

# CONVERSION INTO LAW OF THE SUPPORT DECREE

NEWSLETTER NO. 7/2021



The Law converting Law Decree no. 41 of 22/03/2021 (hereinafter “Law 69/2021”) was published in Italian Official Journal no. 120 dated 21 May and came into force on 22 May 2021.

The following table recaps major new provisions.

**31 MAY 2021**

## EXTENSION OF THE DEADLINE FOR PAYING IRAP (AMOUNTS IN EXCESS OF THE LIMITS) (ART. 1)

The deadline to regularize any outstanding IRAP tax liability without applying fines or interest, for the amount exceeding the limit set by the European Commission on 19 March 2020 C (2020) 1863 final “Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak”, was extended to 30 September 2021.

## NON-RETURNABLE CONTRIBUTIONS TO BUSINESS PLAYERS (ART. 1, PARAS FROM 1 TO 9)

Law 69/2021 expressly sets out that the **non-returnable contribution** to taxpayers **businesses, artists or professionals** or taxpayers that earn **fam income**, granted under art. 1 of the Support Decree (DL 41/2021) **cannot be attached by creditors**. To benefit from the contribution, taxpayers (including through their intermediaries) are required to file a **specific application with the Revenue Agency by and no later than 28 May 2021**. Please refer to our Newsletter no. 6 for more details.



## STATE AIDS (ART. 1, PARAS. 13 - 17)

The various “Covid-19” aids pertaining to the Temporary Framework (currently applicable until the end of the year) must not exceed the limits set by the EU Commission, as recently increased.

In addition, to determine compliance with caps in sections 3.1 and 3.12 of the Temporary Framework, the definition of single undertaking, applies as contained in EU regulations on “de minimis” State Aids.

Specifically, reference is made to the definition in art. 2, para. 2 of EU Regulation 1407/13: «‘Single undertaking’ includes, for the purposes of this Regulation, all enterprises having at least one of the following relationships with each other:

- a)** one enterprise has a majority of the shareholders’ or members’ voting rights in another;
  - b)** one enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
  - c)** one enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
  - d)** one enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders’ or members’ voting rights in that enterprise.
- Enterprises having any of the relationships referred to in points (a) to (d) of the first subparagraph through one or more other enterprises shall also be considered to be a single undertaking.»

## REVALUATION OF COMPANY ASSETS AND SHAREHOLDINGS (ART. 1-BIS)

IRES taxpayers may revalue corporate assets and shareholdings disclosed in financial statements as at 31 December 2019 on preferential terms, (art. 110, “August Decree” DL 104/2020) in financial statements for the year following the one in progress on 31/12/2020, **provided that the assets were not written up in the financial statements for the previous year.**

Unlike revaluation under art. 110 of the August Decree, the so-called “2021 revaluation” expressly excludes the possibility to release, for tax purposes, the positive balance of the revaluation and the higher value of any revalued assets and shareholdings. Accordingly, it applies only **for civil law purposes.**

Taxpayers may in any event benefit from the “standard revaluation” under Law no. 160/2019, which allows to recognize the higher tax values after paying a substitute tax of 12% on depreciable/amortizable assets and of 10% on non-depreciable/amortizable assets.

## NON-RETURNABLE CONTRIBUTION TO STARTUPS (ART. 1-TER)

Earners of business income that activated their VAT registration no. from 1 January 2018 to 31 December 2018, whose operations – according to the records of the register of companies of the Chamber of commerce – started in 2019 are eligible for a **non-returnable contribution**. The essential condition to be eligible for the contribution is not having received the contribution under art. 1 of DL 41/2021, because average monthly sales and fees in 2020 were not at least 30% lower than average monthly sales or fees in 2019, provided that other conditions and requisites in art. 1 are met.

Only taxpayers with **revenues and fees equal to or lower than €10 million** in the tax year 2019 are eligible for the contribution.

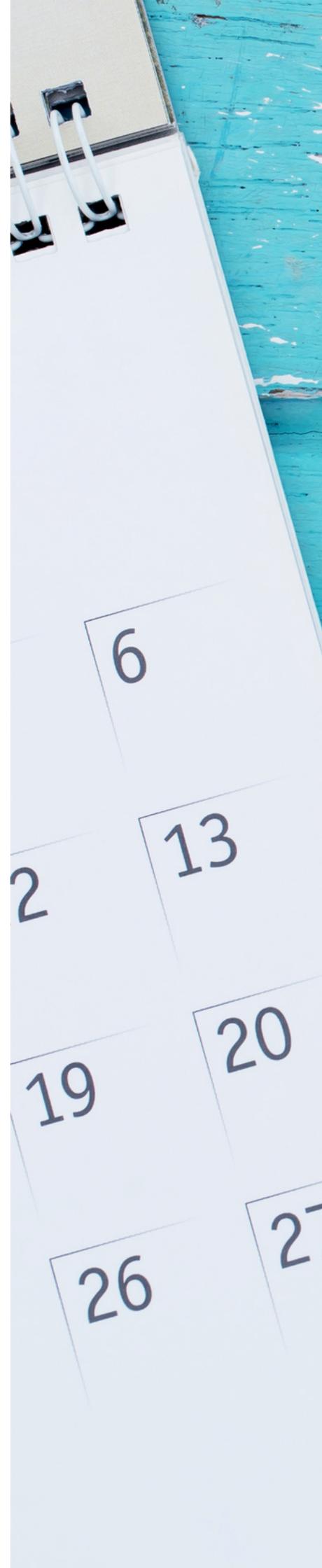
The amount of the contribution is determined by applying a percentage to the difference between 2020 average monthly sales and 2019 average monthly sales (in case of taxpayers that activated their VAT registration in 2019, the months after the effective date are taken into account). The percentage is set as per the following table:

Revenues of fees in 2019 (€)	Contribution
Up to 100.000	60% of the average monthly loss
From 100.001 to 400.000	50% of the average monthly loss
From 400.001 to 1 million	40% of the average monthly loss
From 1.000.001 to 5 million	30% of the average monthly loss
From 5.000.001 to 10 million	20% of the average monthly loss

The following persons are not entitled to the contribution:

- Taxpayers whose business was discontinued on the effective date of the Support Decree (23/03/2021);
- Taxpayers that activated their VAT registration after the effective date of the Support Decree (23/03/2021);
- The government entities listed in art. 74 of the Income Tax Act;
- Financial intermediaries and holding companies listed in art. 162-bis of the Income Tax Act, which are in any event excluded from the non-returnable contribution.

Contributions are granted up to a cap of €20 million for 2021. A subsequent decree will set the criteria and implementation procedures, including to comply with this disbursement cap.



## SUSPENSION OF PAYMENT DEADLINES (ART. 4, PARAS 1 AND 2)

**The deadline for making payments resulting from tax collection orders issued by tax collection agents and from enforceable tax assessment notices was postponed from 28 February to 30 April 2021.**

Failure to pay or insufficient or late payment of any amounts of the so-called “**rottamazione-ter**”, “**rottamazione risorse proprie UE**” and “**saldo e stralcio**” **preferential settlement procedure** tax bills may be regularized by making the relevant payments by 31 July 2021. Any amounts falling due in 2021 will need to be paid by 30 November 2021.

The Tax collection agent may submit write-off notices for amounts assigned to it in the years 2018, 2019, 2020 and 2021, by 31 December 2023, 31 December 2024, 31 December 2025, and 31 December 2026, respectively.

## WRITE-OFF OF TAX COLLECTION NOTICES OF UP TO €5.000 (ART. 4, PARAS. 4-11)

**All debts whose residual amount equal to or lower than € 5.000 related to the period 1 January 2000 - 31 December 2010** owed by individuals and persons other than individuals that in 2019 earned a taxable income equal to or lower than €30.000 were **automatically written off**.

## PREFERENTIAL SETTLEMENT, OF NONCONTENTIOUS NOTICES FOR VAT TAXPAYERS WITH DROP IN SALES (ART. 5, PARAS. 1-11 AND 17)

**VAT taxpayers** that suffered from a **drop in sales of more than 30%** in 2020 compared with the previous year may be eligible for preferential settlement of noncontentious payment notices related to the tax years 2017 and 2018. The preferential settlement involves the reduction of penalties and additional amounts, but taxes, interest and social security contributions remain payable. **The Revenue Agency** will send a **settlement proposal**, if required **conditions** are met, thus cutting penalties and ancillary amounts claimed in the notices of irregular tax payments.



## OFFSETTING TAX CREDITS AND TAX DEBTS CLAIMED IN ORDERS FOR COLLECTION (ART. 5, PARA 12 LETT. A))

Suspension of **offsetting tax credits and tax debts claimed in orders for collection**, governed by art. 28-ter of Pres. Dec. 602/73, was **extended to 30 April 2021**.

## PAYMENT OF THE WEB TAX (ART. 5, PARA. 15)

The payment deadline for the tax on digital services was postponed from 16 February to 16 May of each year.

The deadline for filing the relevant return was also postponed from 31 March to 30 June.

## PERIOD FOR KEEPING RECORDS OF IT DOCUMENTS FOR THEIR RELEVANCE FOR TAX PURPOSES (ART. 5, PARA. 16)

The period for keeping record of IT documents that are relevant for tax purposes related to the tax year 2019 was extended by three months and therefore until **10 June 2021**.

## OBLIGATION TO REPORT QUALIFIED STATE CREDITORS (ART. 5, PARA. 14)

Article 15, para. 7 of the **Company Crisis and Insolvency Code** (under Leg. Dec. 14/2019) was amended to include that the obligation to notify the debtor that the relevant amount of debt exposure was exceeded becomes effective:

- For the Revenue Agency: starting from the periodic VAT liquidation communication of Q1 of the second tax year after the year the Code is enacted;
- For INPS and for the Tax collection agent: from the year after the year the Code was enacted.

The Company Crisis and Insolvency Code is scheduled to be enacted on **1 September 2021**.



## AUTHENTIC INTERPRETATION OF ART. 6-BIS OF D.L. 8 APRIL 2020, N. 23, CONVERTED, WITH AMENDMENTS, BY LAW NO. 40, 5 JUNE 2020 (ART. 5-BIS)

A provision delivering an authentic interpretation of regulations on **reevaluation of assets of the hotel and spas industries** was introduced (art. 6-bis DL 23/2020, so-called "Liquidity Decree").

The revaluation of company assets and shareholdings disclosed in the financial statements of the fiscal year in progress on 31 December 2019, under art. 6-bis of DL 23/2020, to the benefit of companies and entities operating in the hotel and spas industries, also applies to real estate property used as hotels forming the subject matter of a lease or lease of business entered into with players operating in the hotel and spas industries, or real estate property under construction, renovation or completion.

- In the event of lease of business, revaluation is admitted on condition that depreciation allowances are deductible when determining the income of the lessor (art. 102, para. 8, Income Tax Act).
- In the event of real estate property under construction, renovation or completion, the authorized use is assumed by relying on building permits and in all other cases on the land registration category.

## CALCULATION OF VAT FOR THE PURPOSES ENERGY EFFICIENCY INCENTIVES (ART. 6-BIS)

**Non-deductible VAT**, including in part, payable on costs that are relevant for the 110% **superbonus** is included in the total amount eligible for the benefit, regardless of the accounting method adopted by the taxpayer.

## MEASURE TO STIMULATE COMPANY WELFARE PLANS (ART. 6-QUINQUIES)

The provisions doubling the amount exempted from personal income tax for goods sold and services rendered by the employer to its staff was extended to the **2021 tax period**. Accordingly, the amount is raised to **€ 516,46** in the 2021 tax year as well.



**EXEMPTION FROM THE FIRST IMU (LOCAL PROPERTY TAX) PAYMENT (ART. 6-SEXIES)**

**In 2021, the first payment of IMU is not due on** real estate property owned by taxpayers that meet the conditions to benefit from the non-returnable contributions introduced by the Law under review (art. 1 paras. 1-4), or taxpayers registered for VAT, residents of or established in Italy, that carry out a business, are artists or professionals, or earn farm income:

- With fees and revenues in the tax year 2019 equal to or lower than €10 million;
- On condition that average sales and fees in 2020 were at least 30% lower than average sales and fees in 2019. Taxpayers that activated their VAT registration in 2019 are eligible for the contribution even if they did not suffer from this drop in sales.

Taxpayers listed above in connection with the description of art. 1-ter of the Law under review are not eligible for the contribution.

**Exemption from the from IMU payment applies only to real estate property where the taxpayer exercises a business that it also operates.**



## *CONTACT US*

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