



VAT Alert

Purchase of motor fuels

The effective date for the obligation to issue electronic invoices for the sale of motor fuel at petrol stations has been postponed to 1st January 2019 by Law decree no. 79 dated 28 June 2018, whereas the starting date for other sales of motor fuel remains 1st July 2018 (see Budget Law 2018).

The effective date for the obligation to use traceable payments methods for the purchase and importation of fuels and lubricants, on the contrary, remains 1st July 2018.

Through Order no. 89757/2018 dated 30 April 2018, the Revenue Office provided the technical rules for the issuance and receipt of electronic invoices, while, through Circular Letters no. 8/E dated 30 April 2018 and 13/E dated 2 July 2018, provided some clarifications on the invoicing and payment procedures for supply of fuel.

1. Scope of the new fulfilments

As said, the postponement of the obligation to issue electronic invoices concerns only the sales of fuels at petrol stations, while the effective date of the obligation to issue electronic invoices for fuel sales carried out by other subjects remains 1st July 2018.

We specify that only the sales of petrol and oil to be used as motor fuels for means of land transport fall within the scope of this fulfilment, similarly to what provided for under art. 2 of Ministerial Decree dated 13 February 2018 (concerning the sales of

fuels from a excise warehouse). In this regard, Circular Letter 8/E of 2018 specifies that the abovementioned obligation “does not concern, for example, the sale of petrol for motors of engine-generators, heating systems, miscellaneous utensils, gardening tools, etc.”.

Moreover, the Circular Letter 13/E of 2018 specifies that the anticipated obligation to issue electronic invoices does not regard “sales of petrol and oil other than those used as motor fuels (...) in road vehicles (of any type)”, thus “the refuelling of aircrafts and watercrafts, for examples, is excluded from the obligation”.

The same Circular Letter further specifies, nonetheless, that, should there be - upon its sale - uncertainty on the use of a given type of fuel, potentially apt to be used in different motors (e.g. oil used to fuel watercrafts or aircrafts, but also auto or motor vehicles), an electronic invoice should mandatorily be issued starting from 1st July 2018 (for subjects other than petrol stations).

For the purposes of VAT deduction and of deduction ex art. 164 of the TUIR (Italian Consolidated Text on Income Tax), such transactions must be proven by the payment through credit cards, debit cards or prepaid cards issued by financial operators subject to communication obligations provided for under art. 7, para. 6 of Presidential Decree no. 605 dated 29 September 1973, or through any other mean considered as suitable under the Order of the

Director of the Revenue Office¹". Such Order, complementing the provisions under para. 922 and 923 of Law no. 205 of 2017², identifies the following "traceable" means of payment:

- bank and postal cheques;
- Central bank promissory notes and post office money orders³;
- electronic means⁴, such as:
 - direct debit;
 - bank or postal transfers;
 - postal paying-in slips;
 - debit, credit and prepaid cards;
 - other available electronic payment methods, which also allow direct debit.

As indicated in Circular Letter no. 8/E of 2018, also if an employee purchases petrol or oil for corporate cars paying with his/her own debit/credit/prepaid card (or any of the abovementioned payment methods), the employer can deduct the relevant costs, provided that reimbursement of such costs is due to the employee and paid through a traceable method, such as a bank transfer.

Other traceable payment methods allowing to link an expense to a specific subject include cards,

smartphone and tablet apps, electronic devices and similar methods, provided by industry operators, which allow to pay fuel through direct debit on the buyer's bank account or credit card, either at the same time of the purchase or later. Also in this case, Circular Letter no. 8/E of 2018 states that the traceability of payments allows cost deduction.

The postponed entry into force of the obligation to issue electronic invoices, on the one hand, and the confirmation on the deductibility of the relevant VAT using traceable payment methods (as mentioned above), on the other hand, allow to continue using the "scheda carburante" to certify said purchases up to 31st December 2018, although this will become an unnecessary fulfilment, as specified under Assonime⁵ Circular Letter no. 17 dated 6 July 2018.

2. Fuel cards

Particular payment means are fuel cards and fuel vouchers, used in so-called netting agreements: such agreements allow the use of the above payment tools, provided that they were charged through one of the abovementioned traceable methods.

However, it is necessary to distinguish between single-purpose or multi-purpose cards and vouchers.

A single-purpose voucher is issued by an oil company to be used at their branded petrol stations, managed directly by the oil company; in this case, refuelling is considered as performed at the moment of sale/refill of the card.

On the contrary, when the card/voucher can be used to refuel from different providers (so-called

¹ Ref. to Order no. 73203/2018 dated 4 April 2018, by the Director of the Revenue Office.

² Said paragraphs indicated the following as methods allowing to deduct fuel costs for income taxes and VAT purposes: "credit cards, debit cards or prepaid cards issued by financial operators subject to communication obligations", as well as any "other means considered as suitable under an Order by the Director of the Revenue Office".

³ Bank cheques and promissory notes are defined under Royal Decree no. 1736 dated 21 December 1933, while postal cheques and post office money orders are defined under Presidential Decree no. 144, dated 14 March 2001.

⁴ Ref. to art. 5 of Legislative Decree no. 82 dated 7 March 2005 and to the guidelines issued by the Agency for Digital Italy (AgID) dated 22 January 2014, no. 8/2014, point 5.

⁵ Ref. to Assonime Circular Letter no. 17 dated 6 July 2018, para. 4.2: "Further to the provisions of **Budget Law 2018** introducing the obligation to pay fuels with traceable means, effective from 1st July 2018 –[...] the purchase and use of a fuel card for VAT and income tax deduction purposes is currently unnecessary".

“no logo” stations)⁶, or to purchase different goods or services, thus being similar to a multi-purpose voucher, it must be considered as mere money, not subject to VAT. The relevant invoice, also in electronic form, will have to be issued when the card/voucher is used to purchase petrol and oil.

3. Invoice data

Should an electronic invoice be issued, also through the simplified procedure⁷, it must indicate mandatorily identification data of the seller and of the purchaser, including their VAT number or the VAT identification number of the buyer established⁸ in Italy.

Data relevant to the motor vehicle that is refuelled do not mandatorily have to be indicated. However, the recently updated technical specifications on the issuance of invoices point out that the plate number of vehicles can be included in the section <AltriDatiGestionali>, unlike what indicated in the Order dated 30/04/2018. Though this is an option, we suggest to opt for

⁶ The same applies to vouchers issued by an oil company valid for refuelling at fuelling stations with the same brand, but not directly managed by the oil company.

⁷ Ref. to articles 21 and 21-bis of Presidential Decree no. 633 of 1972.

⁸ With Council implementing decision (EU) 2018/593 dated 16 April 2018, Italy has been authorised to introduce a special measure derogating from articles 208 and 232 of Directive 2006/112/EC, in order to introduce the application of mandatory electronic invoicing on the whole Italian territory. Specifically, Italy was “authorised only to accept invoices in the form of documents or messages in an electronic format if they are issued by taxable persons established in the Italian territory (...).

Contatti

Siamo a disposizione per qualsiasi chiarimento.



Simonetta La Grutta

Partner, Head of VAT

T +39 02 783 351

M +39 342 33 13 123

E simonetta.lagrutta@bgt.it.gt.com



Mario Spera

Principal

T +39 02 783 351

M +39 329 38 07 868

E mario.spera@bgt.it.gt.com

Uffici

Milano

Via Melchiorre Gioia, 8
20124 Milano
T +39 02 783 351

Roma

Lungotevere Michelangelo, 9
00192 Roma
T +39 06 397 344 95

Padova

Galleria Europa, 4
35137 Padova
T +39 049 738 8290

Brescia

Piazza Paolo VI, 21 (già Piazza Duomo)
25121 Brescia
T +39 030 240 4798

Staff location

Arezzo

Via Martiri di Civitella, 7
52100 Arezzo
T +39 0575 299 713

Trieste

Piazza Silvio Benco, 1
34122 Trieste
T +39 040 363 006

Torino

Corso Re Umberto, 2
10121 Torino
T +39 011 071 2899

Trento

Via Brennero, 139
38121 Trento
T +39 0461 828 368



Grant Thornton
An instinct for growth™

© 2018 Bernoni & Partners. All rights reserved.

'Grant Thornton' refers to the brand under which the Grant Thornton member firms provide assurance, tax and advisory services to their clients and/or refers to one or more member firms, as the context requires. Bernoni & Partners is a member firm of Grant Thornton International Ltd (GTIL). GTIL and the member firms are not a worldwide partnership. GTIL and each member firm is a separate legal entity. Services are delivered by the member firms. GTIL does not provide services to clients. GTIL and its member firms are not agents of, and do not obligate, one another and are not liable for one another's acts or omissions.