020 or, if later, by the date up to which the state of emergency will be in force. Therefore, they also apply to the Shareholders' Meetings called to approve the 2019 financial statements on second call.



The views and opinions expressed in CMS Adonnino Ascoli & Cavasola Scamoni's Newsletter are meant to stimulate thought and discussion. They relate to circumstances prevailing at the date of its original publication and may not have been updated to reflect subsequent developments. CMS Adonnino Ascoli & Cavasola Scamoni's Newsletter does not intend to constitute legal or professional advice.

CMS Adonnino Ascoli & Cavasola Scamoni's Newsletter is CMS property.



Should you require any further information or clarification on any aspect of this newsletter please do not hesitate to contact our offices.

Mario Martinelli  
mario.martinelli@cms-aacs.com

Fabrizio Alimandi  
fabrizio.alimandi@cms-aacs.com

Stefano Giuliano  
stefano.giuliano@cms-aacs.com

Luca Vincenzi  
luca.vincenzi@cms-aacs.com

Davide Landa  
davide.landa@cms-aacs.com

Luca Scibelli  
luca.scibelli@cms-aacs.com

Lorenzo Serena  
lorenzo.serena@cms-aacs.com



ROME  
Via Agostino Depretis, 86  
00184

T - +39 06 478151  
F - +39 06 483755

MILAN  
Galleria Passarella, 1  
20122

T - +39 02 89283800  
F - +39 02 48012914

**CMS** Law-Now™

Law . Tax

Your free online legal information service.

A subscription service for legal articles  
on a variety of topics delivered by email.  
[cms-lawnow.com](http://cms-lawnow.com)

CMS Adonnino Ascoli & Cavasola Scamoni is a member of CMS Legal Services EEIG, a European Economic Interest Grouping that coordinates an organisation of independent law firms.

CMS locations:

Aberdeen, Algiers, Amsterdam, Antwerp, Barcelona, Beijing, Belgrade, Berlin, Bogotá, Bratislava, Bristol, Brussels, Bucharest, Budapest, Casablanca, Cologne, Dubai, Duesseldorf, Edinburgh, Frankfurt, Funchal, Geneva, Glasgow, Hamburg, Hong Kong, Istanbul, Johannesburg, Kyiv, Leipzig, Lima, Lisbon, Ljubljana, London, Luanda, Luxembourg, Lyon, Madrid, Manchester, Mexico City, Milan, Mombasa, Monaco, Moscow, Munich, Muscat, Nairobi, Paris, Podgorica, Poznań, Prague, Reading, Rio de Janeiro, Riyadh, Rome, Santiago de Chile, Sarajevo, Seville, Shanghai, Sheffield, Singapore, Skopje, Sofia, Strasbourg, Stuttgart, Tirana, Utrecht, Vienna, Warsaw, Zagreb and Zurich.

[cms.law](http://cms.law)