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Indirect Tax Alert

News from EY Americas Tax

Italy enacts "Relaunch Decree" to manage COVID-19 crisis: Indirect tax implications

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Executive summary

On 19 May 2020, Law Decree n. 34, dubbed "Relaunch Decree," (The Decree) was published in the *Italian Official Journal* and immediately entered into force.

The Decree introduces additional urgent measures regarding health, support for employment and the economy, as well as social policies, connected to the epidemiological emergency from COVID-19 following the measures set forth by two prior decrees:

- ▶ *Decreto Cura Italia* (Legislative Decree 17 March 2020, n. 18) converted with amendments into L. 24 April 2020, n. 2 (with the first clarifications provided by the circ. 3 April 2020, n. 8/E)
- ▶ *Decreto Liquidità* (Legislative Decree 8 April 2020, n. 23) (and related explanatory circular of 13 April 2020, n. 9/E)

This Tax Alert summarizes the key measures included in the Decree regarding:

- ▶ Value-Added Tax (VAT)
- ▶ Customs and Excise Duties

Detailed discussion

VAT

Suppression of [safeguard clauses](#) set forth in Art. 1(2) of Budget Law 2019 (Art. 123)

The following VAT rate increases set forth under the 2019 Budget Law have been permanently removed from 2021:

- ▶ 10% reduced VAT rate:
 - +2 percentage points (12%) as from 1 January 2021
- ▶ 22% standard VAT rate:
 - +3 percentage points (25%) as from 1 January 2021
 - +1.5 percentage points (26.5%) as from 1 January 2022

Reduced VAT rate for medical devices and VAT treatment (Art. 124)

The Decree introduces a reduced VAT rate of 5% for medical and personal protection goods and equipment for facing and managing the COVID-19 emergency.

In this respect, in the Annex A (II-bis) of the Italian VAT Decree, the n. 1-ter including the list of goods which benefit from the 5% reduced VAT rate has been amended.

Note that until 31 December 2020, the supply of such goods will be considered as VAT exempt. However, the deduction of input VAT still remains applicable pursuant to art. 19 paragraph 1 of Italian VAT Decree.

Deferral of VAT payments (Art. 126)

The Decree provides for a further postponement of payment terms for VAT liability for March and April 2020 for taxable persons meeting the conditions set forth by art. 18 of Law Decree 8 April 2020 n. 23, so called *Decreto Liquidità*¹, i.e., taxable persons with their fiscal domicile, registered office or place of business in Italy, which had:

- ▶ A decrease in turnover of at least 33% in March and April 2020 compared to the same months of the previous year and revenues less than €50 million in the FY 2019.
- ▶ A decrease in turnover of at least 50% in March and April 2020 compared to the same months of the previous year and revenues greater than €50 million in the FY 2019.

The postponement also applies for taxable persons with their fiscal domicile, registered office or place of business in the provinces of Bergamo, Brescia, Cremona, Lodi and Piacenza, with a decrease in turnover of at least 33% in March and April 2020 as compared to the same months of the previous year (regardless of the revenues).

The VAT liability of March and April can be paid by 16 September 2020 in a one-off payment or in four equal installment payments of the same amount starting from September 2020.

Deferment of plastic and sugar taxes (Art. 133)

The entry into force of both the plastic and sugar taxes has been suspended until 1 January 2021.

Grace period extension for the obligation of electronic transmission of the daily consideration (Art. 140)

The Decree intervenes extending the grace period on the application of penalties provided by art. 2, paragraph 6-ter, Legislative Decree no. 127/2015.

Until 1 January 2021 penalties do not apply for violations committed by taxpayers who are not able to:

- ▶ Equip themselves by 1 July 2020 with the cash register required by the law or,
- ▶ Use the web procedure made available by the Italian Tax Authorities for the electronic filing of the daily consideration.

Postponement of tax tickets lottery (Art. 141)

The Decree deferred the start of the new tax contest related to the tax tickets lottery from 1 July 2020 to 1 January 2021.

Postponement of prepopulated VAT compliance (Art. 142)

The Italian tax authorities will provide Italian established taxpayers pre-populated VAT compliance tools with respect to:

- ▶ VAT ledgers pursuant to art. 23 and 25 of the Italian VAT Decree
- ▶ Quarterly communication of VAT calculation
- ▶ Annual VAT return

This will begin for transactions carried out as of 1 January 2021.

Postponement of automated procedure for stamp duty computation (Art. 143)

The implementation by the Italian tax authorities of the automated procedure for stamp duty due on e-invoices is deferred to 1 January 2021.

Suspension of offsetting between tax credits and liabilities enrolled on the Tax collector's register (Art. 145)

For FY 2020, the offsetting between the tax credits and the liabilities enrolled on the register, as provided by art. 28-ter of D.P.R. n. 602/1973, does not apply.

Increase of offsetting threshold (Art. 147)

The Decree allows companies - only for FY 2020 - to use the VAT credit resulting from the annual VAT return related to FY 2019 to offset other Italian tax liabilities and social security contributions for an amount not exceeding €1 million, increasing the previous threshold equal to €700,000.

Customs and Excise Duties

Suppression of [safeguard clauses](#) on excise duty (art. 123)

The Decree abolishes the "safeguard clauses" on excise duty which, as from 1 January 2021, would have led to automatic upward changes in the rates of excise duty on petrol, leaded petrol and diesel used as fuel.

Deferral of excise duty on natural gas and electricity advanced payments (art. 129)

The monthly advance payments due, from the months of May to September 2020, by suppliers of natural gas and electricity, pursuant to art. 26, paragraph 13 and art. 56, paragraphs 1 and 2 of the Legislative Decree no. 504 of 26 October 1995 (Italian Body Text of Excise Law), are due only for 90% of the amount.

Furthermore, an annual adjustment shall be made:

- ▶ In a single installment within the usual deadlines, i.e., by 31 March 2021 for natural gas and by 16 March 2021 for electricity, or
- ▶ In 10 equal monthly installments to be paid in the period from March to December 2021.

Deferral of certain excise duty obligations (art. 130)

New obligations concerning fiscal warehouses with a capacity between 10 and 25 cubic meters (and those between 5 and 10 cubic meters if equipped with distributors), already postponed until 30 June 2020 and deferred until 1 January 2021 only for private distribution warehouses with a capacity between 5 and 10 cubic meters, will be further deferred until 1 January 2021.

A slight amendment also regards the issuance of an identification code to the aforementioned small warehouses instead of the operating license, allowing their acknowledgement and geographical traceability to avoid a physical audit from Customs Authority.

The decree also establishes a deferral to 1 October 2020 of the effectiveness of the provisions set out in art. 7 of Decree-Law no. 124/2019 which introduced a tracking system for the intra-Union transfer of lubricating oils through the mandatory issue of a specific authorization code managed by the Customs system.

Another deferral, to 31 December 2020, has been established:

- a. The mandatory installation of the INFOIL system for certain energy product deposits with a capacity greater than 3.000 cubic meters (art. 10 of the Decree-Law no. 124/2019).
- b. The adoption of the measure by the Customs Authority to establish the timing and procedures that economic operators obliged to pay excise duty on electricity and gas shall respect the transmission of data relating to electricity and natural gas transported by carriers as well as those relating to the invoicing to final consumers (art. 12 of the Decree-Law no. 124/2019).

In addition, the Decree provides for the deferral to 30 September 2020 for the introduction of the obligation to submit, in electronic form, the Simplified Administrative Document (SAD or DAS in Italian) i.e., the accompanying document when transferring products subject to excise duty (art. 11 of the Decree-Law no. 124/2019).

Deferral of excise duty payments (art. 131)

For all energy products released for consumption from fiscal warehouses during March 2020 and for which excise duties should have been paid by 16 April 2020, payment by 16 May 2020 is accepted without application of any penalties and compensation for late payment.

Provisions on excise duty payments on energy products (art. 132)

Energy products extracted from fiscal warehouses from April to August 2020 and for which excise duties payment is due by the 16th of the following month, except for July that is postponed to 20 August, can be paid to the extent of 80% of the amount which would have been due at the same deadlines, as an advanced payment.

The remaining part due, i.e., 20%, is to be paid cumulatively by 16 November 2020, together with the excise duty due for energy products released for consumption in October, without the application of any penalties or interest for late payment.

Deferral of the payment of customs duties (art. 161)

Deferral of payments of customs duties, expiring between 1 May 2020 and 31 July 2020, made in accordance with the procedures set out in art. 78 and 79 of Presidential Decree no. 43 of 23 January 1973, shall be extended by 60 days without application of penalties and interest. Moreover, for economic operators with economic or social difficulties belonging to specific categories, it is possible to submit an application form to CMA to request further deferral.

The application of the above provisions are subject to a determination by Customs.

Accrual of excise duty debt (art. 162)

The decree introduces the possibility for the holder of the fiscal warehouse of energy and alcohol products to accrue, in a more flexible manner, the excise duty debt, under the condition that the entire debt is paid by the 16th of December of the year in which it occurred.

Deferral on tobacco payments (art. 163)

Economic operators required to pay excise duty on manufactured tobacco and consumption tax on the substitutes for smoking products and accessories to smoking tobacco products are allowed to pay, by 31 October 2020, the amounts due for the accounting months of April and May 2020 plus legal interests accrued.

Endnote

1. Based on Law Decree 8 April 2020 n. 23 VAT liability of March and April could be paid by 30 June 2020 as a one-off payment, or in five installments of the same amounts starting from June 2020 (i.e., June, July, August, September, October).

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