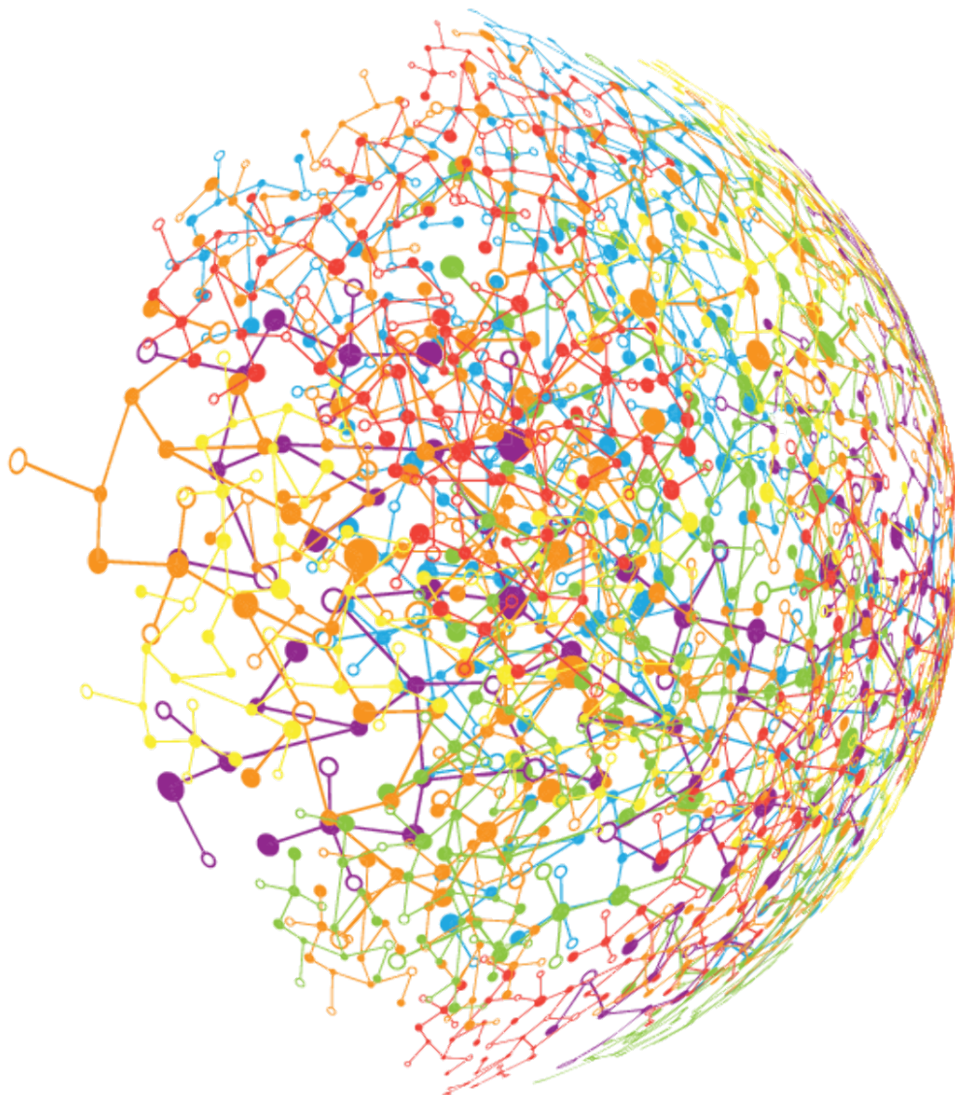


# Studio Tributario e Societario



## **Covid-19 | Tax Alert | N. II**

March 2020

**Deloitte.**

# Customs and Excise duties

## Provisions relating to surgical masks and Personal Protective Equipment

*(Article 15 of Law-Decree 17 March 2020 no 18 entered into force on 17 March 2020)*

The Decree provides measures to face the COVID-19 emergency, characterized by an actual and serious lack of surgical masks and personal protective equipment (PPE).

Pursuant to art. 74, par. 1, of Legislative Decree 9 April 2008, no 81, *“Personal Protective Equipment, hereinafter “PPE”, shall be intended as any equipment destined to be worn and kept by the worker in order to protect him against one or more risks which may threaten his security or health during work, as well as any complement or accessory destined to this purpose”*. In particular, masks of at least FFP2 type, goggles or visor, Tychem C\* Model protective suits and gloves are to be included within the above devices (circular letter of Ministry of Health no 4373 of 12 February 2020).

Regarding to art. 15, it allows to import – as well as to manufacture and put into consumption – surgical masks and PPE, in derogation to provisions in force, till the end of the emergency COVID-19 stated by the Italian Council of Ministries’ decision of 31 January 2020. For this purpose, the manufacturer, the importer and those who put into consumption the above devices

must self-attest under their own responsibility that the manufacturing and the product are compliant with the legislation in force on security standards. In particular, importers of surgical masks and PPE– as well as manufacturers and those who put them into consumption – must send to the competent Administration (Italian Supreme Health Institute for surgical masks and INAIL – National Institute for Insurance against Accidents at Work – for PPE) a self-statement where, under their own responsibility, they:

- attest the technical characteristics of the relevant products and
- state that the devices meet all the security requirements provided by the legislation in force.

By and not later than 3 days from the self-statement importers and manufacturing companies must then transmit to the same Administration any element useful to the surgical masks or PPE validation. The competent Administration, by and 3 days from the receipt of the above, decides about the compliance of surgical masks or PPE to rules in force.

If the Administration deems the products not compliant with the rules in force, save the provisions related to self-statements, manufacturer must immediately stop their manufacturing and the importer cannot proceed to put into consumption.

## Extension of payments due on 16 March 2020

*(Art. 60 of the Law-Decree 17 March 2020, no 18 entered into force on 17 March 2020)*

Relating to the provision at hand which – as anticipated in COVID-19 – Tax Alert – N. 1 – states the extension to 20 March 2020 of the deadline for the payments to public administrations expiring on 16 March 2020, the following is specified.

As confirmed by the Customs and Monopoly Agency with the note n. 94480/RU, dated 18 March 2020, the extension applies also for the payments of excise duties expiring on 16 March 2020 (i.e. payment of excise duties on products put into consumption in the previous month, according to art. 3, par. 4, of Legislative Decree No 504/1995 and advanced monthly payment as well as any balance of excise duties on electricity, calculated on the basis of consumptions of the previous year, according to art. 56, par. 1, of Legislative Decree No 504/1995).

## Suspension of tax fulfillments deadlines

*(Art. 62 of the Law-Decree 17 March 2020, no 18 entered into force on 17 March 2020)*

As anticipated in COVID-19 – Tax Alert – N. 1, relating to the suspension of fulfillment deadlines, the provision at hand states that tax fulfillments expiring within 8 March

2020 and 31 May 2020 (i.e. different than payments and withholding tax and the ones relating to regional and communal additional tax) are suspended, for subjects with tax domicile, registered office or operative seat in the Italian State.

Safe what already above commented in relation to art. 60, such postponement does not affect the payments due. Therefore, whether the operator makes use of the suspension of fulfillment deadlines, filing of the excise duties return within the 31 May 2020:

- he should carry out the payment related to the debit balance and the new advanced monthly payment, eventually due, within the ordinary deadlines, despite the above mentioned postponement of the annual return;
- while he would not be able to take advantage of the credit balance, if any, before the filing of the relevant annual return.

### Suspension of payments of charges assigned to tax collector

*(Art. 68, par. 2, of the Law-Decree 17 March 2020, no 18 entered into force on 17 March 2020)*

As an integration of what specified in COVID-19 – Tax Alert – N. I, according to the provision at hand, suspension of deadlines of payment of charges assigned to tax collector referred to tax entries expiring between 8 March and 31 May 2020 shall apply also to executive assessment acts issued by the Customs and monopoly Agency for the purpose of collecting traditional own resources according to article 2, paragraph 1, letter a) of Council

Decision 2007/436/EC/Euratom, of 7 June 2007 and the related import VAT.

### Non-application of anchorage tax

*(Par. 1 of art. 92 of Law-Decree 17 March 2020 no 18 entered into force on 17 March 2020)*

The provision relates to so called "anchorage tax" (i.e. "tassa di ancoraggio") which is a tax, assigned to Port System Authorities, due by national and certain foreign boats carrying out commercial transactions in ports, harbors, beaches and specific places of the Italian State for any ton of net tonnage.

Pursuant to art. 92, par. 1, of the Decree – aimed to face the sudden decrease of sea traffics arising the transport of goods and persons – the anchorage tax is not applied in relation to transactions carried out from 17 March 2020 (i.e. date of entering into force of the Decree) till 30 April 2020.

### Measures relating to payments of customs duties

*(Par. 3 of art. 92 of Law-Decree 17 March 2020 no 18 entered into force on 17 March 2020)*

The provision postpones to further thirty days – "without application of interests" nor penalties – the deadline for payments of customs duties as well as other duties which customs shall collect based on the law, in relation to customs transactions (see art. 34 of Presidential Decree No 43 of 1973), which:

- expire between 17 March 2020 (i.e. date of entering into force of the provision) and 30 April 2020
- and carried out applying the periodical and/or deferred payment according to articles 78 and 79 of Presidential Decree No 43/1973, already stating, for the authorized subjects, the possibility to postpone to thirty days the payment of import duties, and of the internal taxes till a maximum of ninety days, the first thirty days included.

Pursuant to art. 92, par. 3, of the Decree payments at hand are therefore automatically postponed to further thirty days.

It is a measure aimed to ensure an adequate financial liquidity to economic operators, who can thus benefit of a greater deadline to pay customs duties due by them.

With reference to the wording used by the national legislator "without application of interests", it is hoped an intervention of the Customs and monopoly Agency aimed to clarify the coordination of the provision at hand with the Union ones included in articles 110 and 114 of (EU) Regulation No 952 of 2013 (i.e. Union Customs Code) which, as known, shall be considered directly applicable in all Member States. This because, according to such union law provision, deferral payment of import duties can be granted without applying interests only for thirty days, after which the application of interests of arrears is provided, unless customs authorities refrain on the basis of a documented assessment of the serious economic or social difficulties situation of the debtor.

## TABLE

Taxpayers	Tax payment or fulfillment	New deadline
National and certain foreign boats	Anchorage tax not applied in relation to transactions carried out from 17 March 2020 till 30 April 2020.	N/A
Operators authorized to periodical and/or deferred payment	Payment of customs duties expiring between 17 March 2020 and 30 April 2020.	30 days after the expiration of the periodical/deferred payment deadline
All the tax payers	Payments to public administrations expiring on March 16, 2020 (excise duty payments included).	March 20, 2020
All the tax payers	Payment of charges assigned to tax collector, expiring between 8 March and 31 May 2020, from executive assessment acts issued by the Customs and monopoly Agency for the purpose of collecting traditional own resources according to article 2, paragraph 1, letter a) of Council Decision 2007/436/EC/Euratom, of 7 June 2007, and the related import VAT.	June 30, 2020
All the tax payers with tax domicile, registered office or operative seat in the Italian State.	Tax fulfillments (i.e. different than payments and withholding tax and the ones relating to regional and communal additional tax) expiring within 8 March 2020 and 31 May 2020 (including Excise duty returns expiring on 31 <sup>st</sup> March 2020).	31 May 2020



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