

WHAT'S IN THE NEW «AUGUST DECREE»

DL 14.08.2020 N.104



1. INTRODUCTION:

On the insert n. 30 of the "Gazzetta Ufficiale" of 14.8.2020 n. 203, it has been released the Decree Law 14.8.2020 n. 104 (the so-called "August decree"), containing urgent measures to support and restart the economy. The decree, which consists of 115 articles, entered into force on 15.08.2020 and must be converted into law by 13.10.2020.

2. SUMMARY OF THE MAIN INNOVATIONS:

- Allowances for self-employed enrolled in private pension funds for the month of May 2020 ([art. 13](#))
- Blocking of layoffs ([art. 14](#))
- Increase in funds for the baby-sitting bonus ([art. 21](#))
- Extension of the Emergency Income ([art. 23](#))
- Non-repayable subsidy for the catering supply chain ([art. 58](#))
- Non-repayable subsidy for those who sell goods and services in historic tourist centres ([art. 59](#))
- Refinancing of measures to support businesses ([art. 60](#))
- State aid against COVID for micro and small enterprises - Derogation of EU rules on businesses in difficulty ([art. 62](#))
- 110% Super bonus - Quorum for meeting's resolutions ([art.63](#))
- Central SME Guarantee Fund - Non-commercial entities ([art. 64 par. 3](#))
- Moratorium extension for SMEs ([art. 65](#))
- Simplified procedures for company meetings ([art. 71](#))
- Refunds for electronic payments by private individuals (so-called "cashback") - Refinancing ([art. 73](#))
- Tax credit for property leases for non-residential use - Changes ([art. 77 par. 1 lett. a\) e b\)](#))
- Urgent measures for the tourism sector ([art. 77 par. 2](#))
- Abolition of the second IMU installment for the year 2020 for hotels, bathing establishments, other properties in the tourism, fairs, cinemas and theatres sector ([art. 78](#))
- Tax credit for hotel renovation - Reintroduction for 2020 and 2021 ([art. 79](#))
- 110% Super bonus - Properties excluded ([art.80 par.6](#))
- Tax credit for advertising investments in favour of professional sports leagues and clubs and amateur sports clubs and associations ([art. 81](#))
- Tax credit for advertising investments - Increase in the maximum expenditure limit ([art. 96 par.1](#))
- Possibility to pay by further installments suspended payments and withholding taxes not made ([art. 97](#))
- Extension for the payment of the second advance on IRPEF / IRES and IRAP for ISA subjects ([art. 98](#))
- Suspension of the terms for payment collection ([art. 99](#))
- IMU rates - Increase to replace the TASI surcharge ([art. 108](#))
- New revaluation of business assets ([art. 110](#))
- Fringe benefits to employees - Increase in the tax exclusion limit ([art. 112](#))

INDEMNITY FOR SELF-EMPLOYED ENROLLED IN PRIVATE PENSION FUNDS FOR THE MONTH OF MAY 2020 (art. 13)

In order to fully implement art. 78 of Decree-Law 34/2020, a benefit of € 1,000.00 for the month of May 2020 is recognized to professionals enrolled in private funds for social services.

For the purposes of implementing the provision, unless otherwise provided, the Ministerial Decree of 29.5.2020 is applied, which had defined the conditions for access to the same allowance for the month of April 2020.

PROFESSIONALS ALREADY BENEFITING FROM THE APRIL ALLOWANCE

The subjects already benefiting from the April indemnity (defined with DM 29.05.2020) will automatically receive the May allowance.

PROFESSIONALS WHO DID NOT BENEFIT FROM THE APRIL ALLOWANCE

For those who did not benefit from the April allowance, the indemnity for the month of May will be recognized:

- based on the same conditions defined by the Ministerial Decree of 29.5.2020, with updating of the deadline for the suspension of the activity, which is extended from 30.4.2020 to 31.5.2020;
- upon presentation to the social security institution of a specific application, no later than the thirtieth day following the entry into force of the decree (i.e. by 14.9.2020).

BLOCKING OF DISMISSALS (art. 14)

In relation to the provision of an additional 18 weeks of layoffs for COVID-19, the prohibition of dismissal for economic reasons initially introduced by art. 46 of Law Decree 18/2020 (conv. L. 27/2020), started on 17.3.2020. In fact, the law provides that for employers who have not fully benefited from the layoff referred to in art. 1 of this decree or from the exemption from the payment of contributions pursuant to art. 3 will be precluded:

- the launch of collective dismissal procedures pursuant to ex art. 4, 5 and 24 of Law 223/91 and those pending which were started after 23.2.2020 remain suspended;
- regardless of the number of employees, the withdrawal from the contract for a justified objective reason pursuant to art. 3 of Law 604/66 and the related procedures already initiated pursuant to art. 7 of the same law.

The employer who, regardless of the number of employees, in the year 2020 has terminated the employment contract for a justified objective reason may, even after the term of 15 days from the appeal of the dismissal provided for by art. 18 paragraph 10 of Law 300/70, revoke the termination of the employer, provided that it makes a simultaneous request for the fruition of the layoff referred to in Law Decree 18/2020, converted into Law 27/2020, starting from the date on which the dismissal takes effect.

EXCEPTIONS

The prohibition of dismissal for economic reasons does not apply:

- for dismissals motivated by the definitive suspension of the business activity, consequent to the liquidation of the company without continuation, even partial, of the business, provided that a transfer of the company or of a branch thereof is not configurable pursuant to art. 2112 of the Italian Civil Code;

- in the hypothesis of a company collective agreement, stipulated by the comparatively most representative trade unions at national level, which provides for an incentive to leave for those workers who are willing to accept the termination of the employment, without this entailing the loss of the NASpl (monthly unemployment indemnity);
- for dismissals inflicted in the event of bankruptcy, when the temporary exercise of the business is not foreseen or its termination is ordered.

Finally, the dismissals provided for by a collective company agreement, stipulated by the comparatively most representative trade unions at the national level and which provides for an incentive to leave for those workers who are willing to accept the termination of the employment are allowed, without this entailing the loss of the NASpl.

INCREASE IN FUNDS FOR THE BABY-SITTING BONUS (art. 21)

The allocation envisaged by art. 25 par. 5 of Law Decree 18/2020 (converted into Law 27/2020) to finance the baby sitting bonus has been increased from 67.6 million to 236.6 million euros.

EXTENSION OF THE EMERGENCY INCOME (art. 23)

The Emergency income (REM) is recognized, for a single share equal to the amount referred to in par. 5 of art. 82, to families in cumulative possession of the following requirements:

- a value of family income, in May 2020, below a threshold equal to the amount referred to in art. 82 par. 5;
- the absence, in the family unit, of members who receive or have received one of the allowances referred to in articles 10 and 11 of the Decree Law 104/2020;
- if the possession of the requirements referred to in par. 2, lett. a), c) and d), 2-bis and 3 of art. 82 of Decree Law 34/2020;

MEASURE AND APPLICATION

Normally, the benefit is disbursed in two installments by INPS (National Institute for Social Security), each determined in a minimum amount of € 400.00, to be multiplied by the corresponding parameter of the equivalence scale provided for the determination of the Citizenship Income (Article 82 par. 5 of the converted DL 34/2020). In particular, the parameter of the equivalence scale is equal to 1 for the first member of the family unit and is increased by:

- 0.4 for each additional member of the family over the age of 18;
- 0.2 for each additional minor component.

The maximum value of the equivalence scale established for the emergency income is equal to:

- 2 for a corresponding maximum amount of € 800.00;
- 2.1 in the event that the family is formed by members in conditions of serious disability or non-self-sufficiency as defined for ISEE purposes, for a maximum amount of 840.00 euros.

The application for the REM must be submitted to INPS by 15.10.2020.



NON-REPAYABLE SUBSIDY FOR THE CATERING SUPPLY CHAIN (art.58)

A non-repayable subsidy is envisaged for businesses operating until 15.8.2020 (date of entry into force of this DL) with the prevailing ATECO code 56.10.11 (fast-food, restaurants, pubs...), 56.29.10 and 56.29.20 (canteens and continuous catering on a contractual basis).

The contribution is relevant for the purchase of products, including wine, agricultural and food supply chains, including D.O.P. and I.G.P., enhancing the raw material of the territory.

DECREASE IN REVENUE

The contribution is granted provided that the amount of the revenue and the average income for the months from March to June 2020 is less than 3/4 of the amount of the revenue and the average income for the months from March to June 2019.

PROCEDURES FOR THE ASSIGNMENT OF THE SUBSIDY

In order to obtain the grant, the interested parties must submit an application, according to the procedures that will be established with a specific DM.

The subsidy is paid by paying an advance of 90% when the application is accepted, upon presentation of the tax documents certifying the purchases made, even without the actual receipt, as well as a self-certification declaring the existence of the requirements needed and the non-existence of the impeding conditions referred to in art. 67 of the Legislative Decree n. 159/2011.

The remaining 10% of the subsidy will be paid following the presentation of the payment receipt, which must be made in a traceable manner.

The disbursement of the contribution is carried out in compliance with the limits set by the European legislation on *de minimis* aid.

FISCAL IRRELEVANCE

The contribution will not be considered as taxable amount for income tax purposes and for the net production value for IRAP purposes.

NON-REPAYABLE SUBSIDY FOR THOSE WHO SELL GOODS AND SERVICES IN HISTORIC TOURIST CENTERS (art.59)

A new non-repayable grant is recognized to subjects carrying out business activities for the sale of goods or services to the public carried out in zones "A" or equivalent of the provincial or metropolitan capital municipalities, who have registered the presence of tourists residing in foreign countries:

- for provincial capital municipalities, at least three times higher than the number of residents in the same municipalities;
- for capital municipalities of metropolitan cities, in a number equal to or greater than that of residents in the same municipalities.

DECREASE IN REVENUE

The subsidy is also due on condition that the amount of revenue and income referring to the month of June 2020 of the aforementioned financial years in the "A" zones of the aforementioned Municipalities is less than 2/3 of the amount of revenue and income made in the corresponding month of 2019.

DETERMINATION OF THE CONTRIBUTION

The amount of the contribution is determined by applying a different percentage to the difference between:

- the amount of income referring to the month of June 2020;
- the amount of income for the corresponding month of 2019.

The percentage varies according to the income range in which the subject is located in the 2019 tax period.

In particular, the contribution is due in the following measures:

- 15% for individuals with revenues or income not exceeding 400,000 euros;
- 10% for individuals with revenues or income exceeding € 400,000 and up to € 1 million;
- 5% for individuals with revenues or income exceeding 1 million euros.

However, the non-repayable subsidy is granted to subjects who meet the needed requirements, to an extent not less than:

- € 1,000 euro for individuals;
- € 2,000 for individuals other than natural persons.

These minimum amounts are also granted to subjects who started the activity from 1.7.2019 in zones "A" of the aforementioned Municipalities.

The amount of the non-repayable grant cannot exceed € 150,000.00.

REFERENCE TO THE PROVISIONS OF THE SUBSIDY PURSUANT TO ART. 25 OF LAW DECREE 34/2020

Insofar as they are compatible, please refer to the provisions of art. 25 par. 7 - 14 of Law Decree 34/2020 converted into Law.

In order to request this contribution it will therefore be necessary to submit a specific electronic application to the Italian Tax Authority.

PROHIBITION OF CUMULATION

This contribution cannot be combined with the contribution for catering companies pursuant to art. 58 of the "August DL".

REFINANCING OF MEASURES TO SUPPORT BUSINESSES (art. 60)

New resources are allocated for access to the following measures to support businesses:

- subsidized rate loans for investments made by SMEs (so-called "Nuova Sabatini" - art. 2 of Law Decree no. 69 of 21.6.2013), for which 64 million euros have been allocated for 2020;
- financing for development contracts to support large-scale productive investment programs (art. 43 of Decree Law no. 112 of 25.6.2008), for which 500 million euros have been allocated for 2020;

- interventions supported by the fund established by art. 43 of Law Decree n. 34/2020, for the rescue and restructuring of companies holding historical brands of national interest, of Spa with a number of employees of no less than 250, which are in a state of economic and financial difficulty, or of companies that, regardless of the number of employees, hold assets and relationships of strategic importance for the national interest, whose endowment has increased to 300 million euros for 2020;

- contributions in the form of vouchers in favour of SMEs for the acquisition of specialist advice on technological and digital transformation processes, as well as on the modernization of the management and organizational structures of the company, including access to financial and capital markets (art. 1 par. 228 and 230-231 of Law 145/2018), for which 50 million euros have been allocated for 2021;
- benefits for the promotion of the birth and development of cooperatives pursuant to Ministerial Decree 4.12.2014, for which the resources of the Fund for sustainable growth pursuant to art. 23 of Law Decree 22.6.2012 n. 83 are increased by 10 million euros for 2020;
- aid to companies participating in the implementation of projects of common European interest (Art. 107 § 3 letter b) of the EU Treaty 7.6.2016), for which the IPCEI fund has increased by 950 million euros for 2021, pursuant to art. 1 par. 232 of Law 12.27.2019 n. 160.

STATE AID AGAINST COVID FOR MICRO AND SMALL BUSINESSES - DEROGATION OF EU RULES (art. 62)

Notwithstanding art. 61 par. 1 of DL 34/2020, conv. L. 77/2020, the aid referred to in articles 54 - 60 of DL 34/2020 conv. L. 77/2020, may

be granted to micro and small enterprises, pursuant to Annex I of EU reg. 651/2014, which were in difficulty, based on the aforementioned regulation, already by 31.12.2019, provided that:

- are not subject to insolvency proceedings; or,
- have not received aid for the rescue, unless at the time of the granting of the business aid it has repaid the loan or revoked the guarantee; or,
- have not received aid for the restructuring, unless at the time of the concession of the aid they are no longer subject to the restructuring plan.

110% SUPER BONUS - QUORUM FOR CONDOMINIUM RESOLUTIONS (art.63)

The new paragraph 9 is inserted in the art. 119 of Law Decree 34/2020 which defines the quorum necessary for condominium meeting's resolutions concerning the approval of the interventions that give the possibility to benefit from the 110% super bonus. More specifically, the resolutions of the condominium assembly are valid if approved with a number of votes that represents the majority of those present and at least one third of the value of the building.

CENTRAL SME GUARANTEE FUND - NON-COMMERCIAL ENTITIES (art. 64 par. 3)

With an amendment to art. 13 par. 12-bis of Law Decree 23/2020, the accessibility to the Central Guarantee Fund for SMEs is extended to all non-commercial entities, including third sector entities and civilly recognized religious entities, regardless of the methods of carrying out the activities.

The previous rule instead limited access to the aforementioned fund under two profiles:

- on the one hand, mentioning only the third sector entities, including civilly recognized religious entities; a circumstance that led to the exclusion from the measure of those non-commercial entities, other than ONLUS, ODV and APS, which are not registered in specific registers, but carry out activities of general interest (such as foundations that do not qualify as ONLUS);
- on the other hand, by requesting the exercise of business or commercial activities, even on a non-exclusive or prevalent basis or aimed at self-financing.

MORATORIUM EXTENSION FOR SMES (art. 65)

The terms of suspension are extended to 31.1.2021:

- provided for in art. 56 par. 2 lett. a), b) and c), par. 6 lett. a) and c) and par. 8 of Law Decree 18/2020 converted into Law n. 271/2020, which gives financial support measures to micro, small and medium-sized enterprises;
- provided for in art. 37-bis par. 1 of DL 23/2020 converted into Law 40/2020, on non-performing reports to the Central Credit Register and credit information systems for companies benefiting from the measures referred to in art. 56 par. 2 DL 18/2020.

Furthermore, it is established that:

- the extension of the moratorium is applied automatically and without any formalities for companies already admitted to the support measures, as per art. 56 par. 2 of Law Decree 18/2020 converted into Law 27/2020, to 15.8.2020 (date of entry into force of Law Decree 104/2020);

- the extension is not applied in the event of express renounce by the beneficiary company, which must reach the lender by 30.9.2020;
- companies that, at 15.8.2020 (date of entry into force of Law Decree 104/2020), present information that have not yet been admitted to the financial support measures referred to in par. 2 of art. 56, may be admitted by 31.12.2020, according to the conditions and procedures set out in art. 56;
- towards companies that have had access to the support measures pursuant to art. 56 par. 2 of Law Decree 18/2020, converted into Law 27/2020 - amended and supplemented pursuant to this provision - the term of 18 months for the start of the executive procedures, pursuant to art. 56 par. 8, starts from the end of the support measures referred to in par. 2, as amended by this provision.

The art. 65 of Law Decree 104/2020 operates in accordance with the authorization of the European Commission pursuant to art. 108 of the TFEU.

SIMPLIFIED PROCEDURES FOR COMPANY MEETINGS (art. 71)

At the meetings of the Spa, Sapa, Srl, cooperative companies and mutual insurance companies called by 15.10.2020, the provisions of par. 2 - 6 of art. 106 of the converted DL 18/2020 continue to be applied.

CONTENT OF ART. 106 OF THE CONVERTED DL 18/2020

The art. 106 of the converted Law Decree 18/2020 recognized, in brief, the possibility to:

- call the shareholders' meeting to approve the financial statements within 180 days of the end of the financial year, notwithstanding the provisions of art. 2364 par. 2 and 2478-bis of the Italian Civil Code or the various statutory provisions (par. 1);
- express the vote by electronic means or by correspondence and the participation in the meeting by telecommunication systems in Spa, Sapa, Srl, cooperative companies and mutual insurance companies, also notwithstanding the various statutory provisions (par. 2);
- carry out the meetings, even exclusively by means of telecommunication (paragraph 2);
- allow, in the Srl, even in derogation of the provisions of art. 2479 par. 4 of the Italian Civil Code and of the various statutory provisions, that the expression of the vote takes place through written consultation or by express written consent (paragraph 3);

- force, in some companies (for example, **SPA**), the participation in the meeting through the "designated representative"

Pursuant to par. 7 of that article, then, the relative provisions "apply to shareholders' meetings convened by July 31, 2020, it is to say by the date, if later, until which the state of emergency is in force on the national territory relating to the health risk associated with the onset of the COVID-19 epidemic".

EXTENSION OF THE STATE OF EMERGENCY

The Decree-Law n. 83/2020 has established the extension of the state of emergency to 15.10.2020 and, at the same time, the extension of the same decree (art. 1 par. 3) to that date of the "terms provided for by the legislative provisions referred to in annex 1". Among these is not found the art. 106 of the converted DL 18/2020, but art. 73 of the same DL, whose par. 4 establishes that associations, foundations "as well as companies, including cooperatives and consortia, which have not regulated the conduct of the sessions by videoconference, can meet according to these methods".

DIFFERENT INTERPRETATIONS AS A RESULT OF DL 83/2020

This regulation has led to the emergence of two different interpretations.

A first interpretation considered that, until 15.10.2020, only the use of videoconferencing would have been possible for the meetings, in application of art. 73 par. 4 of Law Decree 18/2020.

Following this logic then, until 15.10.2020 it would not have been possible to use the legislation of art. 106 of converted Law Decree 18/2020 not reproduced in art. 73 par. 4 of the same DL (as happens only for videoconference meetings), with the consequence that there would have been no possibility to approve the financial statements within 180 days, to vote electronically or by correspondence and to oblige the shareholders to attend the meeting through the designated representative.

It was also noted that, probably, the assemblies - contemplated in art. 73 par. 4 of converted Law Decree 18/2020 - and the meetings of other collegial bodies, such as administrative boards, could have been equalized; moreover, the limitation to "video conferencing" could not have been considered preclusive to the use of audio conferencing as well.

According to another reconstruction, however, relying on the cited paragraph 7 of art. 106 of Law Decree 18/2020, an extensive interpretation aimed at ensuring the continuing validity of the entire content of the same article would have been possible.

SOLUTION ACCEPTED BY DL 104/2020 (SO-CALLED "AUGUST DECREE")

In the face of these interpretative doubts, now, considering the aforementioned regulatory provision "at the meetings of Spa, Srl, Sapa, called by 15 October 2020, the provisions of paragraphs 2 to 6 of article 106 of the decree-law of 17 March 2020, n. 18 converted with amendments by law 24 April 2020, n. 27 continue to apply".

This provision, on the one hand, proposes a different solution to those hypothesized to date, on the other hand, at present, it appears to lack adequate regulatory coordination.

As for the first profile, it is excluded, implicitly, the continuing validity of the entire content of art. 106 of Law Decree 18/2020, but art. 73 par. 4 of the converted Decree Law 18/2020 is not applied, but rather the applicable provisions of the same art. 106 are defined to those contemplated in par. 2 - 6 (with the exclusion, in particular, of the possibility of approving the financial statements within 180 days of the end of the financial year).

As for the second profile, however, it is ignored the correlation between the new provision and the art. 73 par. 4 of the converted DL 18/2020 certainly in force.

REFUNDS FOR ELECTRONIC PAYMENTS BY PRIVATE INDIVIDUALS (SO-CALLED "CASHBACK") – REFINANCING (art. 73)

Some changes are planned to the measure dedicated to private individuals in order to encourage the use of electronic payment instruments, introduced by art. 1 par. 288 of Law 160/2019.

The measure takes the form of a cash refund, under the conditions and in the cases that will be defined by a specific DM.

In particular, the Minister of Economy and Finance, having consulted the Authority for the protection of personal data, issues one or more decrees in order to establish the conditions and methods for implementing the provisions pursuant to art. 1 par. 288, 289-bis 289-ter of Law 160/2019, including the forms of voluntary membership and the criteria for attributing the refund, also in relation to the volumes and frequency of purchases, electronic payment instruments and relevant activities for the purpose of attributing the reimbursement, within the limits of the allocation provided.

To this end, the fund pursuant to art. 1 par. 290 of Law 160/2019 is increased by 2.2 million euros for the year 2020 and by 1.7 million euros for the year 2021.



TAX CREDIT FOR PROPERTY LEASES FOR NON-RESIDENTIAL USE - CHANGES (art. 77 par. 1 lett. 'a' e 'b')

Some changes have been made to art. 28 of the converted Decree-Law 34/2020, containing the discipline of the tax credit for the lease of properties for non-residential use.

SPA FACILITIES

The tax credit is due regardless of the volume of revenues and income recorded in the previous tax period also for spa facilities (amendment to art. 28 par. 3 of Law Decree 34/2020).

EXTENSION OF THE CONCESSION FOR THE MONTH OF JUNE

The tax credit is also extended with reference to the month of June (and to the month of July for seasonal workers).

With an amendment to art. 28 par. 5 of Law Decree 34/2020 it is now established that:

- the tax credit is commensurate with the amount paid in the 2020 tax period with reference to each of the months of March, April, May and June;
- for tourist accommodation facilities with only seasonal activities with reference to each of the months of April, May, June and July.

URGENT MEASURES FOR THE TOURISM SECTOR (art. 77 par. 2)

The rule provides, for companies in the tourism sector, that the suspension of the payment of mortgage installments due before 30.9.2020, pursuant to ex art. 56 par. 2 lett. c) DL 18/2020, is extended until 31.3.2021.

ABOLITION OF THE SECOND IMU INSTALLMENT FOR THE YEAR 2020 FOR HOTELS, BATHING ESTABLISHMENTS, OTHER PROPERTIES IN THE TOURISM, FAIRS, CINEMAS AND THEATRES SECTOR (art.78)

The following are exempted from paying the second installment of the property tax (IMU) for the year 2020:

- buildings used as seaside, lake and river bathing establishments, as well as properties for spas;
- properties included within the cadastral category D/2, and related appurtenances and functional installations, as well as properties of farmhouses, tourist villages, hostels, mountain huts, marine and mountain colonies, short-term rental apartments, holiday homes and apartments, bed & breakfasts, residences and campsites, provided that their owners are also managers of the activities exercised there;
- properties part of the cadastral category D in use by companies engaged in the fitting out of structures for trade fairs or exhibitions;
- properties falling within the cadastral category D/3 intended for cinema shows, theatres and halls for concerts and shows, provided that the relative owners are also managers of the activities exercised there;

- buildings intended for discos, dance halls, night clubs and the like, on condition that the relative owners are also managers of the activities exercised there.

This provision applies in compliance with the Temporary State Aid Framework.

In the cases listed above, therefore, no IMU tax has to be paid by 16.12.2020.

For the first three types of properties listed above, art. 177 of the converted Law Decree 34/2020 had already provided for the exclusion from the payment of the first installment of the IMU for the year 2020.

D/3 BUILDINGS INTENDED FOR CINEMAS AND THEATRES ARE EXEMPT FOR THE YEARS 2021 AND 2022

Furthermore, for the years 2021 and 2022, the IMU is not due for properties included in D / 3 category intended for cinema, theatres, concerts or shows, provided that the relative owners are also managers of the activities exercised there.

TAX CREDIT FOR HOTEL RENOVATION - REINTRODUCTION FOR 2020 AND 2021 (art.79)

The tax credit is reintroduced for the redevelopment and improvement of tourist accommodation facilities pursuant to art. 10 of Law Decree 83/2014. The tax credit is also due to:

- structures that carry out agritourism activities;
- thermal establishments, including for the construction of thermal pools and for the acquisition of equipment necessary for carrying out thermal activities;
- open air accommodation facilities.

The tax credit is equal to 65% of the redevelopment costs incurred in the tax periods 2020 and 2021 for subjects whose activity coincides with the solar year (two tax periods subsequent to the one in progress by the date of 31.12.2019).

HOW TO USE THE CREDIT

The tax credit can only be used as compensation in the F24 form, pursuant to art. 17 of Law Decree no. 241/97 (the subdivision into annual amounts referred to in Article 10 par. 3 of Law Decree 83/2014 does not apply).

110% SUPER BONUS - PROPERTIES EXCLUDED (art. 80 par. 6)

Pursuant to par. 15-bis of art. 119 of Law Decree 34/2020, the 110% Super bonus does not apply to real estate units included in categories A/1 (stately homes), A/8 (villas) and A/9 (castles, palaces of eminent artistic or historical value).

By intervening on this provision, the expenses incurred for the properties belonging to the cadastral category A/9, if open to the public, are included among the deductible expenses.

TAX CREDIT FOR ADVERTISING INVESTMENTS IN FAVOUR OF PROFESSIONAL SPORTS LEAGUES AND CLUBS AND AMATEUR SPORTS CLUBS AND ASSOCIATIONS (art. 81)

For the year 2020, a tax credit is granted to companies, self-employed workers and non-commercial entities that make investments in advertising campaigns, including sponsorships, towards:

- leagues that organize national team championships in the context of Olympic disciplines;
- professional sports clubs and amateur sports clubs and associations registered in the CONI register operating in disciplines admitted to the Olympic Games and carrying out youth sports activities.

TAX RELIEF

The investment in advertising campaigns must be:

- for a total amount not less than 10,000.00 euros;
- carried out from 1.7.2020 to 31.12.2020, through payment instruments other than cash;
- intended for professional sports leagues and clubs and amateur sports clubs and associations with revenues relating to the 2019 tax period produced in Italy at least equal to 200,000.00 euros and up to a maximum of 15 million euros pursuant to art. 85 par. 1 letter a) and b) of the TUIR.

Sponsorships towards subjects part of the regime provided for by Law 398/91 are excluded.

DETERMINATION OF THE TAX BENEFIT

The "theoretical" tax credit is equal to 50% of the eligible investments made, within the overall maximum expenditure limit of 90 million euros.

In the event of insufficiency of the available resources compared to the admitted requests, the provision provides that the allocation will be made among the beneficiaries in proportion to the abstract tax credit due as calculated above, with an individual limit per subject equal to 5% of the total annual resources.

HOW TO BENEFIT FROM THE TAX CREDIT

In order to benefit from the facility, a prior direct application to the Department of Sport of the Presidency of the Council of Ministers is required.

The tax credit can only be used as compensation in the F24 form, pursuant to art. 17 of the Law Decree. 241/97.

IMPLEMENTING PROVISIONS

The implementing provisions of the facility will be defined with a decree soon to be issued (e.g. concession procedures, required documentation, etc.).

TAX CREDIT FOR ADVERTISING INVESTMENTS - INCREASE IN THE MAXIMUM EXPENDITURE LIMIT (art. 96 par. 1)

The funds allocated for the tax credit for 2020 advertising investments are increased.

In particular, in art. 57-bis par. 1-ter of converted Decree-Law 50/2017, as amended by art. 186 of the converted DL 34/2020, the following changes are made:

- the maximum expenditure limit is increased to 85 million (instead of the previous 60 million);
- the benefit is granted up to a limit of 50 million euros (instead of the previous 40 million) for advertising investments made in daily and periodical newspapers, including online, and up to a limit of 35 million euros (instead of the previous 20 million) for advertising investments made on local and national, analog or digital television and radio broadcasters, not owned by the State;

- the fund for information pluralism and innovation is raised to 57.5 million (instead of the previous 32.5).



POSSIBILITY TO PAY BY FURTHER INSTALLMENTS SUSPENDED PAYMENTS AND WITHHOLDING TAXES NOT PAID (art. 97)

There is the option of paying in further installments the suspended payments and the payment of withholding taxes not made pursuant to art. 126 and 127 of the converted DL 34/2020.

In particular, all subjects who have benefited from the suspension of tax and social security payments, can make the payments that were suspended in the months of March, April, May and June 2020, without the application of penalties and interest, for an amount equal to 50 % of the sums subject to suspension, alternatively:

- in one solution by 16.9.2020;
- by installments, up to a maximum of four monthly installments of the same amount, with the payment of the first installment by 16.9.2020.

The payment of the remaining 50% can be made, without the application of penalties and interest, by installments, up to a maximum of 24 monthly installments of the same amount, with the payment of the first installment by 16.1.2021. There is no reimbursement of the amount already paid.

These methods and terms also apply in relation to the payment, by the recipients, of the withholdings not made by the tax substitute.

Alternatively, the previous installment plan remains applicable, according to which the aforementioned payments can be made, without the application of penalties and interest:

- in one solution by 16.9.2020;
- or through installments up to a maximum of 4 monthly installments of the same amount, starting from 16.9.2020.

EXTENSION OF THE DEADLINE FOR THE PAYMENT OF THE SECOND ADVANCE ON IRPEF / IRES AND IRAP FOR ISA SUBJECTS (art. 98)

When certain requirements are met, the deadline for payment of the second or single installment of the down payment on income taxes and IRAP (regional production tax), due for the tax period subsequent to the one in progress until 31.12.2019, is extended to 30.4.2021 (it is 2020, for "solar" subjects).

BENEFICIARIES

Recipients of this extension are subjects who meet both of the following conditions:

- carry out economic activities for which the synthetic indexes of fiscal reliability (ISA) have been approved, pursuant to art. 9-bis of Law Decree 501112017;
- declare revenues or income of an amount not exceeding the limit established, for each index, by the relative decree of approval of the Minister of Economy and Finance (equal to 5,164,569 euros).

Given the referral made to art. 1 par. 2 of the Prime Ministerial Decree of 27.6.2020, taxpayers can also benefit from the extension who:

- apply the Italian flat-tax regime ("regime forfettario") pursuant to art. 1 par. 54-89 of Law 190/2014 (in case they carry out economic activities for which ISAs are envisaged, even if they are excluded from the relative application);
- apply the tax benefit regime for youth entrepreneurs and workers on the move as per art. 27 par. 1 of Law Decree 98/2011 (in case they carry out economic activities for which ISAs are envisaged, even if they are excluded from the relative application);
- present other causes of exclusion or inapplicability of ISAs (e.g. start or cessation of business, atypical business performance, flat-rate determination of income, etc.).

The extension also affects subjects who:

- participate in companies, associations and businesses that meet the aforementioned requirements;
- must declare income "for transparency", pursuant to art. 5, 115 and 116 of the TUIR.

Therefore, the following can also benefit from the extension of the payment terms:

- shareholders of partnerships;
- collaborators of family businesses;
- spouses who manage marital businesses;
- the members of associations between artists or professionals (e.g. professionals with associated studios);
- shareholders of "transparent" Spa.

DECREASE IN REVENUE REQUIREMENT

The extension in question applies only on condition that, in the first half of 2020, the amount of revenue or income decreased by at least 33% compared to the same period of the previous year.



SUSPENSION OF THE TERMS FOR PAYMENT COLLECTION (art. 99)

The art. 6B of Law Decree 83/2020, stating that the suspension of payment terms deriving from payment notices concerns those whose payment terms expire between 8.3.2020 and 15.10.2020 (in the latest version of the law, the deadline was set at 31.8.2020).

Consequently, payment must be made by 30.11.2020. It will be possible to request the extension of the amounts registered by 30.11.2020.

The aforementioned suspension also concerns INPS debit notices and, unless otherwise interpreted by local administrations, executive assessment notices issued by local authorities.

According to the way art. 6B of Law Decree 18/2020, the extension also concerns the executive assessments on the subject of income taxes, VAT and IRAP. However, it must be said that, according to the censurable interpretation provided by the Revenue Agency circular of 20.3.2020 n. 5, this suspension does not concern the executive assessments, which remain subject only to the suspension of the procedural terms (also inherent to payments) of art. 83 of DL 18/2020, from 9.3.2020 to 11.5.2020.

DEFERRAL OF THE SUMS REGISTERED

The installments for the postponement of roles that expire from 8.3.2020 to 15.10.2020 can be paid, one-time, by 30.11.2020.

Furthermore, with regard to applications submitted up to 15.10.2020, the forfeiture of the deferral does not occur following the failure to pay five installments, even if not consecutive, but ten.

PAYMENT BLOCKING OF PUBLIC ADMINISTRATIONS

Pursuant to art. 48-bis of Presidential Decree 602/73, entities and companies with prevalent public participation, before making payments for an amount exceeding 5,000.00 euros, must check with the Collection department of the Revenue Agency ("Agenzia delle Entrate-Riscossione") whether the creditor is in arrears.

If so, the public body must suspend the payment up to the amount of the arrears and the Agent devoted to the collection must notify a third party a warrant for distraint.

Law Decree 104/2020 extends the suspension of the aforementioned procedure from 31.8.2020 to 15.10.2020, while the effective date of the suspension remains unchanged on 8.3.2020.

SUSPENSION OF EXECUTIVE AND PRECAUTIONARY ACTIVITIES (EXTENSION)

The collection and precautionary activities (distrain, mortgages, firm) are suspended until 15.10.2020.

Likewise, the obligations deriving from third-party distraint of wages, salaries and pensions are suspended until 15.10.2020.

IMU RATES - INCREASE TO REPLACE THE TASI SURCHARGE (art. 108)

By modifying the par. 755 of art. 1 of Law 160/2019 the provision is rewritten which provides, starting from the year 2020, that the Municipalities may approve an increase in the maximum IMU rate of 0.08%, replacing the increase in the TASI referred to in par. 677 of the art. 1 of Law 147/2013, to the same extent applied for 2015 and confirmed until 2019.

NEW REVALUATION OF BUSINESS ASSETS (art. 110)

The decree introduces a new revaluation of business assets that can be put in place in the financial statements until 31.12.2020. In particular, this option can have:

- only statutory and accounting relevance;
- or also fiscal relevance, through the payment of a substitute tax of 3% on the higher values recorded.

In other words, by applying this new regime, the recognition of higher values in the financial statements is not necessarily subject to their being subjected to substitute taxation. The tax relevance of the revaluation, in fact, can be decided autonomously when it is intended to pay the tax to assert the higher values also from a fiscal point of view.

SUBJECTIVE SCOPE

The revaluation is the responsibility of joint stock companies and resident commercial entities that do not adopt the IAS/IFRS for the preparation of the financial statements.

Through the reference to the rule in art. 15 of Law 342/2000, commercial partnerships, sole proprietorships, resident non-commercial entities and non-resident individuals with a permanent establishment in Italy may apply this regime.

ASSETS THAT CAN BE REVALUED

Business assets and shareholdings referred to in Section II of Chapter I of Law 342/2000 may be revalued, with the exception of properties whose production or exchange the business activity is directed to, which result from the financial statements of the year in progress until 31.12.2019.

The revaluation must be carried out in the balance sheet or report for the current financial year as until 31.12.2020; moreover, the same can be carried out separately for each asset and must be noted in the relative inventory and in the supplementary note.

3% SUBSTITUTE TAX

The greater value attributed to the assets during the revaluation can be recognized for the purposes of income taxes and IRAP, by paying a substitute tax in the amount of 3% or for depreciable and non-depreciable assets.

The substitute tax must be paid in a maximum of three installments of the same amount, the first of which is due within the deadline set for the payment of the balance of income taxes relating to the tax period with reference to which the revaluation is carried out.

TAX RECOGNITION OF THE HIGHEST REGISTERED VALUES

The higher values subject to the substitute tax for the revaluation are recognized for tax purposes starting from the current tax period until 31.12.2021.

In the event of effective revaluation for tax purposes, therefore, starting from this year the higher values attributed to the assets are relevant for the purposes of:

- the deductibility of depreciation;
- the determination of the ceiling for maintenance costs pursuant to art. 102 par. 6 of the TUIR;
- the discipline of non-operating companies pursuant to art. 30 of Law 724/94.

Instead, capital gains and losses are calculated taking into account the cost of the assets "before revaluation", when the sale of the same (or the destination for purposes unrelated to the operation of the company) occurs on a date prior to that of beginning of the fourth financial year following the one in which the revaluation was carried out (or, prior to 1.1.2024, for subjects with a tax period coinciding with the calendar year).

TAX REGIME OF THE REVALUATION SURPLUS

Also for the revaluation procedure in question, the positive balance of revaluation constitutes a reserve in tax suspension for the companies in ordinary accounting that opt for the tax significance of the higher values attributed to the assets.

If necessary, these subjects can release the reserve by paying an additional substitute tax of 10%.

It remains understood that by attributing exclusively "civil" relevance to the revaluation, no reserve in tax suspension is entered and it is not necessary to resort to the release.

For companies with simplified accounting, however, the clarifications contained in the circ. Revenue Agency 26.1.2001 n. 5 (§ 4.2), according to which the body of rules governing the positive revaluation balance is not applied, as this is linked to the evidence of a data (the amount of the reserve) that can be deduced from the balance sheet.

For the latter, therefore, taxation of the reserve in the event of distribution is excluded.

COORDINATION WITH OTHER DISCIPLINES FOR THE REVALUATION OF BUSINESS ASSETS

It should be noted that art. 1 par. 696 and following of Law 160/2019 (budget law 2020) introduced a revaluation of business assets, effective from a tax point of view, which had to be carried out in the financial statements until 31.12.2019.

Pursuant to art. 12-ter of DL B.4.2020 n. 23 (conv. L. 40/2020) the revaluation in question can also be carried out:

- in the financial statements as until 31.12.2020;
- in the financial statements as until 31.12.2021;
- in the financial statements as until 31.12.2022.

Furthermore, please note that art. 6-bis of Law Decree 23/2020 provided that, for companies in the hotel and spa sectors, the revaluation of the assets in question can be carried out without substitute taxes.

FRINGE BENEFITS TO EMPLOYEES - INCREASE IN THE TAX EXCLUSION LIMIT (art. 112)

Limited to the 2020 tax period, the amount of the value of the goods sold and the services provided by the company to employees that does not contribute to the formation of income pursuant to art. 51 par. 3 of the TUIR is raised from € 258.23 to € 516.46.

(*) This publication contains summary information and is a general guide only. We accept no responsibility for the loss of any person who acts or refrains from acting as a result of any material contained in this publication. This publication should not be considered a substitute for professional advice.

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