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Subject: State Aid SA.57429 (2020/N) – Italy
COVID-19: Tax exemptions and tax credits adopted as a consequence of the economic crisis caused by the COVID-19 outbreak

Excellency,

1. PROCEDURE

(1) By electronic notification of 23 June 2020, Italy notified four measures consisting in tax waivers and tax credits (Article 24, Article 28, Article 120, and Article 177 of the Decree-Law No 34 of 19 May 2020)[1] ("the measures") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended ("the Temporary Framework").[2]

[1] "Misure urgenti in materia di salute, sostegno al lavoro e all'economia, nonché di politiche sociali connesse all'emergenza epidemiologica da COVID-19" (or "Urgent measures in the field of health, support to work and the economy, as well as social policies related to the epidemiological emergency from COVID-19"), Legislative Decree of 19 May 2020 No 34, published in the Ordinary Supplement to the Italian Official Gazette No 128 of 19 May 2020.

[2] Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I , 4.4.2020, p. 1–9 and by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for

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(2) Italy exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union ("TFEU"), in conjunction with Article 3 of Regulation 1/1958,[3] and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURES

(3) Italy considers that the COVID-19 outbreak has severely affected the real economy. Italy expects a fall in GDP of 5.5% for the first quarter and 10.5% for the second quarter of 2020. For the entire year 2020, Italy estimates a fall in GDP of 8.1%, based on the assumption that the gradual drop in the number of infections with respect to the level at the end of April 2020 continues. In the adverse scenario, with new increases in the number of infections and a renewed halt of production activities and further restrictions on the free movement of citizens, the corresponding drop in 2020 GDP is estimated to reach 10.6%.

(4) The Italian National Institute of Statistics ISTAT calculated that, in June 2020, 41.4% of private sector enterprises had a 50% reduction of their turnover for the two months March and April 2020 as compared to the same period of 2019. Similarly, 52.4% of enterprises in the accommodation and food service activities sector reported a 50% drop in turnover for March and April 2020 as compared to the same period of 2019.

(5) The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings, and thereby to preserve the continuity of economic activity during and after the outbreak.

(6) The compatibility assessment of the measures is based on Article 107(3)(b) TFEU, as interpreted by Section 2 and Section 3.1 of the Temporary Framework.

2.1. The nature and form of aid

(7) The measures provide aid in the form of tax advantages (waiver of taxes and tax credits). They aim to support the liquidity of undertakings and self-employed workers affected by the crisis to limit the negative effects of prevention and containment measures taken in response to the COVID-19 outbreak, and to promote measures to adapt production processes and work places.

2.2. Legal basis

(8) The legal basis for the measures is the Decree-Law No 34 of 19 May 2020 (Articles 24, 28, 120 and 177).

State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3–15.

[3] Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

2.3. Administration of the measures

(9) The Ministry of Economy and Finance, together with the Italian Revenue Agency, is responsible for administering the measures in Article 24 (waiver of the regional tax on production activities (IRAP)), Article 28 (tax credit for lease payments) and Article 120 (tax credit for the adaptation of work places). The Ministry of Economy and Finance, together with the municipalities, is responsible for administering the measure in Article 177 (waiver of the municipal tax (IMU)).

2.4. Budget and duration of the measures

(10) The estimated budget of the measures is EUR 3.952 billion for the Article 24 measure (waiver of the regional tax on production activities (IRAP)); EUR 1.4241 billion for the Article 28 measure (tax credit for lease payments); EUR 2 billion for the Article 120 measure (tax credit for the adaptation of work places); and EUR 205.45 million for the Article 177 measure (waiver of the municipal tax (IMU)).

(11) Aid may be granted under the measures until no later than 31 December 2020[4].

2.5. Beneficiaries

(12) The measures are open to all economic sectors, with the exception of banks and other financial institutions, insurance companies, public administrations and public bodies. In particular, the final beneficiaries of the measures are:

(a) *The Article 24 measure (waiver of the regional tax on production activities (IRAP)):* Enterprises and self-employed workers with a volume of revenues and fees not exceeding EUR 250 million in 2019, in all sectors of the economy, excluding banks and other financial institutions/companies, as well as insurance companies, public administrations and public bodies. The estimated number of beneficiaries of the measure is 1.75 million enterprises.

(b) *The Article 28 measure (tax credit for lease payments):* Taxpayers carrying out a business, art or profession with revenues and fees not exceeding EUR 5 million in the tax period preceding the one in progress at the date of entry into force of Decree-Law No 34 of 19 May 2020; non-commercial bodies, including third sector entities[5] and civilly recognised religious entities with revenues and fees not exceeding EUR 5 million in the tax period preceding the one in progress at the date of entry into force of the Decree-Law, in relation to the rental and lease payment or concession fee for non-residential properties used to carry out their institutional activities. Hotel and agritourism facilities will benefit from the measure regardless of the volume of revenues and fees recorded in the previous tax period. The estimated number of beneficiaries of the measure

4 The tax liability in relation to which the aid is granted must have arisen no later than 31.12.2020, in line with footnote 17 of the Temporary Framework.

5 The third sector in Italy is regulated by Legislative Decree No. 117 of July 3, 2017, Code of the Third Sector. It is made up of organisations such as associations, volunteer organisations, and philanthropic foundations formed to pursue the common good. Third sector organisations must engage exclusively in not-for-profit activities.

is 750 000, of which 156 000 operate in the retail sector, 284 000 in private services, and 5 800 in the hotel sector.

(c) *The Article 120 measure (tax credit for the adaptation of work places):* Taxpayers carrying out a business, art or profession in places open to the public indicated in Annex 1 to Decree-Law No 34 of 19 May 2020, associations, foundations and other private entities, including third sector entities. The measure supports economic activities carried out in places open to the public. The estimated number of beneficiaries of the measure is 3 510 234.

(d) *The Article 177 measure (waiver of the municipal tax (IMU)):* Taxpayers of the municipal tax (IMU) in relation to properties used as seaside, lake and river bathing resorts, as well as properties for spas. Properties falling within cadastral category D/2 (hotels and pensions) and properties of holiday farm centres (agritourisms), tourist villages, youth hostels, mountain refuges, sea and mountain camps, landlords for short stays, holiday homes and apartments, bed & breakfast accommodation providers, residences and campsites, provided that their owners are also managers of the activities carried out therein. It is estimated that the measure concerns around 50 000 taxpayers with an average exemption amount of EUR 4 000.

(13) Financial institutions are excluded from benefitting from the measures.

(14) Aid may not be granted under the measures to undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER"), the Agricultural Block Exemption Regulation ("ABER") and the Fisheries Block Exemption Regulation ("FIBER")[6] on 31 December 2019.

2.6. Sectoral and regional scope of the measures

(15) The measures are open to all economic sectors, with the exception of banks and other financial institutions, insurance companies, public administrations and public bodies. They apply to the whole territory of Italy.

2.7. Basic elements of the measures

2.7.1. Article 24: Provisions relating to the payment of IRAP

2.7.1.1. Objective of the measure

(16) The objective of the measure is to ensure the liquidity of the beneficiaries by waiving the obligation to make the balance payment for the tax year 2019 and the

[6] As defined in Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1, Article 2(14) of Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 193 of 1.7.2014, p.1, and Article 3(5) of Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369 of 24 December 2014, p. 37.

first instalment of the advance payment for the tax year 2020. Both payments are in principle due by 30 June 2020.

2.7.1.2. Description of the measure

(17) IRAP (*Imposta Regionale sulle Attività Produttive*) is a regional production tax[7]. It is levied on all enterprises carrying on any production or trading activity. The taxable base is defined as the added value produced in a region. There are different methods of computation for the IRAP taxable base, depending on the nature of the business carried out by the taxpayer. The standard IRAP tax rate is 3.9%. IRAP is levied on a regional basis, and regions are allowed to increase or decrease the standard rate.

(18) IRAP is collected through self-assessment according to the same regulations applicable for income tax purposes. The taxpayer is required to pay the tax by providing:

(a) An *advance payment*: In general, the advance payment is paid in two instalments.

– 40% of the tax due for the previous year (or of the projected tax base for the current year) must be paid within the deadline for the balance payment for the previous tax year (in principle by 30 June);

– 60% of the tax due for the previous year (or of the projected tax base for the current year) must be paid in November.

(b) A *balance payment*: to be made by 30 June of the year of presentation of the IRAP tax return relating to the previous tax year[8]. The balance payment corresponds to the share of tax relating to the increase in the taxable base of the tax period compared to the previous one.

(19) The measure waives the obligation of the taxpayers concerned by the measure to pay the balance payment for 2019 as well as the first instalment of the advance payment for 2020, both of which are in principle due by 30 June 2020.

(20) Article 24 explicitly subjects the measure to the limitations and conditions set out in the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended.

(21) Italy estimates that the number of beneficiaries will be around 1.75 million enterprises and that, on average, the measure will result in a benefit of EUR 2 238 per beneficiary.

7 "Istituzione dell'imposta regionale sulle attivita' produttive, revisione degli scaglioni, delle aliquote e delle detrazioni dell'Irpef e istituzione di una addizionale regionale a tale imposta, nonché riordino della disciplina dei tributi locali", Decreto legislativo 15 dicembre 1997 n. 446, pubblicato in Gazzetta Ufficiale n. 298 del 23/12/1997.

8 The payment of the balance due by taxable persons whose tax period does not coincide with the calendar year must be made by the last day of the sixth month following the closing of the tax period.

2.7.2. *Article 28: Tax credit for lease payments for non-residential properties and business leases*

2.7.2.1. Objective of the measure

(22) The objective of the measure is to contain the negative effects deriving from prevention and containment measures related to the OVID-19 outbreak and to guarantee support to business liquidity of taxpayers carrying out a business, art or profession.

2.7.2.2. Description of the measure

(23) The beneficiaries of the measure are taxpayers carrying out a business, art or profession with revenues and fees not exceeding EUR 5 million in the tax period preceding the one in progress at the date of entry into force of the Decree-Law No 34 of 19 May 2020.

(24) Non-commercial bodies, including third sector entities and recognised religious entities with revenues and fees not exceeding EUR 5 million in the tax period preceding the one in progress at the date of entry into force of the Decree-Law are also beneficiaries in relation to the rental and lease payment or concession fee for non-residential properties used to carry out their institutional activities.

(25) Hotel and agritourism facilities can benefit from the measure regardless of the volume of revenues and fees recorded in the previous tax period. The EUR 5 million threshold does not apply to these facilities.

(26) The amounts of rental and lease payments for each of the months March, April and May 2020 are the reference base for the calculation of the tax credit. For tourist accommodation facilities with activities of a seasonal nature, the payments for each of the months April, May and June 2020 are the reference base.

(27) The tax credit is granted to lessees engaged in an economic activity provided that they have suffered a decrease in turnover or fees in the reference month of at least 50 per cent compared to the same month of the previous tax period.

(28) If this condition is fulfilled, 60 per cent of the monthly amount of the rental and lease payment or concession fee for non-residential properties used to carry out the industrial, commercial, craft, agricultural, tourism-related activity or for the habitual and professional carrying out of the self-employed activity are recognised as a tax credit for the beneficiaries.

(29) In the case of complex service contracts or business leases including at least one non-residential property used to carry out the industrial, commercial, craft, agricultural, tourism-related activity, or for the habitual and professional carrying out of the self-employed activity, 30 per cent of the respective payments are recognised as tax credit for the beneficiaries[9].

[9] With its Circular letter No 14/E of 6 June 2020, the Italian Revenue Agency has clarified that complex service contracts cover all the cases in which, alongside with making the property available, an activity consisting of the performance of a set of complementary and functional services for the unitary use of the building complex is carried out.

(30) The right to benefit from the tax credit is always conditional upon actual payment of the eligible expenses (in 2020).

(31) The tax credit can be used in the income tax return relating to the tax period in which the expenses are incurred. In that case, the taxpayer is not required to file an application since the aid can be claimed in the income tax return directly.

(32) The tax credit can also be offset against tax liabilities (tax credit compensation) pursuant to Article 17 of Legislative Decree No 241 of 9 July 1997[10]. The tax credit mechanism governed by Article 17 of Legislative Decree No 241 of 1997 provides for the possibility to use the tax credit to offset it against other tax liabilities due to the tax authorities, to the regions, to local authorities, or to social security and welfare entities. This is a compensation mechanism that operates outside the tax return, so that the tax credit can be offset against tax liabilities other than those shown in the tax return. Compensation is made using the so-called "F24 payment model" (unified payment form). This allows the taxpayer to make the payment of the sums due in a single operation, offsetting the payment with any credits. This mechanism allows relevant undertakings to benefit from the tax credit already in 2020.

(33) Article 28 explicitly subjects the measure to the limitations and conditions set out in the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended.

(34) The Italian authorities estimate that the number of beneficiaries of the measure will be 750 000. The average amount of the tax benefit per person is estimated to be EUR 1 900. The overall budget for the measure is estimated at EUR 1.4241 billion.

2.7.3. *Article 120: Tax credit for the adaptation of work places*

2.7.3.1. Objective of the measure

(35) The objective of the measure is to encourage and support the adaptation of production processes and work places following the COVID-19 outbreak.

2.7.3.2. Description of the measure

(36) Taxpayers carrying out a business, art or profession in places open to the public indicated in Annex 1 to Article 120, associations, foundations and other private entities, including third sector entities, are entitled to a tax credit for interventions needed to enforce health requirements and the containment measures against the spread of the COVID-19 virus.

(37) A tax credit is granted for all expenses incurred to enforce health requirements and containment measures against the spread of the COVID-19 virus, such as building measures needed for the renovation of changing rooms and canteens; the construction of medical spaces, entrances and common areas; the purchase of

[10] "Norme di semplificazione degli adempimenti dei contribuenti in sede di dichiarazione dei redditi e dell'imposta sul valore aggiunto, nonché di modernizzazione del sistema di gestione delle dichiarazioni", Decreto Legislativo 9 luglio 1997 n. 241 pubblicato in Gazzetta Ufficiale n. 174 del 28/7/ 1997.

security furnishings; and investments in innovative activities, including the purchase of equipment for controlling the body temperature of employees and customers.

(38) The tax credit is equal to 60 per cent of the expenses incurred in 2020, for a maximum amount of expenses of EUR 80 000.

(39) The tax credit may be combined with other State support measures in relation to the same expenses, but must remain within the limit of the actual costs incurred.

(40) Article 120 explicitly subjects the measure to the limitations and conditions set out in the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended.

(41) The tax credit accrues in relation to the expenses incurred in 2020. In accordance with the general principles of Italian income tax legislation, the tax credit can be claimed in the income tax return relating to the tax period in which the expenses are incurred. In addition, that tax credit can be offset against a broad range of other taxes and even social security contributions in the same way described in paragraph 32 above. It results from the above principles that the tax credit will be offset against the income tax liabilities for which payment is due in 2021. The Italian authorities estimate that the average amount of tax benefit per beneficiary will be approximately EUR 570. The estimated number of beneficiaries is 3.51 million and the overall budget for the measure is estimated at around EUR 2 billion.

2.7.4. Article 177: Exemptions from the municipal tax IMU for the tourism sector

2.7.4.1. Objective of the measure

(42) The objective of the measure is to ensure the liquidity of the beneficiaries by waiving the obligation to pay the first instalment of IMU for the tax year 2020 for properties related to the tourism and hospitality sector. In view of the constraints on the free movement of persons deriving from the lockdown measures, in June 2020, 52.4% of enterprises in the sector of accommodation and food service activities reported a 50% drop in turnover for the two months March and April 2020 compared to the same period of 2019. The payment of the first IMU instalment for the tax year 2020 would be due by 16 June 2020.

2.7.4.2. Description of the measure

(43) IMU (*Imposta Municipale Propria*) was introduced by Article 13 of Legislative Decree No 201 of 6 December 2011, converted into Law No 214 of 22 December 2011, and was newly regulated by Law No 160 of 27 December 2019[11] (2020 Budget Law).

(44) IMU is due for the possession of buildings excluding principal residences, of building areas and agricultural land. IMU is payable by the owner of the property or by the owner of any other right *in rem* (usufruct, right of use and right of

[11] "Bilancio di previsione dello Stato per l'anno finanziario 2020 e bilancio pluriennale per il triennio 2020-2022", Legge 27 dicembre 2019 n.160 pubblicato in Gazzetta Ufficiale n. 304 del 30/12/ 2019.

habitation, emphyteusis, surface rights). IMU is also payable by the concessionaire in case of concessions of State-owned property and by the lessee in case of leasing.

(45) IMU is calculated by applying the tax rate set for the case in question to the taxable base. The taxable base is the value of the property as determined in the manner required by law.

(46) For each case, a standard IMU tax rate is established by law (between 0.1 and 0.86%, depending upon the category of the property). This standard rate can be increased or decreased by the municipality within specific margins provided by the same legislation. To this end, the municipality establishes the tax rates for IMU with a resolution of the Municipal Council.

(47) IMU is paid in two instalments:

(a) The first instalment is due on June 16 of the reference year. The amount to be paid corresponds to the tax due for the first half of the year by applying the rate of the previous year.

(b) The second instalment must be paid on balance by December 16 of the reference year.

(48) The measure foresees that, for the year 2020, the first IMU instalment due on 16 June 2020 is waived for the following categories of property related to the tourism sector:

(a) Properties used for seaside, lake and river bathing resorts, as well as properties of spas;

(b) Properties falling within the cadastral category D/2 (hotels and pensions) and properties of holiday farm centres (agritourisms), tourist villages, youth hostels, mountain refuges, sea and mountain camps, landlords for short stays, holiday homes and apartments, bed & breakfast accommodation providers, residences and campsites, provided that their owners are also managers of the activities carried out therein.

(49) Article 177 explicitly subjects the measure to the limitations and conditions set out in the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended.

(50) Italy estimates that the number of beneficiaries will be 50 000 and that, on average, the measure will result in a benefit of EUR 4 000 per beneficiary. The estimated overall budget for the measure is EUR 205.45 million.

2.8. Cumulation

(51) The Italian authorities confirm that aid granted under the measures may be cumulated with aid under *de minimis* Regulations[12] or the General Block Exemption Regulation ("GBER"), the Agricultural Block Exemption Regulation ("ABER") and the Fisheries Block Exemption Regulation ("FIBER")[13], provided the provisions and cumulation rules of those Regulations are respected.

(52) The Italian authorities confirm that aid granted under the measures may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.

(53) The Italian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under Section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in points 22(a) and 23(a) of that framework, shall be respected.

2.9. Monitoring and reporting

(54) The Italian authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting[14]).

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[12] Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p.1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8).

[13] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1, Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1 and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.

[14] Referring to information required in Annex III to Commission Regulation (EU) No. 651/2014 of 17 June 2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the *Commission Regulation (EU) No 1388/2014 of 16 December 2014.*

3. ASSESSMENT

3.1. Lawfulness of the measures

(55) Article 24 waives the obligation of the taxpayers concerned by the measure to pay the balance payment of the IRAP for 2019 as well as the first instalment of the advance payment for 2020, both of which are in principle due by 30 June 2020. Article 120 involves tax credits for costs incurred in 2020 by the relevant taxpayers to enforce health requirements and which these can use in their income tax return relating to the tax period in which the expenses are incurred. By notifying these measures before putting them into effect, the Italian authorities have respected their obligations under Article 108(3) TFEU.

(56) Article 28 involves tax credits for costs relating to lease payments incurred by the relevant taxpayers between March and June 2020 which these can use in their income tax return relating to the tax period in which the expenses are incurred. The tax credits can also be offset against other tax liabilities due to the tax authorities, to the regions, to local authorities, or to social security and welfare entities. Italy confirmed that the measure is already effective. Article 177 waives for the taxpayers concerned by the measure the first IMU instalment for the year 2020, which was due on 16 June 2020. The Commission regrets that Italy has put these measures into effect before the Commission has adopted its decision., in breach of Article 108(3) of the TFEU.

3.2. Existence of State aid

(57) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

(58) The measures are imputable to the State, since they are administered by the Ministry of Economy and Finance together with the Italian Revenue Agency (Articles 24; 28; 120) and the Ministry of Economy and Finance together with the municipalities (Article 177), and they are based on Articles 24, 28, 120, and 177 of the Decree-Law No 34 of 19 May 2020 "Urgent measures in the field of health, support to work and the economy, as well as social policies related to the epidemiological emergency from COVID-19", published in the Ordinary Supplement to the Italian Official Gazette No 128 of 19 May. The measures are financed through State resources, since they are financed by public funds through the renunciation of tax revenues.

(59) The measures confer an advantage on their beneficiaries in the form of tax waivers and tax credits. The measures thus relieve those beneficiaries of costs which they would have had to bear under normal market conditions.

(60) The measures derogate from the tax systems of which they form a part (IRAP, income tax and IMU) in that they relieve their beneficiaries from the aforementioned taxes. They therefore discriminate in favour of their beneficiaries as compared to other undertakings in a comparable factual and legal situation [undertakings above the respective ceilings or being part of sectors (or engaging

in activities) not covered by the measures], which remain subject to the aforementioned taxes. The Italian authorities have not provided any justification for that discrimination based on the nature or the general scheme of the tax systems. Accordingly, the tax advantages are selective.

(61) The measures are liable to distort competition, since they strengthen the competitive position of their beneficiaries. They also affect trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

(62) In view of the above, the Commission concludes that the measures constitute aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest that conclusion.

3.3. Compatibility

(63) Since the measures involve aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether they are compatible with the internal market.

(64) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid "*to remedy a serious disturbance in the economy of a Member State*".

(65) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in Section 2) that "*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*". The Commission concluded that "*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs*".

(66) The measures aim at remedying the liquidity shortage faced by undertakings at a time when the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.

(67) The measures are part of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. The importance of this type of measures to preserve employment and economic continuity is widely accepted by economic commentators and the measures are of a scale which can be reasonably anticipated to produce effects across the entire Italian economy. Furthermore, the measures have been designed to meet the requirements of a specific category of aid ("*Limited amounts of aid*" described in Section 3.1 of the Temporary Framework).

(68) The Commission accordingly considers that the measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meet all the conditions of Section 3.1 of the Temporary Framework. In particular:

- Aid granted under the measures takes the form of tax advantages (see recital 7 above).

- The overall nominal value of the tax advantages shall not exceed EUR 800 000 per undertaking (see recitals 20, 33, 40 and 49 above, see also below the special rules that apply to the fishery and aquaculture sector as well as the primary production of agricultural products); all figures used must be gross, that is, before any deduction of tax or other charges. The measures therefore comply with point 22(a) of the Temporary Framework;
- Aid is granted under the measures on the basis of a scheme with an estimated budget, as indicated in recital (10). The measures therefore comply with point 22(b) of the Temporary Framework;
- Aid under the measures will not be granted to undertakings that were already in difficulty on 31 December 2019 (see recital 14). The measures therefore comply with point 22(c) of the Temporary Framework;
- Aid will be granted under the measures no later than 31 December 2020. The tax liability in relation to which that advantage is granted must have arisen no later than 31 December 2020 (see recitals 19, 30-32, 38-41 and 48). The measures therefore comply with point 22(d) of the Temporary Framework;
- Undertakings active in the processing and marketing of agricultural products are excluded when the aid is conditional on being partly or totally passed on to primary producers, fixed on the basis of the price or quantity of products purchased from primary producers, or put on the market by such producers. The measures therefore comply with point 22(e) of the Temporary Framework.
- The overall nominal value of the tax advantages does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector or EUR 100 000 per undertaking active in the primary production of agricultural products. The measure therefore complies with point 23(a) of the Temporary Framework;
- Aid granted to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market. The measures therefore comply with point 23(b) of the Temporary Framework;
- Italy has confirmed that aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014. The measure therefore complies with point 23(c) of the Temporary Framework;
- Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Italy will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 800 000 is not exceeded per undertaking. Where an undertaking is also active in the sectors covered by point 23(a) of the Temporary Framework, the overall maximum amount of EUR 120 000 per undertaking active in the fishery and aquaculture sector or EUR 100 000 per undertaking active in the primary production of agricultural products shall not be exceeded. The measures therefore comply with point 23bis of the Temporary Framework.

(69) The Italian authorities confirm that the monitoring and reporting rules laid down in Section 4 of the Temporary Framework will be respected. The Italian authorities further confirm that the aid under the measures may only be cumulated with other aid, provided the specific provisions and cumulation rules of the Temporary Framework and other relevant Regulations are respected.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

The decision is based on non-confidential information and is therefore published in full on the Internet site: http://ec.europa.eu/competition/elojade/isef/index.cfm.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President