



Italy: New VAT measures in force since 1 January 2020

Tax Alert

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Budget Law for 2020

Law no. 160 of 27 December 2019 (the 'Budget Law for 2020') came into force on 1 January 2020.

No VAT increase this year - Article 1(3)

The Italian VAT rates will not increase in 2020 since the Budget Law 2020 completely cancels the increases that, according to previous budget laws, were scheduled for 1 January 2020.

The increases have been postponed as follows:

- The reduced 10% VAT rate will increase to 12% as of 1 January 2021.
- The standard 22% VAT rate will increase to 25% as of 1 January 2021 and to 26.5% as of 1 January 2022.

These VAT increases will not apply if certain budgetary targets are met.

Place of supply for short-term hiring/leasing of pleasure boats/yachts - Article 1(725)

As of 1 April 2020, the place of supply for short-term hiring/leasing of pleasure boats/yachts will be outside the EU (and the service thus outside the scope of Italian VAT) when adequate proof that the pleasure boats/yachts are used outside the EU is provided.

An implementing decree should be issued, providing guidance on what constitutes appropriate proof.

Other new VAT rules applicable in 2020

Relief for habitual exporters

The new rules on letters of intent (LOIs) issued by habitual exporters (*esportatori abituali*) came into force on 1 January 2020. These rules were introduced last year (see our [Tax Alert of 2 July 2019](#)) and the main changes are outlined below.

- Habitual exporters no longer have to provide their supplier (or the Customs Agency) with a copy of the LOI and the Italian Revenue Agency receipt.
- Habitual exporters no longer have to post the LOIs in a special ledger.

- On its invoice the habitual exporter's supplier must indicate the reference number issued by the Italian Revenue Agency when confirming receipt of the LOI.
- The supplier no longer has to give details of the LOIs in its annual VAT return or to number and post the LOIs in a special ledger.
- The supplier still has to check, on the Italian Revenue Agency website, that the LOI has been filed by the habitual exporter. Failure to do so is punished by a penalty ranging from 100% to 200% of the VAT (as opposed to the fixed penalty – ranging from EUR250 to EUR2,000 – previously applied).

An implementing decree should be issued, providing practical guidance on the changes.

'Quick Fixes' and Intrastat returns/EU listings

Italy has not implemented the 'Quick Fixes' VAT rules⁽¹⁾ in its legislation and the Italian tax authorities have not yet issued any guidance on their implementation.

More importantly, the Italian government has not passed any decrees to amend the Italian VAT Act and thus implement the changes to Council Directive 2006/112/EC, made by Council Directive (EU) 2018/1910.

It is uncertain whether the new requirements for (i) the intra-Community exemption, (ii) chain transactions, and (iii) the call-off stock simplification could apply directly in Italy without local implementing legislation. However, the new 'proof of delivery' rules introduced by Council Implementing Regulation (EU) 2018/1912 should already be applicable, without the need for implementing legislation.

Under the new rules, enrolment in the VIES data base and filing of Intrastat returns/EU listings have become essential pre-conditions for zero-rating relief on intra-EU sales.

Law Decree no. 124/2019

Law Decree no. 124 of 26 October 2019 (the 'Law Decree' - see our [Tax Alert of 30 October 2019](#)) has been converted into Law no. 157 of 19 December 2019, with certain amendments.

Removal of fuel products from tax warehouses (also used as VAT warehouses) - Article 6

Law no. 157/2019 has not amended the rules set out in the Law Decree, the final version of which confirmed that no VAT is due on supplies of fuel and other fuel products (gasoline and diesel fuel destined for use as automotive fuel under customs tariff codes 27101245, 27101249, 27101943 and 27102011) whilst they are stored (under an excise duty suspension regime) in a tax warehouse also used as a VAT warehouse.

VAT compliance simplifications - Article 16

The Law Decree has reduced the frequency of reporting for cross-border transactions (the 'Esterometro' reports to be filed exclusively by taxpayers established in Italy). Starting 1 January 2020, the 'Esterometro' is due each quarter, by the end of the following month.

(1) Council Directive (EU) 2018/1910, Council Regulation (EU) 2018/1909, and Council Implementing Regulation (EU) 2018/1912.

It is confirmed that, for transactions dating from 1 July 2020 and for taxpayers established in Italy, the Revenue Agency will draft the (i) input and output VAT ledgers, and (ii) quarterly VAT filings. These can be accessed from the taxpayer's personal tax account, on the Revenue Agency's website.

The Revenue Agency will also draft the taxpayer's annual VAT returns, starting with that for 2020 (*Modello IVA 2021*). These returns can also be accessed from the taxpayer's personal tax account.

News for retailers. Tax receipt lottery - Article 20

The Law Decree has postponed the start of the tax receipt lottery from 1 January to 1 July 2020.

Italian Revenue Agency Regulation no. 739122/2019 of 31 October 2019 establishes that, in order to join the tax receipt lottery, customers will have to provide the retailer (not with their tax code, as initially stipulated, but) with a lottery code, to be downloaded from an online portal (not activated yet).

Retailers who (i) refuse to include the lottery code of customers wishing to join the lottery or (ii) do not electronically transmit the customer's lottery code to the Italian Revenue Agency will no longer be subject to penalties (initially ranging from EUR100 to EUR500 for each incorrect commercial document). However, the customer will be able to report any such retailer in a specific section of the Italian Revenue Agency's website (a sort of whistle blowing process), accessible by the tax police.

No VAT exemption for certain services provided by driving schools - Article 32

To align Italian law with ECJ case law (decision of 14 March 2019 in Case C-449/17), the Law Decree excludes a VAT exemption for driving school tuition for licenses to drive category B and C1 vehicles. For these supplies the standard VAT regime is applied instead.

Reduced VAT rate for supplies of feminine hygiene products - Article 32-ter

The reduced 5% VAT rate applies to supplies of feminine hygiene products that are compostable or washable, including menstrual cups.

Other non-VAT provisions in the Budget Law for 2020

Plastic tax - Article 1(634 ff)

The Budget Law for 2020 also introduced a plastic tax, which applies to single-use products containing synthetic organic polymers and used for packaging, protection or delivery of goods or foodstuffs (Italian law defines these single-use products as 'MACSI').

The tax does not apply to plastic products that: have multiple uses; are compostable according to Italian Standard UNI EN 13432:2002; are medical devices; are used as medicine packaging or protection.

The tax is EURO.45 per kilogram of MACSI.

The following persons are liable to declare and pay the plastic tax:

- for MACSI produced in Italy, the manufacturer (the tax point is the production date and the tax is due when the sale to an Italian customer takes place);
- for MACSI imported from non-EU countries, the importer (the tax point is the final importation date);
- in B2B intra-Community purchases in Italy of MACSI, the Italian purchaser (the tax point is the date of entry of the MACSI into Italy);
- in B2C sales of MACSI to Italian consumers from other EU countries, the EU seller, which must appoint a fiscal representative (the tax point is the date of sale to the Italian consumer).

The plastic tax is not due (and, if already paid, is refunded) for MACSI shipped to other EU countries or exported outside the EU.

The reporting obligations consist in the submission of quarterly tax returns to the Italian Customs Agency, which is responsible for audits and assessments. The tax returns and payments are due each quarter, at the end of the following month.

The following penalties apply:

- failure to pay the plastic tax: twice to ten times the amount of tax due (minimum penalty of EUR500);
- late payment of the plastic tax: 30% of the tax due (minimum penalty of EUR 250);
- failure to issue the quarterly return: EUR500 to EUR5,000.

The Italian Customs Agency will need to issue implementing regulations by **May 2020** (specifying, in particular, the tariff codes for MACSI affected by the new tax).

The plastic tax will come into force on the first day of the second month after the implementing rules are introduced; therefore, the tax should be implemented by **1 July 2020** at the latest.

The law introduces a special tax credit, equal to 10% of the costs incurred in 2020 to develop technology for the production of compostable goods that meet standard EN 1342:2002. There is a EUR20,000 cap on this tax credit.

Digital Services Tax - Article 1(678 ff)

The Budget Law for 2020 also confirmed the introduction of the Digital Services Tax as of 1 January 2020. The version introduced is that summarized in our [Tax Alert of 19 December 2019](#).

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