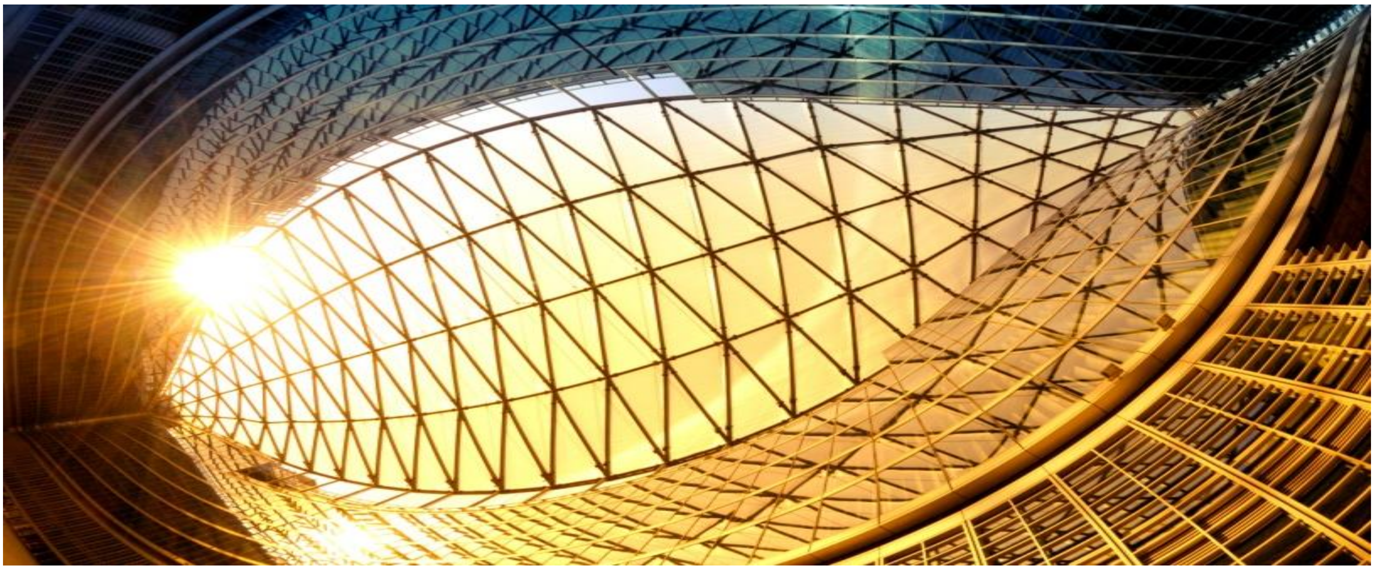
30 December 2014

Approved Stability Law for 2015



On 22nd December 2014, the Italian Parliament approved the Stability Law for 2015, which was published in the Official Gazette on 29th December and will enter into force from 1st January 2015.
The most important VAT measures include the following.

Extension of the reverse-charge mechanism

The reverse-charge mechanism (previously applied only to certain types of services in the real estate and construction sectors) has been extended to other services in the real estate and energy sectors.
In particular, the reverse-charge mechanism will directly apply:

- to cleaning, demolition, equipment installation and completion services in relation to immovable property (this is an implementation of article 199(1)(a) of Directive 2006/112/EC, now further transposed into article 17(6)(a)(ter) of the Italian VAT Act – Presidential Decree no. 633/1972);
- from 1st January 2015, for a period of four years (i.e. up to the end of 2018), to: the transfer of allowances to emit greenhouse gases as defined in article 3 of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community, transferable in accordance with article 12 of that Directive; the transfer of other units that may be used by operators in order to comply with the same Directive, and of gas and electricity certificates; supplies of gas and electricity to a taxable dealer, as provided for by article 199a(1) (a), (b), (e) and (f) of Directive 2006/112/EC;
- to supplies of pallets, recycled after their first productive use (this is an implementation of article 199(1)(d) of Directive 2006/112/EC, now further transposed into article 74(7) of the Italian VAT Act – Presidential Decree no. 633/1972).

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Moreover, the reverse-charge mechanism is extended also to the supplies of goods in the large-scale retail trade (hypermarkets, supermarkets, discounts), for a period of four years (i.e. up to the end of 2018). In any case, the implementation of this system requires the authorisation of the European Council in accordance with article 395 of Directive 2006/112/EC. Therefore, pending the EU authorisation, the reverse-charge will not apply in the large-scale retail.

Split-payment system for supplies to Italian public bodies

A split-payment system has been introduced for goods and services supplied to Italian public bodies (e.g. state and government bodies, the chamber of commerce, universities, hospitals).
Under this system, suppliers continue to charge Italian VAT (where due, and unless the reverse-charge mechanism applies) to these public bodies.

The public bodies, however, will 'split' the payment of the invoice: they will pay the taxable amount to the suppliers, and the VAT to a blocked VAT bank account of the Treasury. A subsequent Ministerial Decree should clarify the exact payment procedure, including the conditions and timelines.

The split payment system requires the authorisation of the European Council in accordance with article 395 of Directive 2006/112/EC; however, pending the authorization, this system will apply immediately, to transactions for which output VAT becomes payable as from 1st January 2015.
Split-payment is an alternative method for improving and simplifying the collection of VAT. As explained by the European Commission, in its Executive Summary of 20th September 2010, '*The purchaser pays the VAT to a blocked VAT bank account which can only be used by the supplier for paying VAT to his suppliers' blocked VAT bank account. The advantage of this model is that, in an early stage of the VAT collection process, the VAT collected is physically transferred to a blocked VAT bank account within the tax authorities' bank. This model allows the tax authorities to monitor and block funds on the VAT bank accounts and prevent taxable persons from disappearing with VAT funds paid to them*'.

It is expected that, due to the split-payment system, suppliers of public bodies will end up in a repayment position; for this reason, the Stability Law for 2015 allows these suppliers to obtain priority VAT refunds for such transactions.

Reduced 4% VAT-rate for e-books

From 1st January 2015, e-books with an id code ISBN are subject to a reduced VAT-rate of 4%. The reduced VAT-rate is not applicable on the e-periodicals which do not have a ISBN code.

It is worth pointing out that the new provision could trigger an infringement procedure against Italy as recently happened in France and Luxembourg (see also the ECJ's case C-219/13 K-Oy).

Future VAT rate increases

The Stability Law for 2015 provides for a gradual increase in the VAT rates, from 1st January 2016:

- the reduced 10% VAT rate is increased by two points (from 10% to 12%) from 1st January 2016, and by an additional point (from 12% to 13%) from 1st January 2017;
- the standard VAT rate will increase:
  - from 22% to 24%, from 1st January 2016
  - from 24% to 25% from 1st January 2017
  - from 25% to 25.5% from 1st January 2018;
- the 'super' reduced VAT rate of 4% will remain unchanged.

The aforementioned VAT rate increases will not apply if certain budgetary targets will be reached within given deadlines.

Annual VAT return/annual VAT communication

The obligation to file an annual VAT communication (previously due by the end of February of the following year) has been removed.

The annual VAT return should be filed by the end of February of the following year (previously this could have been filed by the end of September of the following year).

It will no longer be possible to file the annual VAT return and corporate income tax return together. The filing deadline for the corporate income tax return remains the same (end of September of the following year).

These changes will kick in for the 2015 VAT returns, to be submitted in 2016.

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