



VAT Alert

## Updates on electronic invoicing

### Introduction

Budget Law 2018 (Law dated 27 December 2017 no. 205) provided, among others, for the obligation to issue electronic invoices starting from 1st January 2019 (refer, in particular, to art. 1, para. 909 and 916), and from 1st July 2018 for the supply of petrol and oil to be used as transport fuel, as well as for the provision of services by subcontractors within contracts for Public Bodies<sup>1</sup> (refer to para. 917).

The EU Council, by its Decision (EU) 2018/593, authorized Italy to apply the special derogating measure up to 31 December 2021 (save for further extensions).

The provisions were completed with:

- the Act of the Director of the Tax Agency no. 73203/2018 dated 4 April 2018;
- the Act of the Director of the Tax Agency no. 89757/2018 dated 30 April 2018;
- the circular letter no. 8/E dated 30 April 2018 issued by the Tax Agency.

### Definition of electronic invoice

The obligation to issue electronic invoices (starting from the abovementioned dates) concerns all supplies of goods and services, including adjustments, carried out between subjects being resident, established or identified for VAT purposes

within the territory of State, included private individuals.

The provisions concern those cases in which the seller/provider has the obligation to issue an invoice, also where there is not a specific request by the customer (private individual).

It is pointed out that, though the seller/provider has the obligation to issue the electronic invoice, private individuals can waive the receipt of an invoice (either in electronic or paper format).

Moreover, those taxable persons concerned by the “beneficial regime”<sup>2</sup> as well as those applying the flat-rate regime for small-sized entities<sup>3</sup> are exempt from the above system.

Act no. 89757/2018 of the Tax Agency, containing technical rules for the issuance and receipt of electronic invoices, provides, first, that an “electronic invoice”:

- is a structured computer document submitted electronically, also through intermediaries, to the Exchange System (ES), which sends it to the receiver;
- is an XML (eXtensible Markup Language) file, which does not contain commands nor executable codes;

<sup>1</sup> As concerns non-taxable supplies to travellers residing or domiciled outside UE (so-called tax free shopping), the relevant electronic invoice should be issued starting from 1st September 2018 (art. 1,

para 1088, Budget Law 2018), instead of 1st January 2018 (refer to Law Decree of 22 October 2016 no. 193, art. 4-bis, para. 1).

<sup>2</sup> Art. 27, para. 1 and 2 of law Decree of 6 July 2011, no. 98.

<sup>3</sup> Art. 1, para. 54 to 89 of Law dated 23 December 2014, no. 190.

- contains all data required for invoices pursuant to art. 21 of Presidential Decree no. 633 of 26 October 1972, as well as possible further information provided for under specific dispositions.

In order to prepare electronic invoices more easily and quickly, the Tax Agency will provide a web service and a dedicated app to allow the issuer to automatically obtain the buyer's identification data and the e-mail address through a QR-code. Those subjects having a VAT number can benefit from this possibility by accessing the dedicated area on the Tax Agency website.

Moreover, the Tax Agency offers the possibility to store issued invoices through a proper services agreement.

### Submission and check of invoices

Electronic invoices can be submitted to the ES through:

- certified e-mail or
- the web and mobile services of the Tax Agency.

For those suppliers that registered to ES, obtaining a "recipient code", invoices can be submitted through:

- the practical cooperation "web service" system, as well as,
- the data transmission system between remote terminals based on FTP.

Invoices, which can be submitted as single files or in batches, are checked by the ES.

In case of positive outcome, the ES sends the invoice to the receiver and submits a "delivery receipt" to the issuer.

In case of negative outcome, a "rejection receipt" is sent to the issuer within 5 days through the same

means used by the issuer; in this case, rejected invoices, including those sent as a group, are considered as non-issued.

A service for the registration of the e-mail address is made available also for the delivery.

Should it not be possible to proceed with the delivery of invoices, for reasons not due to the ES (e.g. full or non-active certified e-mail box, or non-active electronic channel), they are sent to the buyer/customer by the ES in the relevant restricted area<sup>4</sup> of the Tax Agency website, notifying such information to the issuer. In this case, the seller/provider must duly notify to the customer that the original invoice is available in the restricted area of the Tax Agency website.

With regard to purchase and sale transactions in which the counterpart is a subject not established in Italy, the party established in Italy must notify the following by the last day of the month following that in which the invoice is issued or received:

- identification data of the seller/provider, or of the buyer/customer;
- date of the invoice relevant to the transaction;
- registration date of received invoices, including amendment notes;
- invoice number;
- taxable base;
- VAT rate applied and tax amount (should the transaction not imply the recording of the tax amount on the invoice, the type of transaction must be indicated).

The notification is not compulsory for those transactions for which a Customs bill was issued and those for which electronic invoices have been issued or received.

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<sup>4</sup> The restricted area is also used to make electronic invoices available to the clients who are private individuals or subjects under the beneficial regime or flat-rate system.

## Sale of transport fuels

As mentioned above, the mandatory issuance of electronic invoices for this kind of sales is brought forward to 1 July 2018. Circular Letter n. 8/E of 2018 preliminarily clarifies that the new rules apply to the sale of “petrol and oil to be used as transport fuel”, with the exception, for example, of sales of petrol to be used in engines of generator sets, heating plants, etc.<sup>5</sup>

Among the data to be mandatorily indicated on the electronic invoice is not the indication of the vehicle number plate, which could be optionally specified, together with the vehicle model and other optional data, in order to allow the expense to be referred to a specific vehicle and thus being deducted. Furthermore, should the document indicate other expenses (repairs, etc.) from the same filling station, an electronic invoice still needs to be issued.

The obligation to issue an electronic invoice remains even in case of deferred invoicing, in connection of which transport or delivery documents have been issued and from which the parties to the operation can be identified.

The new invoicing procedure has no impact on the other rules already in force, such as those relevant to the possibility to cumulatively record invoices with an amount up to Euro 300.00.

A significant innovation concerns the payment methods of such sales for the purposes of VAT and costs deductibility for income taxes: traceable payments have to be used, allowing the identification of transactions. To this end, Circular Letter n. 8/E of 2018 identifies as suitable payments:

- bank and postal cheques, including bank drafts, promissory notes and postal orders;

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<sup>5</sup> The sales of other types of fuel will be subject to mandatory electronic invoicing starting from 1 January 2019.

- other electronic payment forms including: i) direct debit; ii) bank or postal transfer; iii) postal payment slips; iv) debit, credit or prepaid cards or other electronic payment means also allowing direct debiting.

In short, as underlined in Circular Letter n. 8/E, for the purposes above are considered valid “all indirect payments made by the taxpayer, but which can be traced back to the latter in an uninterrupted chain of transactions with traceable means”<sup>6</sup>.

We specify that, based on specific agreements, the payment can also occur at a later date, for example in case of payments made with cards used in netting agreements or other systems “allowing the buyer to buy fuel with the same VAT rate, when the sale/recharge of the card is made through the same payment forms”.

Actually, with specific reference to the cases above, the moment of payment could differ from the moment in which obligation of issuing the invoice occur.

In particular, it is worth mentioning that fuel coupons issued by oil companies can have nature of “single purpose voucher” or “multi purpose voucher” and that an electronic invoice needs to be issued upon issuance of the coupon (or recharge of the card) only in case the coupon has nature of “single purpose voucher”.

“Multi purpose vouchers” allowing the purchase of fuel from filling stations other than those of the issuer (e.g. stations managed by other companies or individual entrepreneurs, so-called “no logo” stations, etc.) do not imply the issuance of an electronic invoice until the actual purchase of fuel.

<sup>6</sup> The purchase of fuel can also occur through direct debit on the bank account or with credit card, cards, applications for smartphone/tablet, various electronic devices and similar means.

# Contacts

We will be glad to assist you with any further clarification you may need.



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