



VAT Alert

From the mid-year Stability Law 2017 also shorter terms for deducting VAT

The mid-year stability law for 2017 contains relevant provisions that affects the accomplishment of VAT fulfillments starting from the year 2017.

The mid-year stability law for 2017 (Legislative Decree 24 April 2017 no. 50, converted by Law 21 June 2017 no. 96, published in the Official Gazette of 23 June 2017 no. 144), contains provisions aimed:

- to reduce the VAT gap (i.e. wider application of the split payment) and
- to increase the VAT revenues (i.e. increases of VAT rates; reduction of the period for deducting VAT; reduction of the threshold for “free” offsetting of VAT credits with other tax debts).

VAT rates

The law provides the increase of the standard VAT rate and of the reduced VAT rate in the next years:

	Standard VAT rate	Reduced VAT rate
2017	22%	10%
2018	25%	11.5%
2019	25.4%	12%
2020	24.9%	13%
2021	25%	13%

Increases will enter into force unless other measures will be implemented to obtain an equivalent increase in revenue or reduction of costs.

VAT deduction

The new provisions significantly reduce the period of time within which a VAT taxable person:

- can exercise his right for VAT deduction (art. 19 of the Italian VAT Law);
- shall post purchases invoices and Customs bills into the Purchases VAT Ledger, in order to recover charged VAT (art. 25 of the Italian VAT Law).

According to the amended provisions, the right of VAT deduction has to be exercised, at the latest, within the term for filing the yearly VAT return for the year during which VAT become deductible. The rule is applicable to purchases invoices and Customs bills issued starting from 1 January 2017.

According to the former provisions, the right of VAT deduction could be exercised, at the latest, within the term for filing the yearly VAT return for the second year following the one during which VAT become deductible. Former provisions apply to purchases and importations carried out during years 2015 and 2016.

Year during which VAT become deductible	Maximum term for deducting VAT
2014	28 February 2017
2015	30 April 2018
2016	30 April 2019
2017	30 April 2018
2018	30 April 2019

Offsetting of taxes

The threshold for offsetting VAT credits with debts for other taxes, social security contributions etc., without the obligation to obtain the “*visto di conformità*” (a sort of certification of conformity of VAT bookkeeping) is reduced from 15,000 EUR to 5,000 EUR per calendar year.

Over such threshold, the yearly VAT return or the form for quarterly VAT refunds (or offsetting) shall contain the “*visto di conformità*” or a similar certification (as provided by the Law).

The VAT credit can be offset starting from the 10th day of the month following the one in which the yearly return/quarterly form has been filed. In the past, the term was the 16th day of the month following the one in which the yearly return/quarterly form has been filed.

According to clarifications provided by the Tax Agency (Resolution 4 May 2017 n. 57/E), new rules apply to yearly returns filed starting from 24 April 2017 (day in which the Legislative Decree no. 50/97 entered into force) as to the yearly VAT return. Conversely, for quarterly forms, new rules apply starting from the one related to the second quarter of 2017. At this purpose, a new form has been enacted on 4 July 2017 (Act of the Director of the Tax Agency no. 124040).

Split Payment

Starting from 1 July 2017, the application of the split payment - as mechanism to charge VAT and remit the same to the Treasury - is extended, both in subjective and objective terms.

Until 30 June 2017, the provision was applicable to supplies of goods and services, other than those subject to the reverse charge mechanism, towards the majority of Public Bodies.

Art. 17-ter of the Italian VAT Law (Presidential Decree 26 October 1972 no. 633) provides the principles for the application of this anti-fraud measure under which:

- the supplier is requested to apply VAT on the supply and charge the same on the invoice;
- the purchaser is requested to split the payment of the amounts due as per the invoice received: (i) the taxable basis shall be paid to the supplier, (ii) VAT shall be remitted directly to the Treasury (in cash or, by option, for VAT taxable persons, putting in place fulfilments very similar to the ones applied in case of reverse charge mechanism).

The Decree of the Ministry of Economy and Finance of 23 January 2015 states operative rules for the application of the split payment.

Starting from 1 July 2017, the split payment applies to all supplies towards:

- public bodies towards which invoices must be issued in electronic format (as per art. 1, para 209-214 L no. 244/2007);
- companies directly or indirectly controlled by the Presidency of the Council of Ministers and by Ministries, as per art. 2359, para 1, no 1 and 2 civil code;
- companies directly controlled by regions, provinces, metropolitan cities, municipalities, unions of municipalities, as per art. 2359, para 1, no 1 civil code;

- stock companies listed at FTSE MIB index of the Italian Stock Exchange.

The application of split payments has been extended also to those supplies of services subject to withholding tax (such as supplies of lawyers, architects, etc.).

However, as far as the new provisions are concerned, the dust seems not settled yet. Indeed, the Decree of 23 January 2015 has been amended two times, significantly changing the purchasers the law refers to (i.e. the entities falling in one or more of the above

listed four categories of subjects). Consequently, the content of the lists for each of the four categories of entities - published in the website of the Department of Finance - changed twice and a third and final versions has been published on 27 July 2017.

However, various procedural aspects are still not fully clear, as commented also by the Italian Association of Stock Companies (Circular of 25 July 2017 no. 18) and explanations from Tax Authorities are expected in the form of a Circular letter from the Tax Agency.

Contacts

Our professionals will be glad to assist you with any further clarification you may need



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