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Italie – LAW - DECREE “CURA ITALIA” (D.L. n. 18 of 17 March 2020)

The new law decree "Cura Italia" of 17 March 2020, published on 18 March 2020 in the official bulletin (Gazzetta Ufficiale), provides for various measures to support employees and companies affected by the Covid-19 pandemic. Below are the main measures implemented by the Decree.

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1. MEASURES TO SUPPORT EMPLOYMENT

ENTERPRISES

- **« CASSA INTEGRAZIONE ORDINARIA » Ordinary Technical Unemployment Fund for temporary lay-off ("CIGO") (ART. 19)**

The CIGO ("Cassa Integrazione Ordinaria") is one of the main social shock absorbers provided for by the Italian system. It consists in the payment by the INPS (Italian Social Security Body) of reduced wages to the employees who are redundant and whose employer has had to reduce or interrupt their work activity for temporary reasons beyond the control of the employer and the employees.

The CIGO can be ordinarily requested by the enterprises indicated in art. 10 D.lgs. 148/2015 (industrial enterprises, production and distribution of energy, water and gas, construction etc.).

More specifically under CIGO, INPS shall pay to the employees 80% of their total remuneration, with a cap, which is currently set by the INPS circular 10 February 2020, in a monthly sum of: € 998,18 gross (€ 939,89 net) for employees with a salary below € 2.159,48; or € 1.199,72 gross (€ 1.129,66 net) for employees with a salary exceeding € 2.159,48.


It shall be noted as well that the INPS has a total cap of expenditure for CIGO of € 1,347.2 million.

Law-Decree Cura Italia confirms the enterprises mentioned in art. 10 D.lgs. 148/2015 can benefit from the CIGO due to the emergency Covid-19 without further justifications with simplified formalities and no consultation of the Unions, for a period of 9 weeks (until August 2020 at the latest).

The employees to be placed under CIGO shall be employed at least since February 23, 2020 (by way of derogation from the 90 days seniority ordinarily required).

- **WAGE ALLOWANCE (ART. 21)**

It is a wage subsidy allowance paid, in the event of suspension or reduction of work, to employees of enterprises enrolled in the Solidarity Fund (Fondo di solidarietà di settore and Fondo di integrazione salariale - FIS).



The Solidarity Fund (governed by Articles 26 et seq. of Legislative Decree No 148 of 14 September 2015) provide instruments of income support in the event of suspension or termination of employment of employees belonging to sectors not covered by the legislation on technical unemployment (CIG or CIGS).

In order to ensure easier access to the service and to facilitate maximum use, a simplified framework has been introduced, partially derogating from the provisions of Legislative Decree No 148/2015. In particular:

- the payment of the additional contribution is not due;
- the company's contribution cap is not taken into account;
- the following limits are not taken into account: (i) limit of 52 weeks in the two-year rolling period or 26 weeks in the two-year rolling period for the Supplementary Wage Fund (SIF); (ii) limit of 24 months in the five-year rolling period; (iii) limit of 1/3 of the hours worked;
- periods already authorized are neutralized in the event of subsequent claims;
- It is not necessary for workers to comply with the requirement of 90 days of actual work, it is sufficient that they are employed by the applicant company on 23 February 2020.

The deadline for submitting applications shall be the end of the fourth month following the month in which the period of suspension or reduction of work began, like the CIGO the benefit can be granted for a maximum period of 9 weeks (until August 2020).

The amount of the subsidy allowance is the same provided for the CIGO, with the same caps, within the limit of expenditure by INPS of € 1,347.2 million.

- **« CASSA INTEGRAZIONE IN DEROGA » - Exceptional Technical Unemployment Fund for temporary lay-off (CIGD) (art. 20, 21, 22)**

By way of derogation from the general rule, **with the “Cassa integrazione in deroga” the Law-Decree Cura Italia extends the same benefits of CIGO to all employers (including companies with less than 5 employees) who interrupt or reduce activities as a result of the epidemiological emergency** (not already benefiting from the subsidy allowances of FIS).

The CIGD is granted by decree issued by the relevant Regions and Autonomous Provinces, which shall be transmitted to INPS within 48 hours of the adoption of the decree. Applications must be submitted to the Regions and provinces concerned and will be processed in chronological order of submission (**art. 22**).

EMPLOYEES

- **ASSIMILATION OF QUARANTINE AND PERMANENT RESIDENCE TO DISEASE (ART. 26)**

The period of quarantine with active surveillance or permanent residence with active surveillance is assimilated to sick leave for employees in the private sector (for the public sector such a measure was already provided for by the law decree of 9 March 2020).



- **LEAVES AND ALLOWANCES FOR PARENTS (ART. 23, ART. 24)**

In order to **support working parents**, following the suspension of school services, provision is made for the possibility of taking an additional 15 days' parental leave in the event that the children are aged 12 or under, or in a situation of demonstrated severe disability. An allowance equal to 50 % of salary will then be paid.

Alternatively, a bonus is granted for the purchase of babysitting services up to a maximum of 600 euros, increased to 1,000 euros for National Health Service staff and law enforcement officers. The bonus will be paid through the family record book, in accordance with article 54 bis of Law No. 50 of 24 April 2017.

- **EXTENSION OF PAID LEAVE (ART. 24)**

The number of days of paid monthly leave covered by the contributions paid, according to article 33, paragraph 3, of Law 5 February 1992, n. 104, in case of severe disability, is increased by a further twelve days;

- **SUSPENSION OF APPEAL PROCEDURES AGAINST DISMISSALS (ART. 46)**

All appeal procedures against dismissals (collective and for justified objective reasons) initiated after 23 February 2020 are suspended for 60 days.

2. MEASURES CONCERNING TAXES

- **TAX CREDIT FOR STORES AND STORES (ART. 65)**

For year 2020, those engaged in commercial activities benefit from a tax credit equivalent to 60% of the amount of the rent for the month of March 2020 for buildings belonging to cadastral category C/1.

- **SUSPENSION OF THE PAYMENT OF WITHHOLDING TAXES, SOCIAL SECURITY CHARGES AND COMPULSORY INSURANCE PREMIUMS FOR THE SECTORS MOST AFFECTED (ART. 61)**

The payment of withholding taxes, social security contributions and compulsory insurance premiums for the months of March and April, as well as the payment of VAT for the month of March, are suspended, without limitation linked to turnover, for the sectors most affected.

The sectors affected are: tourism and hotelery, spa, transport, catering, culture (cinema, theatres), sport, education, amusement parks, events (trade fairs and conferences), gaming halls and betting centers. To date, this benefit has not been extended to shops, but trade associations are discussing how to extend its application to stores.



- **SUSPENSION OF PAYMENT OF TAXES AND SOCIAL SECURITY CONTRIBUTIONS (ART. 62)**

The payment of taxes and social security contributions (VAT payments, deductions, and contributions for the month of March) by taxpayers whose turnover does not exceed 2 million euros is suspended.

- **EXTENSION OF DEADLINE FOR PAYMENTS TO THE PUBLIC ADMINISTRATION (ART. 60)**

For economic operators, the payment of sums due to the public administration, including taxes, social security charges and compulsory insurance premiums, due since 16 March is postponed until 20 March.

- **SUSPENSION OF THE ACTIVITY OF THE TAX ADMINISTRATION (ART. 67)**

Suspension until 31 May 2020 of clearance, control, verification, recovery and litigation activities by the Tax Agency.

- **SUSPENSION OF DEADLINES FOR THE COLLECTION OF TAX RETURNS (ART. 68)**

The deadlines for the collection of tax collection files, for balancing and withdrawal and for scrapping, sending new files and executory acts are suspended until 31 May 2020.

- **BONUSES FOR EMPLOYEES (ART. 63)**

Workers whose gross annual income does not exceed 40,000 euros and who do not telework but visit their place of work will receive a tax-free bonus of 100 euros in March; the bonus will be paid by the employer in lieu of tax (its amount will be deducted from the payment of taxes).

- **THE WORK PLACE HEALTH AND SAFETY TAX CREDIT (ART. 64)**

For enterprises, incentives are provided for sanitation interventions and for increasing safety at work, through the granting of a tax credit, as well as contributions through the creation of an INAIL fund; in particular: granting of a tax credit up to 50% of the costs of sanitation of working environments and of tools up to a maximum of 20,000 euros.

3. SUPPORT MEASURES FOR THE LIQUIDITY OF COMPANIES

In order to support companies' cash flow due to the lack of liquidity, numerous interventions have been planned, in particular through collaboration with the banking system.

- **FINANCIAL SUPPORT MEASURES FOR MICRO, SMALL AND MEDIUM-SIZED COMPANIES AFFECTED BY THE COVID-19 EPIDEMIC (ART. 56)**

Moratorium on loans and financing for micro, small and medium-sized companies (mortgages, leasing, credit facilities and short-term loans).



- **CENTRAL GUARANTEE FUND FOR SMALL AND MEDIUM-SIZED COMPANIES (ART. 49)**

Reinforcement of the Central Guarantee Fund for small and medium-sized companies, including the renegotiation of existing loans. The amendments are as follows: **(i)** free guarantee by the fund, with the suspension of the obligation to pay the fees for access to the fund; **(ii)** eligibility for guarantee of debt rescheduling operations, to meet the immediate liquidity needs of companies considered reliable by the banking system; **(iii)** automatic extension of the guarantee in the event of a moratorium or suspension of financing linked to the emergence of the coronavirus; **(iv)** provisioning for operations up to 100,000 euros of the evaluation procedures for access to the fund for economic and financial reasons, in order to make the guarantee available to enterprises in financial difficulty as a result of the crisis linked to the epidemic; **(v)** suspension of the commission for failure to perform all operations not carried out; **(vi)** possibility of combining the fund's guarantee with other forms of guarantee acquired for operations of significant amount and duration in the hotel tourism and real estate sectors; **(vii)** possibility of increasing the junior tranche guaranteed by the Fund for portfolios aimed at the enterprises/sectors/industries most affected by the epidemic; **(viii)** possibility of setting up special sections of the Fund to support access to credit for certain specific sectors or business sectors, on the initiative of the administrations of the sector in collaboration with other associations and reference organizations; **(ix)** suspension of the Fund's operational deadlines; **(x)** extension of the limit for granting a guarantee by 2.5 million to 5 million in financing; **(xi)** extension to private entities of the possibility of contributing to increasing the fund's resources (currently granted to banks, regions and other public organizations and bodies, with the intervention of the Cassa depositi e Prestiti and of Sace); **(xii)** facilitation of the granting of guarantees for financing to the self-employed, freelancers and individual entrepreneurs; **(xiii)** extension of the use of the Fund's resources.

- **GUARANTEE MEASURES FOR THE CONFIDI (ART. 51)**

Reinforcement of Confidi for micro-enterprises through simplification measures.

- **FIR (ART. 50)**


Possibility of granting shareholders and bondholders adversely affected by banks an advance of 40% of the amount of compensation due, from the Investor Compensation Fund (FIR).

- **SUPPORT FOR THE LIQUIDITY OF COMPANIES AFFECTED BY THE EPIDEMIOLOGICAL EMERGENCY VIA GUARANTEE MECHANISMS (ART. 57)**

Introduction of a counter-guarantee mechanism for banks, by the Cassa Depositi e Prestiti, to extend credit expansion to companies affected by the crisis.

- **FINANCIAL SUPPORT MEASURES FOR COMPANIES (ART. 55)**

Facilitation of the disposal of impaired loans (NPL) by converting deferred tax activities (DTA) into tax



credits for financial and industrial companies.

In particular, companies are entitled to convert pecuniary credits into tax credits if:

- the credits are assigned before 31 December 2020;
- 90 days have elapsed since the deadline for the payment of the assigned credit expired;
- the aggregate amount of the assignments does not exceed a maximum of two billion euros.

This measure could be very useful to "offset" debts with the tax authorities by assigning receivables that are difficult to collect.

▪ **CONDITIONS FOR SUSPENSION OF THE REIMBURSEMENT FUND LAW 394/81 (ART. 58)**

Companies that have obtained funding for "internationalization" projects are entitled to request the suspension for up to twelve months of the payment of the principal and interest on instalments falling due in 2020, with a consequent shift in the amortization plan for a corresponding period.

▪ **INCREASE OF ADVANCES FROM THE DEVELOPMENT AND COHESION FUND (ART. 97)**

Within the framework of the Operational Plans of the Central Administrations and the Development Pacts, with the possibility of requesting 20% of the resources allocated to the different initiatives, if they have an approved or definitively approved executive project in case of joint design and execution of the works.

4. OTHER RELEVANT MEASURES

▪ **PROVISIONS REGARDING THE SHAREHOLDERS' MEETINGS (ART. 106)**

Art. 106 of the Decree "Cura Italia" provides certain simplifications with respect to the meetings of the shareholders and the next deadlines for the approval of the annual balance sheet, in particular:

- The shareholders' meetings can be validly held even if all the attendants, including the Chairman and the Secretary (and the Public Notary in case of extraordinary meetings), participate by telecommunication means that allow the identification and the participation (right of intervention, voting right....).
 - The provision is mandatory and applies even in case the Articles of Association: (i) do not allow to hold the shareholders' meeting by telecommunication means, or (ii) require for the validity of the shareholders' meeting held by conference call or videoconference that the chairman and the secretary are in the same physical place;
- by way of derogation from articles 2364, para. 2, and 2478-bis of the Civil Code or the Articles of Association, the shareholders' meeting for the approval of the financial statements can be validly convened within 180 days from the closing date of the financial year, instead of within the ordinary deadline of 120 days;

- by way of derogation from article 2479, co. 4 of the Civil Code, the quotaholders of limited liability companies (SRL) can validly take decisions by written consultation or written consent in writing even if otherwise provided by the Article of Associations;
- companies, whose shares are listed on a regulated market, can appoint a Designated Representative (pursuant to art. 135-undecies of the Legislative Decree n. 58/1998) to whom the shareholders can grant a proxy with voting instructions on all or some of the items on the agenda, even if otherwise provided by the Articles of Association. The companies with shares listed on regulated markets can also provide in the notice of call that shareholders can only attend the shareholders' meeting through the mentioned Designated Representative, thereby further strengthening the measures to prevent the risk of contamination;
- by way of derogation from art. 135-undecies of Legislative Decree 58/1998, proxies granted to the Designated Representative can be issued also in the form of *simple proxy* pursuant to art. 135-novies of Legislative Decree 58/1998.

■ **MEASURES FOR THE INTERNATIONALISATION OF THE COUNTRY (ART. 72)**

The Ministry of Foreign Affairs and International Cooperation has set up a fund for integrated promotion to support the internationalization of the country's entrepreneurship.

5. INCENTIVE FOR SMART WORKING IMPLEMENTED BY THE LOMBARDY REGION

In addition to the above, though it is not included in the Law-Decree Cura Italia, it is worth mentioning that the Region of Lombardy has issued a public notice/tender aimed at promoting smart working and working from home, an organizational model that allows greater flexibility in terms of working place and time in Lombard companies. Moreover, the adoption of smart working increases productivity and the well-being of employees.

The Notice is addressed to employers who meet the requirements determined by the Notice and in particular, employers must be registered with the Chamber of Commerce or have a VAT number, with at least 3 employees and is aimed at supporting two types of actions:

- a. Action A: consultancy and training services aimed at the adoption of a smart working plan with relative company agreement or company regulations approved and advertised on the company notice board and intranet
- b. Action B: purchase of "technological tools" for the implementation of the smart working plan.

The initiative - for which 4.5 million euros will be allocated - is financed through the resources of the European Social Fund. Applications may be submitted from April 2, 2020 until December 15, 2021.

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