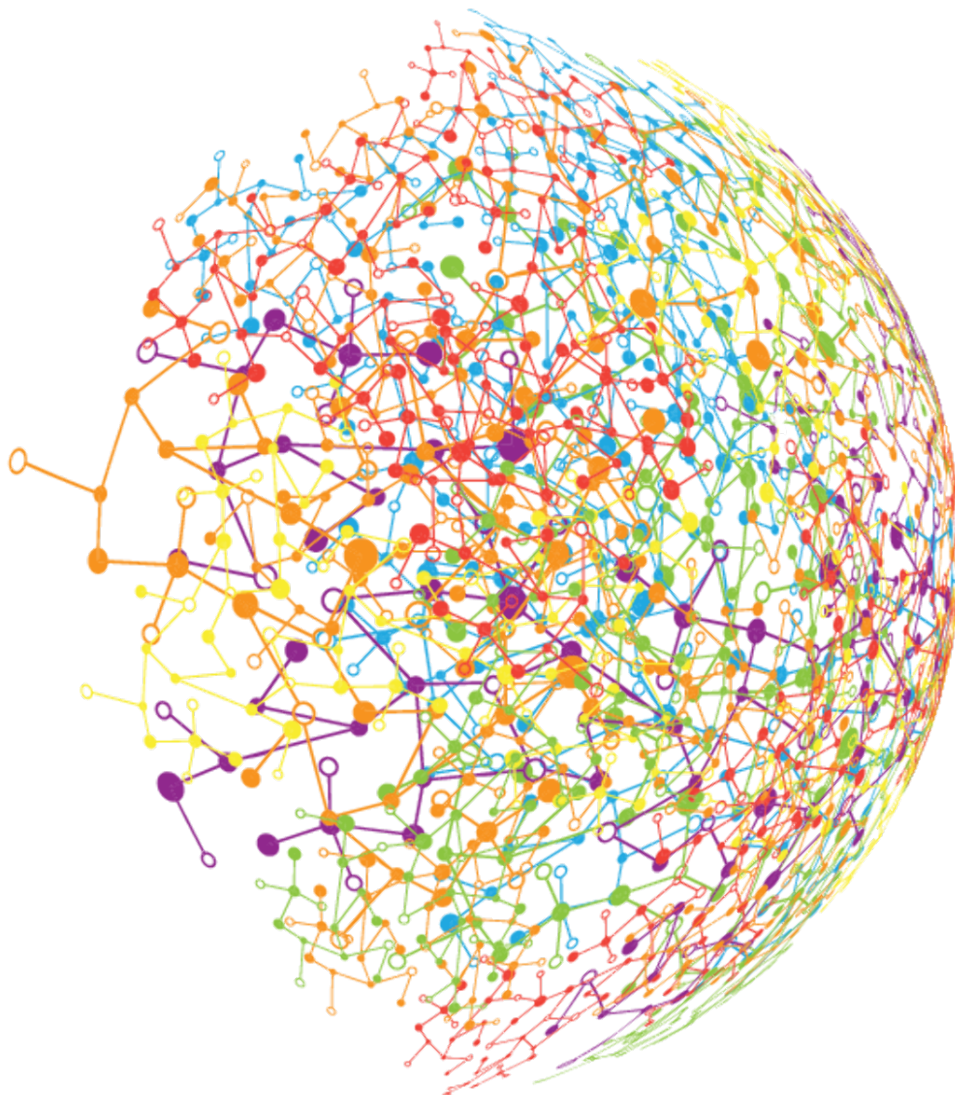


Studio Tributario e Societario



Covid-19 | Tax Alert | N. VIII

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Deloitte.

Tax and Statutory Law

Tax payments of "ISA - indici sintetici di affidabilità fiscale" (Tax reliability index) subjects

(art. 98-bis, Law no. 126, October 13, 2020)

The Conversion Law has introduced a new postponement for the tax payments due by the taxpayers subject to "ISA", foreseeing that the income taxes and VAT payments due by June 30, 2020 (postponed by the June 27, 2020, Ministry Decree, to July 20, 2020, or to August 20, 2020, by applying an increase of 0,4%) can be made by October 30, 2020, increasing the payment of a 0.8%. The provision is applied under the condition that a 33% turnover reduction has occurred in the first six months of the year 2020 respect to the same period of the previous fiscal year. The postponement is applied also in case exclusion reasons from ISA parameters apply, in case of certain forfeiting regime taxpayers and to partners of certain partnerships.

Assets and participations step-up

(art. 110, Law no. 126, October 13, 2020)

As known, the Law Decree (no. 104/2020) has introduced a new opportunity to step up the value of the assets and participation owned, in controlled and associated companies, by Italian corporations in the financial

statement as of December 31, 2019.

The step up can be opted (i) for statutory purposes only or (ii) by applying a substitute tax equal to 3% also for tax purposes. The step up has to be opted in the financial statement subsequent to that running as of December 31, 2019. The Conversion Law has clarified that in case of taxpayers having a fiscal year non coincident with the calendar one, the step-up can be executed in the financial statement running as of December 31, 2019, if not approved at the moment of effectiveness of the Conversion Law and under the condition that the assets and participations to be stepped-up are owned in the previous financial statement.

Local Real Estate Tax Exemption

(art. 78, Law no. 126, October 13, 2020)

The Conversion Law has confirmed the Local real Estate Tax 2020 exemption as provided by the Law Decree, however, it has clarified that the first advanced payment of IMU 2020 exemption applies also to the appliances of the real estates included in the cadastral category D/2 (i.e. mainly hotels).

Assets depreciation postponement and tax deduction

(art. 60, no. 126, October 13, 2020)

The Conversion Law has provided that Italian companies not IAS/IFRS adopters (i.e. ITA GAAP subjects) can avoid the full or partial accounting the tangible and intangible assets depreciation in the statutory financial related to the fiscal year running at the date of effectiveness of the Law Decree. The accounting depreciation has to be postponed to the subsequent financial statement and the relevant depreciation period is, as a consequence, extended of one year. The companies applying the postponement have to constrain a not disposable reserve of net equity for an amount equal to the depreciation not accounted (in case the result of the profit and loss does not cover the amount, an additional reserve of net equity can be called for constrain or future retained earnings). Full disclosure of the option, the relevant amount and the economic and financial effects have to be reported in the Explanatory Notes of the statutory financial statement.

For direct tax purposes (IRES and IRAP) the tangible and intangible assets depreciation, computed according to the provision of the fiscal law, can be deducted in the relevant annual tax return (by means of a negative adjustment). The provision may be extended, in accordance with the health emergency evolution, for additional fiscal years by a Decree of the Ministry of Finance.

Incentives

Grant for restaurants

(Art. 58 of Law Decree August 14, 2020, no. 104, converted into law by Law October 13, 2020, no. 126, in force from October 14, 2020)

With the conversion into law, the grant has been extended to new beneficiaries. Therefore, the grant is provided to undertakings with principal ATECO code 56.10.11 (restaurant), 56.10.12 (catering activities linked to agricultural enterprises), 56.21.00 (catering for events, banqueting), 56.29.10 (staff canteen) and 56.29.20 (continuous catering on a contractual basis) and, limited to authorized activities of meal supply, 55.10.00 (hotels). For further details on the grant, please refer to our Tax Alert, no. VII.

Fund for the promotion of fourth range agricultural products

(Art. 58-bis of Law Decree August 14, 2020, no. 104, inserted at the time of conversion by Law October 13, 2020, no. 126, in force from October 14, 2020)

The Conversion Law has set up a fund to promote the commercialization of the fourth range agricultural products. The fund endowment is equal to 20 million euros for 2020 and is intended to stimulate the recovery and the boost of the sector, in addition in order to raise consumer awareness regarding to the quality and food safety levels of these products.

By ministerial decree, to be issued within 30 days from the date of entry into force of this conversion law, the criteria and the access and the allocation methods of the fund will be defined. The access to the fund shall be in compliance with the European rules on State aid.

Grant for economic and commercial activities located in the town centers

(Art. 59 of Law Decree August 14, 2020, no. 104, converted into law by Law October 13, 2020, no. 126, in force from October 14, 2020)

The Conversion Law has substantially confirmed the contents of article 58 of Law Decree August 14, 2020, no. 104 (for details, please refer to our Tax Alert, no. VII).

Refinancing measures

(Art. 60 of Law Decree August 14, 2020, no. 104, converted into law by Law October 13, 2020, no. 126, in force from October 14, 2020)

The Conversion Law confirmed the funds allocated in relation to the “Nuova Sabatini” measure (art. 2 of Law Decree June 21, 2013, no. 69), the development contracts measure (art. 43 of Law Decree June 25, 2008, no. 112), for the safeguarding of employment levels and the continuation of business activities (fund provided by art. 43 of “Rilancio” Law Decree), for purchase of advisory services the “Industry 4.0” (so called, voucher

for the Innovation Manager, provided by article 1, paragraph 228, 2019 budget law), and for the sustainment of companies that participate to the realization of important projects of common European interest (art. 107, para. 3, letter b, of Treaty on the functioning of EU, to endowment of the “IPCEI” Fund) (for details, please refer to our Tax Alert no. VII).

Redefinition of amortization plans for loans received by companies for research and development activities

(Art. 60-bis of Law Decree August 14, 2020, no. 104, inserted at the time of conversion by Law October 13, 2020, no. 126, in force from October 14, 2020)

The Conversion Law introduced the possibility of defining a new amortization plan for loans issued in the form of subsidized credit granted by the Ministry of Education, University and Research from the Research Facilitation Fund (RFF) pursuant to art. 5 of Law Decree July 27, 1999, no. 297. The possibility of redefinition is granted to subjects who are in arrears with respect to the payment of the installments provided in the original amortization plan (or who intend to reschedule the plan) who meet the following requirements:

- have not distributed profits from the year in which the first delay of payment of instalments occurred until the date of the

submission of the request for the redefinition;

- have approved and filed their financial statements from the year in which the first delay of payment of instalments occurred until the date of submission of the request for redefinition;
- have validly concluded the project admitted to the financing, having also successfully passed the assessment of the project itself by the body in charge of carrying out the technical-accounting checks, on the date of entry into force of the law converting this decree.

By decree to be issued within 90 days from the date of conversion of the decree, the implementing procedures for the access to the grant will be established.

Aids to small and micro-sized enterprises

(Art. 62 of Law Decree August 14, 2020, no. 104, converted into law by Law October 13, 2020, no. 126, in force from October 14, 2020)

The Conversion Law has confirmed the content of Article 62 of Law Decree August 14, 2020, n. 104 (for details, please refer to our Tax Alert, no. VII).

Refinancing of the SMEs Guarantee Fund

(Art 64 of Law Decree August 14, 2020, no. 104, converted into law by Law October 13, 2020, no. 126, in force from October 14, 2020)

The Conversion Law confirmed the content of the rule (for details, please refer to our Tax Alert, no.

VII) and introduced the following integrations:

- with reference to the guarantee fund set forth by Article 13, paragraph 1, letter m) of the "Liquidità" Law Decree (simplified procedure for financing up to 30 thousands Euro), extension of the rule to the generality of professionals carrying out activities referred to in section K of the ATECO code;
- the measures set forth by Article 1 of the "Liquidità" Law Decree (bank loans guaranteed by SACE and granted within December 31st, 2020) are also eligible for the measures set forth by Article 186-bis of the Royal Decree dated on March 16, 1942, no. 267, or (ii) have entered into debt restructuring agreements pursuant to Article 182-bis of the above mentioned Royal Decree or (iii) have submitted a plan pursuant to Article 67 of the same Royal Decree, provided that their exposures cannot be classified as impaired at the date of the application submission, they do not have any amounts in arrears and the lender, on the basis of the analysis of the financial situation of the debtor, can reasonably assume full repayment of the exposure at maturity, pursuant to Article 47-bis, paragraph 6, first subparagraph, points a) and c) of Regulation (EU) of the European Parliament and Council, June 26, 2013, no. 575/2013. In any case, companies with exposures classified as non-performing loans within the meaning of the banking regulations in force are excluded.

SMEs loan moratorium extended

(Art 65 of Law Decree August 14, 2020, no. 104, converted into law by Law October 13, 2020, no. 126, in force from October 14, 2020)

The Conversion Law did not substantially change the content of the Article at stake. For details, please refer to our Tax Alert, no. VII.

Urgent measures for tourism

(Art 77 of Law Decree August 14, 2020, no. 104, converted into law by Law October 13, 2020, no. 126, in force from October 14, 2020)

The Conversion Law has confirmed the content of the rule (for details, please refer to our Tax Alert, no. VII) and has provided the following integrations:

- for tourist accommodation facilities the tax credit set forth by Article 28 of the "Rilancio" Law Decree related to the business going-concern rent is increased to 50%. In addition, whereby two separate contracts are executed in relation to the same tourist accommodation facility, one related to the rental of the property and one related to the business going-concern rental, the tax credit is granted for both contracts. The tax credit, for tourist accommodation companies, is allowed until December 31, 2020;
- It is also provided that, with regard to the credit set forth by Article 176 of the "Rilancio" Law Decree (vacation tax credit for households with ISEE not exceeding 40,000 euros), the

payment of the service can also be paid with the help, intervention or intermediation of subjects who operate through electronic platforms or portals, as well as travel agencies and tour operators.

New tax incentives for the tourism and thermal sector

(Art 79 of Law Decree August 14, 2020 no. 104, converted into law by Law October 13, 2020, no. 126, in force from October 14, 2020)

The Conversion Law did not substantially change the content of the Article at stake. For details, please refer to our Tax Alert, no. VII.

Tax credit for advertising investments in professional sports leagues and clubs and amateur sports clubs and associations

(Art 81 of Law Decree August 14, 2020 no. 104, converted into law by Law October 13, 2020, no. 126, in force from October 14, 2020)

For 2020, a tax credit is granted to companies, self-employed workers and non-commercial entities investing in advertising, including sponsorships, in leagues organizing national team championship in Olympic disciplines, or professional and amateur sports clubs and associations registered with the CONI register operating in disciplines admitted to the Olympic Games (and Paralympics, as integrated by the Conversion Law) and carrying out youth sports activities.

The above mentioned leagues, clubs and sports associations must realize revenues, relating to the 2019 tax period (and in any case produced in Italy), at least equal to 150,000 Euros (the Conversion Law has reduced the minimum limit from 200,000 euros to 150,000 euros) and up to a maximum of 15 million euros.

Such tax credit is computed as 50% of investments made from July 1, 2020, to December 31, 2020, up to an overall expenditure amount of 90 million Euros.

The tax credit falls under the *de minimis* framework.

Internationalization of exhibition entities and innovative "start-up"

(Art 91 of Law Decree August 14, 2020 no. 104, converted into law by Law October 13, 2020, no. 126, in force from October 14, 2020)

The Conversion Law did not substantially change the content of the Article at stake. For details, please refer to our Tax Alert, no. VII.

Tax credit for advertising investments

(Art 96 of Law Decree August 14, 2020 no. 104, converted into law by Law October 13, 2020, no. 126, in force from October 14, 2020)

The Conversion Law did not substantially change the content of the Article at stake. For details, please refer to our Tax Alert, no. VII.

Tax credit for costs of sanitization and purchase

of PPE

(Art 31, paragraphs 4-ter and 4-quinquies, inserted at the time of conversion by Law October 13, 2020, no. 126, in force from October 14, 2020)

The Conversion Law introduced two new paragraphs to article 31 of the Law Decree August. In particular, it has been approved the increase of 403 million euros for 2020 of the resources allocated to the tax credit for the sanitation and the purchase of personal protective equipment (PPE), set forth by Article 125 of the "Rilancio" Law Decree (for a total available resources of 603 million euros for 2020, given the 200 million Euros originally provided). The aforementioned additional resources have been already distributed among the subjects identified in application of the provision of the Revenue Agency Director according to Article 125, paragraph 4, of the "Rilancio" Law Decree, according to the criteria and methods provided for therein.



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