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Donations related to the COVID-19 emergency

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In order to promote the donations aimed at facing the COVID-19 emergency, the so-called "*Cura Italia Decree*"¹ has provided in art. 66 a series of special incentives for individuals and non-commercial entities (paragraph 1) as well as for businesses (paragraph 2) who intend to make donations in cash and in kind in favor of particular bodies employed in the activities of containment and management of the epidemiological emergency by COVID-19².

The first paragraph provides that the donations in cash and in kind, made in the year 2020 by **individuals and non-commercial entities** in favor of the State, the regions, local territorial authorities, public bodies or institutions³, foundations and associations, legally recognized non-profit organizations, aimed at financing interventions in the containment and management of the epidemiological emergency by COVID-19, benefit from a deduction from gross income tax (IRPEF) equal to 30% for an amount not exceeding 30,000 euro.

The second paragraph regulates the donations in cash or in kind made in the year 2020 by **business enterprises**. With regard to these persons, the legislator has extended to the COVID-19 emergency the provisions of Article 27 of Law no. 133 of 13 May 1999, provided for donations made in favor of the populations affected by public calamities or other extraordinary events by means of donations, associations, committees and other bodies involved in the emergency. As a result, the donations in cash are fully deductible from corporate income for the purposes of the relevant taxes, with no spending limits.

As regards the regional tax on productive activities, Article 66 provides that donations are deductible in the financial year in which they are made.

The donations referred to above are not subject to gift tax.

¹ Decree Law no. 18 of 17 March 2020 on "*Measures to strengthen the National Health Service and economic support for families, workers and businesses connected with the epidemiological emergency by COVID-19*".

² Without claiming to be exhaustive, examples are: "Regione Lombardia"; "Fondo di mutuo soccorso - Comune di Milano"; "Ospedale Niguarda"; "Croce Rossa Italiana"; "ASST Fatebenefratelli Sacco"; "Fondazione Fiera Milano"; "Protezione Civile"; "ASST Papa Giovanni XXIII - Ospedale di Bergamo" "Lazzaro Spallanzani Hospital". For the complete list please refer to the link on the website of the Ministry of Health.

³ Among which should be considered included all the companies of the National Health Service that manage several hospital facilities. The Inland Revenue however is expected to open, at the time of conversion of the decree law or by way of interpretation through a Ministerial Circular Letter, the benefits for donations to accredited private hospitals and other parties involved in the COVID-19 emergency, which at present would not be included among the beneficiaries of the relived donations.



Donor	Beneficiary	Facilitation
Natural persons and non-commercial bodies	State, regions, local authorities, public bodies or institutions, foundations and associations legally recognized as non-profit-making, involved in the COVID-19 emergency	Gross tax deduction of 30% for income tax purposes for an amount not exceeding € 30,000
Businesses	ONLUS, international organizations of which Italy is a member, other foundations, associations, committees and bodies which, established by a deed of incorporation or statute drawn up in the form of a public deed or a notarized or registered private deed, among their aims are humanitarian interventions in favor of populations affected by public calamities or other extraordinary events, state, regional and local public administrations, non-economic public bodies involved in the COVID-19 emergency	Income deduction from corporate income and IRAP without spending limits

As far as cash donations are concerned, they must be made by bank transfer or other traceable instruments (e.g. checks, credit cards, debit cards); it is also advisable to specify the purpose of the donation in the mention of the transfer (by way of example, it is possible to insert the wording "against corona virus (covid19)" or "coronavirus emergency support". In any case, it is generally the beneficiary of the grant itself that indicates the purpose to be used, especially if it relates to a specific activity (e.g. "Fiera Milano hospital construction").

With regard to payments in kind, the provision in question refers, as compatible, to the provisions of articles 3 and 4 of the Decree of the Ministry of Labor and Social Policy of 28 November 2019, relating to the quantification of the value of the asset and the documentation necessary to deduct the corresponding expenditure⁴.

The new incentives introduced by the "Cura Italia Decree" go alongside⁵ the tax benefits ordinarily provided by the Income Tax Code or by other special laws for liberal donations in favor of healthcare, assistance and scientific research activities.

- In the case of donations made by individuals, it is worth mentioning the facilitation provided for by article 10, paragraph 1, letter *l-quater* of the Italian Tax Code, which provides for the full deductibility from taxable income for personal income tax (IRPEF) of donations made to public and private public and private hospital and care institutions ("IRCCS") and public and

⁴ Goods and services which constitute donations in "kind" do not give rise to taxable income for the transferor.

⁵ While not generally cumulative.



private research institutions supervised by the Ministry of Education, University and Research (“MIUR”), including the Italian National Institute of Health (“ISS”).

- With regard to donations made by companies and other entities subject to corporate income tax (IRES), article 100, paragraph 2, letter a) of the Italian Tax Code provides for the deductibility from taxable income, for an amount not exceeding 2% of the declared business income, for donations made in favor of legal entities pursuing certain purposes, including scientific research and health care.
- A further tax relief commercial bodies is available under article 1, paragraph 353 of Law no. 266/2005, which provides for the full deductibility from the total taxable income of donations made to, *inter alia*, public and private research institutions (including the Scientific Institutes for Research and Care or “IRCCS”) supervised by the MIUR, including the ISS and recognized foundations and associations that carry out or promote scientific research activities.
- Finally, worthy of mention here is article 14 of Decree Law no. 35/2005 that provides for the deductibility, both for individuals and legal entities, within the limit of 10% of the total income and for a maximum amount of 70,000 euros per year, of donations made in favor of foundations and recognized associations whose purposes is the performance or promotion of scientific research activities.

With reference to the private healthcare sector and/or individuals for whom there may be doubts about the actual entitlement to the benefit, it will therefore be necessary to assess the most suitable regulatory instrument to make the grant, considering the specific activities that are intended to support in the emergency framework related to the spread of the epidemic.

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