

Benedetti & Co's presence in India can assist Italian businesses to manage their disruptions due to Coronavirus

Objective

On 25th March 2020 the entire India came under lockdown (due to Coronavirus) for 21 days spiralling the country into consequent paralysis of business and trade. The Government of India, has since announced series of policy measures covering regulations relating to compliance, fiscal, banking, legal and labour laws to mitigate the disruption caused by lockdown.

This note is aimed to apprise the Italian businesses that are operating in India, whether having a subsidiary in India or just having commercial operations, of the key policy changes, in brief, announced by the Government of India.

Income Tax

- Filing of Income Tax returns for FY 2018-19) extended to 30th June, 2020.
- Interest rate for delayed income tax payments (including Tax Deduction at Source (TDS), Tax Collected at Source (TCS), etc) will be at annualised rate of 9% (earlier 12 % /18 % per annum) for the delayed period. No late fee/penalty shall be charged for delay relating to this period.

GST

- Due date for filing GST annual returns of FY 18-19, extended till 30th June 2020 without any levy of late fee / penalty:
 - Companies having aggregate annual turnover less than Rs. 50 Million there will not be any interest payment for delay in filing;
 - Companies having aggregate annual turnover > than Rs. 50 Million would pay interest @9 % per annum from due date (current interest rate is 18 %).
- Date for opting for composition scheme is extended till 30th June, 2020.

Customs

- 24x7 custom clearance till end of 30th June, 2020.
- Payments due on 31st March 2020 can be paid by 30th June 2020 without any penalty or interest.

Compliance – Ministry of Corporate Affairs (MCA)

- Board Meetings prescribed interval (120 days) extended by 60 days till 30th Sept 2020.
- Newly incorporated companies can file their commencement of business form with an additional time of 6 months.

- Non-compliance of minimum residency in India of 182 days by at least 1 Director will not be considered as a violation.
- independent Directors (IDs) are required to hold at least one meeting without the attendance of Non-independent directors and members of management. For the financial year 2019-20, if the IDs of a company have not been able to hold such a meeting, the same shall not be viewed as a violation.
- No additional fees shall be charged for late filing during a moratorium period from 1st April to 30th September 2020, in respect of any document, return, statement etc., required to be filed in the MCA-21
- Deposit repayment reserve of 20% of deposits maturing during the financial year 2020-21 before shall be allowed to be complied with, till 30th June 2020 (instead of 30th April 2020).
- Requirement to invest or deposit at least 15% of amount of debentures maturing in specified methods of investments or deposits before 30th April 2020, may be complied with till 30th June 2020.

Force Majeure

- Vide notification dated 19th Feb 2020, by Ministry of Finance it has clarified that the Coronavirus calamity will be deemed as a Force Majeure (FM) situation, provided the due procedure, as prescribed is followed, of which the key terms are:
 - Provided that Force Majeure Clause (FMC) is embodied in the Contract;
 - Provided that the firm gives notice of FM as soon as it occurs. The same cannot be claimed post facto; and
 - If the FM situation affects the purchase organisation, the purchase organisation needs to immediately communicate the FM situation to its suppliers.

Loan / Interest Repayments

- RBI notification of 27th March 2020 provides:
 - **Moratorium on Term Loans**
 - All commercial banks are being permitted to allow a moratorium of three months on payment of instalments in respect of all term loans outstanding as on March 1, 2020. Accordingly, the repayment schedule and all subsequent due dates, as also the tenor for such loans, may be shifted across the board by three months.
 - **Deferment of Interest on Working Capital Facilities**
 - Working capital facilities sanctioned in the form of cash credit/overdraft, lending institutions are being permitted to allow a deferment of three months on payment of interest in respect of all such facilities outstanding as on March 1, 2020. The accumulated interest for the period will be paid after the expiry of the deferment period.

Salary Payments

- The central government has issued an advisory to all companies not to lay off employees (including casual or contractual workers) or cut their salaries.¹
- There is no directive on whether the period of lockdown will be deducted from the leave entitlement of the employee.
- Leading companies are making “special leave” provisions in their policies for those employees requiring quarantine and /or treatment ²

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¹ Source: <https://yourstory.com/2020/03/coronavirus-no-layoffs-no-salary-cuts-modi-government-labour>

² <https://economictimes.indiatimes.com/jobs/special-leave-to-ensure-isolation-doesnt-hit-pay/articleshow/74681435.cms?from=mdr>