



MOSS - Italian tax authorities' guidelines - Penalty regime

Tax Alert
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The Italian Tax Authorities published - with Ministerial Notice n. 22/E of 26th May 2016 - the first guidelines on the application of the Mini One Stop Shop (MOSS) in Italy.

The scheme known as MOSS came into operation - as from 1 January 2015 - for businesses which carry out TBE services (telecommunications, broadcasting or electronically supplied services) to non-taxable persons (consumers).

MOSS is an optional scheme which allows businesses that supply TBE services to consumers in Member States in which they do not have an establishment to account for the VAT due on those supplies via a web-portal in one Member State. Otherwise, businesses making such supplies would be obliged to register for VAT, file returns and make payments in each Member State in which they make these supplies.

Ministerial Notice n. 22 clarified, in particular, that the **administrative penalties** applicable in Italy to infringements related to the MOSS scheme are the following:

- in the case of failed or late submission of the quarterly return, filed by taxable persons registered in Italy to the non-EU MOSS regime, or by taxable persons registered to MOSS in another Member State for transactions carried out with B2C consumers located in Italy: from 120% to 240% (with a minimum of Euro 250) of the VAT that should have been declared in the quarterly return (according to art. 5, par. 1, of Legislative Decree n. 471/1997), and due in Italy;
- in case of submission of inaccurate quarterly returns submitted under the MOSS regime: from 90% to 180% of the VAT not declared or of the excess VAT credit declared (according to art. 5, par. 4, of Legislative Decree n. 471/1997);
- in case of inaccurate or incomplete MOSS registration applications (according to art. 5, par. 6, of Legislative Decree n. 471/1997): from 500 to 2,000 Euro. The relevant information even relates to the taxpayer's email address and website URL, which could prevent the identification of the taxpayer or of the places where the business activity is performed;

- in case of infringements related to the contents and documentation of MOSS quarterly returns which have no impact on the declared VAT amount (according to art. 8, par. 1, of Legislative Decree n. 471 of 1997): from 250 to 2,000 Euro;
- in case of failed or late VAT payments resulting from the MOSS quarterly returns: a penalty equal to the 30% of VAT due (according to art. 13 of Legislative Decree n. 471 of 1997).

The Circular Letter also clarifies that non-established taxpayers, concerning transactions carried out in Italy, can benefit from the self-disclosure provided by art. 13 of Legislative Decree n. 472 of 1997, which grants (under certain conditions) the application of reduced penalties.

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