

COMPENSATION DECREE IV



Law Decree no. 157 of 30 November 2020, called “Compensation Decree IV” (hereinafter the “Decree”), includes additional urgent measures connected with the Covid-19 epidemiologic emergency.

The wording of the Decree was published in Italian Official Journal no. 297 dated 30 November 2020 and became effective on 30 November 2020.

The following paragraphs briefly recap the main provisions of the Decree.

02 DECEMBER 2020

EXTENSION OF THE DEADLINE FOR PAYING THE SECOND INCOME TAX ADVANCE AND IRAP TAX ADVANCE - ART. 1

The payment deadline for the second or single income tax or IRAP tax advances was extended to:

- **10 December 2020:** businesses, artists or professionals;
- **30 April 2021:** (in a single payment) in the following cases:
 - businesses, artists or professionals that **do not apply ISAs** (tax reliability indexes) with revenues or fees equal to or lower than €50 million in 2019 that **suffered from a drop in sales of at least 33% in the first semester of 2020;**
 - businesses, artists or professionals that **do not apply ISAs**, regardless of conditions on revenues or fees and drop in sales **that operate in the sectors listed in Annexes 1 and 2 to Compensation Decree II** (D.L.149/2020), with tax domicile or operating premises in a **red zone;**
 - **restaurant businesses in orange zones**, regardless of the conditions on revenues or drop in sales.
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The deadline of 30 April 2021 under article 98 of the August Decree (D.L. 104/2020) and article 6 of the Compensation Decree II for **taxpayers that apply ISAs** and that meet **one** of the conditions listed below remains unaffected:

- a. **in the first semester of 2020, they recorded a drop in sales of at least 33%** compared with the same period in the previous year;
- b. **they operate in business sectors listed in Annexes 1 and 2** to D.L. 149/2020, as subsequently supplemented by article 1 para. 2 of D.L. 154/2020 (Compensation Decree III) and have their tax domicile or operating premises in red zones (or, in case of **restaurants**, tax domicile or operating premises in **orange zones**).

The deadline to regularize, without the application of interest or penalties, **any recourses in excess of the cap of €800k to State aids** was extended to **30 April 2021** where they concern the writing off of the balance and of the first tax advance of the IRAP tax resulting from the incorrect application of the restrictions and conditions in the State Aid Temporary Framework to support the economy in the context of the coronavirus outbreak.



**SUSPENSION OF TAX AND SOCIAL SECURITY CONTRIBUTION
PAYMENTS FALLING DUE IN DECEMBER - ART. 2**

Payments of source withholding taxes (of regional and municipal surtaxes), of VAT and of social security and welfare contributions falling due in the month of December 2020 were suspended for companies and professionals with **revenues** or fees **equal to or lower than € 50 million** in the tax period prior to the one in progress (2019 for taxpayers whose tax year matches the calendar year) and **that suffered from a drop in sales or fees of at least 33% in November 2020** compared with the same month in the previous year.

Payments were also suspended:

- for businesses, artists or professionals that **started their business, art or professional activity**, after **30 November 2019**;
- regardless of conditions on revenues or fees and drop in sales:
 - for taxpayers that **exercise businesses that have been shut down** under D.P.C.M. dated 3 November 2020, with tax domicile, registered office or operating premises anywhere in Italy;
 - for taxpayers that exercise **restaurant businesses** with tax domicile, registered office or operating premises in **red and orange zones**, as identified on 26 November 2020 with the Orders of the Ministry of Health adopted under articles 2 and 3 of D.P.C.M. of 3 November 2020 and art. 30 of the Compensation Decree II (D.L. n. 149/2020);
 - for taxpayers that operate in the **business sectors listed in Annex 2 to the Compensation Decree II**, or exercise hotel, travel agency or tour operator businesses with tax domicile, registered office or operating premises in **red zones**, as identified on 26 November 2020 with the Orders of the Ministry of Health adopted under article of D.P.C.M. of 3 November 2020 and art. 30 of the Compensation Decree II (D.L. n. 149/2020).

Suspended payments will need to be settled, without applying penalties or interest, in a single payment by **16 March 2021** or in **up to a maximum of 4 monthly payments** of equal amount, remitting the first one by 16 March 2021.



**EXTENSION OF THE DEADLINE FOR
FILING THE INCOME TAX
AND THE IRAP TAX RETURNS - ART. 3**

The deadline for **filing the income tax return and the IRAP tax return** was extended from 30 November to **10 December 2020**.

**EXTENSION OF THE DEADLINES FOR
PREFERENTIAL TAX
SETTLEMENTS - ART. 4**

The deadline for settling **installments of the preferential tax settlement schemes “rottamazione ter” and “saldo e stralcio” falling due on 10 December 2020** was postponed to **1 March 2020** without triggering the ineffectiveness of the preferential settlement arrangement.

**ADDITIONAL BUSINESSES ELIGIBLE FOR
THE NON-RETURNABLE CONTRIBUTION
UNDER ART. 1 OF D.L. NO. 137 OF 2020 -
ART. 6**

The set of beneficiaries of the **non-returnable contribution** in art. 1 of the first Compensation Decree (D.L. no. 137/2020) was expanded to include **sales agents, intermediaries, and business finders** that on **25 October 2020 had an active VAT registration**.



RATIONALIZATION OF PAYMENT DEFERRALS - ART. 7

In case of applications for **payments by installments of tax bills** filed from 30 November 2020 and up to the date of the rejection, if any, of such applications or of the forfeiture of the right to deferred payments:

- statutes of limitations or deadlines triggering the loss of the right were suspended;
- no new administrative impounding and mortgage may be applied, without prejudice to any impounding and mortgages that were already recorded on the filing date;
- no new attachment or seizure procedures may be started.

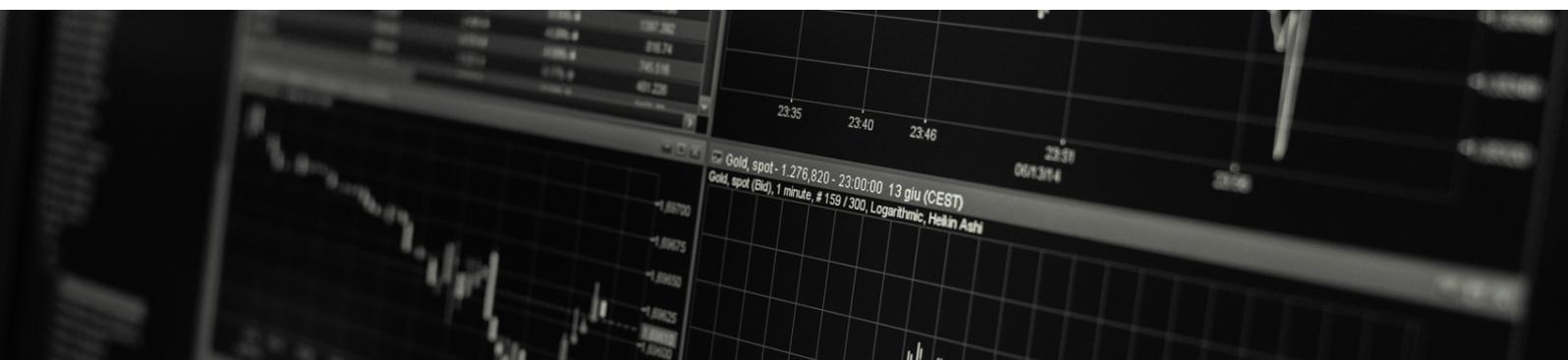
Amounts audited for the existence of any non-performance, under article 48-bis of Pres. Dec. no. 602/1973, by government and by companies whose majority shareholder is the state, before ordering payments in excess of €5000, are not eligible for payment by instalments prior to the official measure granting deferred payment.

Payment of the first installment triggers the extinction of any previously started attachment procedures, on condition that a successful auction has not been held, no request for assignment has been filed, no third party has delivered a positive statement, or no measure for assignment of seized receivables has been issued.

Applications for payment by instalments filed from 30 November 2020 to 31 December 2021, the threshold under which **the objective temporary situation of material difficulty** to pay by instalments **needs not be proven with specific documents was increased from €60.000 to €100.000**. Moreover, the number of instalments which, if unpaid, triggers the loss of the right to deferred payment **was increased from 5 to 10**.

In case of applications for payments by installment that triggered the loss of the right prior to 8/03/2020 (21/02/2020 if taxpayers are residents of, have their registered or operating offices in municipalities listed in Annex 1 of DPCM of 1 March 2020), a **new application for payment by instalments may be filed by 31 December 2021**, without the need to settle any instalments that had already expired on the filing date.

In addition, if on 31 December 2019, the preferential settlement schemes ("rottamazione" and "saldo e stralcio") governed by DL 193/2016 and by DL 148/2017 had become of no effect, new payment deferrals may be granted for such debts.



DETERMINATION OF TAXPAYERS EXEMPTED FROM THE PAYMENT OF IMU - ART. 8

The exemption from the payment of the IMU local property tax for the year 2020 (for hotels and accommodation facilities), pursuant to art. 177, para. 1, letter b), of DL 34/2020, art. 78 of DL 104/2020, art. 9, para. 1, of DL 137/2020, and art. 5 para. 1, of DL 149/2020, applies **to taxpayers liable to their own IMU**, as identified in para. 743 of art. 1 of Law no. 160/2019, **that are also operators of the business**. Accordingly, the exemption is granted even if the operator is not the owner of the property but the holder of a right of possession (usufruct, use or dwelling) or the user under a lease agreement or the assignee of state property.

ALLOWANCE TO SEASONAL WORKERS IN TOURISM, SPAS, AND ENTERTAINMENT AND TO DOOR-TO-DOOR SALES PERSONS - ART. 9

The exemption from the payment of the IMU local property tax for the year 2020 (for hotels and accommodation facilities), pursuant to art. 177, para. 1, letter b), of DA one-off allowance of €1.000 is granted to the following beneficiaries:

- beneficiaries of the allowance under art. 15, para. 1, of DL 137/2020 ("Compensation Decree");
- **seasonal workers** of the **tourism industry and of spas** that involuntarily terminated their employment in the period from 01/01/2019 to 30/11/2020 and that rendered their working services for at least 30 days in the same period, that are not recipients of pensions, or earners of income from subordinate employment, or unemployment benefits;

leased staff, employed by users that are companies operating in the **tourism and spas industries**, that involuntarily terminated their employment in the period from 01/01/2019 to 30/11/2020 and that rendered their working services for at least 30 days in the same period that are not recipients of pensions, or earners of income from subordinate employment, or unemployment benefits.

Moreover, a €1.000 allowance is granted to **independent workers and subordinate employees** that, as a result of the COVID-19 epidemiologic emergency, **terminated, reduced or suspended their activity or employment**, and that on the date the application is filed are not parties to another subordinate permanent employment contract nor are recipients of a pension.

If this condition is met, the workers listed below are eligible for the allowance:

- **seasonal subordinate employees** of the tourism industry and of spas that involuntarily terminated their employment in the period from 01/01/2019 to 30/11/2020 and that rendered their working services for at least 30 days in the same period;

- **intermittent workers** that rendered working services for at least 30 days in the period from 01/01/2019 to 30/11/2020;
- **independent workers**, that are not registered for VAT, that are not registered with other forms of mandatory social security, that in the period from 01/01/2019 to 30/11/2020 were parties to occasional independent work agreements and that did not have an agreement in progress on 30/11/2020. These workers, for such agreements, are required to have been registered with the Separate Management of INPS since 17/03/2020, and have accrued at least one monthly contribution in the same timeframe;
- **door-to-door sales persons** with an annual income in 2019 from such business higher than €5.000 and registered for VAT and registered with the Separate Management of INPS on 30/11/2020 and not registered with other forms of mandatory social security.

The following workers are also eligible for an allowance of € 1.000:

- **workers registered with the Pension fund of entertainment workers** who have, in such Fund, at least 30 daily contributions from 01/01/2020 to 30/11/2020, and that earned an income equal to or lower than €50.000, and that are not recipients of pension, nor are parties to a permanent subordinate employment agreement, other than an intermittent agreement, without the payment of an on-call allowance;
- **workers registered with the Pension fund of entertainment workers** who have at least 7 daily contributions from 01/01/2020 to 30/11/2020, that earned an income equal to or lower than €35.000.



URGENT MEASURES SUPPORTING THE INDUSTRIES OF TOURISM AND CULTURE AND FOR INTERNATIONALIZATION - ART. 12

To support the **industries of entertainment, cinema and audiovisuals** further to the COVID-19 containment measures, in the budget of the Ministry for cultural assets and activities and tourism, the Fund was increased by €90 million for 2021. Further to the COVID-19 containment measures, to support **travel agencies and tour operators and guides and companies for the transport of passenger by open-air buses** (so-called sightseeing buses), the relevant Fund in the budget of the Ministry for cultural assets and activities and tourism was increased by €10 million for the year 2020.

The **Fund for emergencies of cultural enterprises and institutions**, set up in the budget of the Ministry for cultural assets and activities and tourism, was increased by €350 million for 2020 and €50 million for 2021. The €350 million increase was allocated to compensate for losses incurred in the business of trade fairs and conventions. Any compensation received from these funds is not included in the calculation of the taxable base for income taxes and is irrelevant for the purposes of calculating interest payable and deductible charges. It is also excluded from the calculation of net revenues. With reference to the industries of tourism and culture, and for the purposes of payment of these contributions only, certificates of social security contribution compliance (DURC) valid on 29/10/2020 remain valid in the period from 30/10/2020 to 31/01/2021. To support internationalization, the resources of the revolving fund set up in the budget of the Ministry of Foreign Affairs and International Cooperation to grant soft loans to exporters was increased by €500 million for 2020.



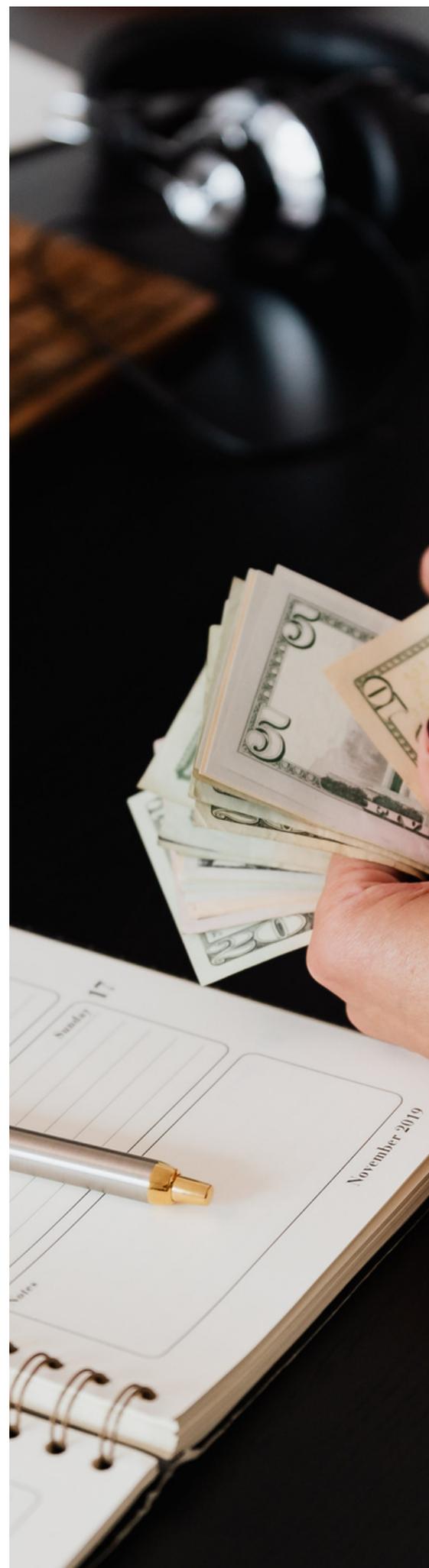
MEASURES ON SALARY SUPPLEMENTS - ART. 13

Salary supplement benefits under art. 1 of the August Decree are also granted to workers on payroll on **9 November 2020**, with a cap of €35,1 million, broken down as follows:

- €24,9 million: ordinary wage supplement fund (cassa integrazione ordinaria) and standard allowance (assegno ordinario),
- €10,2 million: exceptional wage supplement fund (cassa integrazione in deroga).

LIABILITY FOR THE NON-PERFORMANCE OF OBLIGATIONS UNDER ART. 52, PARA. 7, LAW NO. 234 OF 24 DECEMBER 2012, AND SETTLEMENT OF INTERNATIONAL DISPUTES - ART. 18

In light of the increase in the number of individual aids to companies and granting entities, including as a result of the exceptional provisional measures that may be applied in connection with the State Aid Temporary Framework to support the economy in the context of the coronavirus outbreak, notwithstanding art. 52, para 7, of Law no. 234 of 24 December 2012, and art. 17, para. 3, of the Decree of the Minister of Economic Development no. 115 dated 31 May 2017, in the period from 1 January 2020 to 31 December 2022, the non-performance of the obligation to record State Aids connected to the “National State Aid Register” does not trigger any financial liability for the entity that granted the aids. To define simplified procedures to record aids with a tax, social security, and insurance nature in such State Register and to rationalize the relevant liability regime, necessary amendments to regulations of reference will be introduced by 31 December 2022.



Under article 20 of Pres. Dec. no. 602 of 29 September 1973, on interest for late registration in the tax roll of direct taxes, if taxes or higher taxes are due under agreements entered into with the competent authorities of foreign jurisdictions further to MAP procedures pursuant to Conventions against double taxation on income, any interest payable at a rate of 4% p.a. under applicable legislation, accrues starting from the execution of agreements and no longer from any previous moment.

POSSIBLE EXTENSION OF THE DURATION OF LISTED REAL ESTATE FUNDS - ART. 19

Managers of alternative investment funds that manage Italian real estate funds whose certificates representing units are admitted to trading on a regulated market or a multilateral trading system, may - by **31 December 2020** and subject to approval by the unit-holders' meeting - amend the fund's regulations to include the possibility to extend exceptionally the duration of the fund up to and no later than 31 December 2022, for the sole purpose of completing divestments.



CONDITIONS FOR THE DOCUMENTS TO BE EFFECTIVE - ART. 5.3

The Fund for the restaurant supply chain, introduced by art. 58 of the August Decree, was amended to include resources accounting for **€250 million for 2020**, and **€200 million for 2021**, which reflect disbursement caps. The resources for 2021 contribute to finance and supplement contribution applications that will have been already filed by 15 December 2020 and only partially satisfied with the allocation for 2020, and to finance any additional contribution applications collected with the same procedures. In this respect, the purpose of the fund is to grant a non-repayable contribution to businesses operating on the date of enactment of the August Decree for the purchase of products, including wine products, of food and agricultural supply chains, including PDO and PGI, supporting local raw materials. Businesses are eligible for the contribution on condition that total sales in the months from March to June 2020 were lower than $\frac{3}{4}$ of total average sales in the months from March to June 2019. Even if these conditions are not met, businesses are nonetheless eligible for the contribution if they started their operations on or after 1 January 2019. Businesses whose core business is included in the following ATECO codes are eligible for the contribution:

- 56.10.11 – “restaurant and food and beverage services”
- 56.21.00 – “catering for events, banqueting”
- 56.29.10 – “canteens”
- 56.29.20 – “on-going catering based on a contract”
- 55.10.00 – “hotels”, only for operations authorized to serve food, and companies with ATECO code:
- 55.20.52 – “accommodation activity connected to farm enterprises”
- 56.10.12 – “restaurant activity connected to farm enterprises”.

Fish-related tourism businesses, only for the purposes of this procedure, need to indicate ATECO code 56.10.12.

BALANCING FUND - ART. 23

For the year **2021** a Fund has been set up in the budget of the Ministry of the Economy and Finance with an allocation of €5.300 million, aimed to balance tax and compensation measures granted under the Heal Italy Decree, the Liquidity Decree, the Relaunch Decree, the August Decree, Law Decree 129/2020 “Urgent provisions on tax collection”, the Compensation Decree I, the Compensation Decree II, the Compensation Decree III, and the Compensation Decree IV, to taxpayers, which suffered from a significant drop in sales, that under such measures benefitted from tax and social security suspensions.

These taxpayers **might be** eligible for the total or partial exemption from the recapture of any taxes and social security contributions based on the parameters identified with the Decree of the President of the Council of Ministers, adopted after resolution of the Council of Ministers, upon the initiative of the Minister of the Economy and Finance and of the Minister of Economic Development, further to receiving the opinion of Parliamentary Committees.



CONTACT US

We invite you to speak with your contact professional within the Firm for any further explanation

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