



## Tax Decree: updates on VAT

### Premises

Law Decree dated 23 October 2018, no. 119, (“Urgent tax and financial provisions”) includes, among other provisions, some measures aimed at implementing the so-called “tax debt forgiveness” through: i) the amicable settlement of tax audit reports and assessments and tax litigation proceedings; ii) the regularization of some fulfilments; iii) the special supplemental return. Besides the above measures, further tax provisions have been introduced, which, as concerns VAT, are explained below and mainly regard the simplification of invoicing and related fulfilments, the electronic transmission of cash register tills and the extension of the VAT Group applicability. Updates came into force on 24 October 2018, unless a different date is expressly provided, as explained below.

### 1. Electronic invoicing

Law Decree 119/2018 amends the Italian regulation that introduced the mandatory electronic invoicing starting from 1 January 2019 (art. 1, para. 6 of Law Decree no. 127/2015) according to Implementing Decision (EU) 2018/593 of 16 April 2018, which authorized Italy to the widespread use of electronic invoices, specifying that the obligation applies only to subjects established within the State and not to foreign subjects identified for Italian VAT purposes,

but not residing therein. This amendment implements what had been anticipated by the tax Agency in its Circular letter no. 13/2018.

New measures aimed at reducing penalties provided in the relevant regulations have also been introduced, thus acknowledging the difficulties that the many concerned subjects may incur for the necessary technological update of EPRs and for the related organizational challenges.

To this end, the Decree provides that up to 30 June 2019, i.e. for the first semester during which new rules become effective, no penalties apply, in case the electronic invoice is issued late, but anyway within the deadline for the periodic (either monthly or quarterly) VAT calculation, so that the same invoice can be included in the periodical calculation without penalizing the inland revenue.

While, should the invoice be issued after the abovementioned deadline, but within the term provided for the VAT calculation of the following period, penalties are reduced to 20%. Beyond such term, full penalties apply.

The reduction of penalties, as provided in the dossier relevant to Senate Act no. 886 (draft conversion law of the tax Law Decree), concerns also those acquirers, who deduct VAT on purchases of goods or services without any invoice being

<sup>1</sup> By day 16 of the following month (monthly calculation) or day 16 of the second following month (quarterly calculation) for

operations carried out, respectively, in the preceding month or quarter.

received, or who do not regularize the omitted receipt of the electronic invoice according to the provisions under art. 6, para. 8 of Legislative Decree no. 471/97.

## 2. Invoicing

Starting from 1 July 2019, invoices (ref. to **art. 11** of the Decree at issue) can be issued within 10 days following the time of supply (supply of goods or services); in this case, though, the invoice must bear the date of the operation (besides the date of issuance of the invoice). This obligation does not apply when the invoice is issued on the same date of the operation. The deferred term to issue sales invoices does not have effect on rules pertaining to chargeability and calculation of VAT due.

The new term will apply to both paper invoices and electronic invoices; the latter will be considered as regularly issued if they are transmitted through the *Sistema di Interscambio (SdI)* within 10 days from the date of the operation.

## 3. Registration of sales invoices and purchase invoices

**Art. 12** has introduced a unified term for the registration of sales invoices, as regards both immediate and deferred invoices, allowing to post them in the proper ledger (generally, ledger of issued invoices) by day 15 of the month following that in which the operation was performed, but referring them to the same month of the operation; in this way, the term for VAT calculation is not impacted.

Invoices relevant to the so-called “triangular domestic operations” (i.e. supplies of goods performed by the buyer to a third party through its seller), must be posted in the ledger of issued invoices by day 15 of the month following that in

which the invoice is issued and referred to the latter month.

A simplification concerning the registration of purchase invoices has also been introduced. Indeed, **art. 13** of the Decree abolishes the obligation to number (i.e. to protocol) purchase invoices and Customs bills carried out in the performance of the economic activity. The dossier relevant to Senate Act no. 886 specifies that the numbering obligation is automatically fulfilled for electronic invoices, due to the non-modifiable nature of the electronic document issued through the *Sistema di Interscambio*.

## 4. VAT deduction

Following the new terms to issue invoices, in order to avoid any damage for the buyer, who would be forced to deduct VAT only after receiving the invoice (and, therefore, at a later time), **art. 14** of Law Decree no. 119 allows the taxable person to deduct VAT by day 16 of the month following that of the purchase operation, provided that the relevant invoices have been received and posted by the day before. This possibility, however, is not granted for purchase invoices relevant to operations carried out in the previous year.

## 5. Electronic storage and transmission of data of cash register tills

**Art. 17** provides some changes concerning the electronic storage and transmission to the Revenue Office of data of cash register tills.

In particular, starting from 1 January 2020, the electronic storage and transmission to the Revenue Office of data relevant to supplies performed daily will become mandatory for those subjects under art. 22 of Presidential Decree no. 633 of 26 October 1972 (retail traders). This fulfilment will replace the

registration obligations under art. 24 of abovementioned Presidential Decree no. 633 of 1972. The fulfilment will come into force starting from 1 July 2019 for those subjects having a business volume exceeding Euro 400,000. However, according to the distinctive type of activity performed, a decree of the Minister of economy and finance can provide specific exemptions from such fulfilments.

The decree also provides some exceptions for retail trade operations (under art. 22 of Presidential Decree no. 633 of 1972) carried out in the areas identified by a decree of the Minister of economy and finance and the Minister of economic development. Such operations, instead of the abovementioned electronic fulfilments, can be substantiated by issuing a sales receipt or till receipt.

Some exceptions are also provided for the supply of medicines. Specifically, taxpayers who have to submit data to the *Sistema tessera sanitaria* (for the drafting of the pre-filled tax return) can comply with the electronic storage and electronic transmission of relevant data to the Revenue Office through the electronic storage and the electronic transmission of data of tills daily to the *Sistema tessera sanitaria*.

In order to meet the needs of VAT taxable persons, the granting of a contribution is provided, for years

2019 and 2020, for the purchase or adaptation of the tools used for the electronic storage and transmission of data (cash register tills, etc.).

Lastly, **art. 18** provides for the postponement to 1 January 2020 of the term for the entering into force of the “national lottery of tills”, under art. 1, para. 540, of law no. 232 dated 11 December 2016 (Budget Law 2017).

## 6. Extension of the VAT Group

**Art. 20** provides that the VAT Group can be accessed also by members of a *Gruppo Bancario Cooperativo* (cooperative banking group)<sup>2</sup>, which meet the requirement of the financial commitment *de jure*. Considering the distinctive feature of cooperative banking groups, the supply agreement (according to the explanatory report of Senate Act no. 886) would give rise to a situation similar to control, as defined in the Italian Civil Code. The parent company would act as Representative of the Group.

For the first year of application, the declaration to create a VAT Group for 2019 submitted by members of cooperative banking groups is considered as effective if submitted by 31 December 2018, provided that a grouping agreement under para. 3 of art. 37-bis of the Italian Consolidated Law on Banking (Legislative Decree no. 385 of 1 September 1993) is signed at that date.

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<sup>2</sup> Under art. 37-bis of Legislative Decree of 1 September 1993 (Italian Consolidated Law on Banking Act).

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# Contacts

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



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