



# Payment service providers - Amendment to the Italian VAT Decree to include new reporting obligations

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On 5 November 2023, new legislation (Legislative Decree no. 153 of 18 October 2023) was published and will be effective from 18 November 2023. The new legislation adds a whole new section (under Heading II-bis) to Presidential Decree no. 633/1972 (the Italian VAT Decree), to incorporate Council Directive (EU) 284/2020 of 18 February 2020, on the reporting obligations of payment service providers within the framework of the new centralized European system for collecting and exchanging payment information: the Central Electronic System of Payment Information ('CESOP'), introduced by the EU in order to detect and combat VAT fraud in cross-border internet sales of goods and services.

## Main characteristics of the new legislation

Section II-*bis* introduces new reporting obligations for ‘payment service providers’, a definition which includes electronic money institutions, payment entities and banking institutions.

A payment service provider (“PSP”) located in Italy has to hold specific information enabling identification of the recipient (payee) of cross-border payments, defined as payments where the payer is in one EU Member State and the payee is located in another EU Member State or in a non-EU country.

The record keeping obligations apply where, during a calendar quarter, the PSP provides payment services corresponding to more than 25 cross-border payments to the same payee. The documentation must be kept for three calendar years from the end of the calendar year of the date of the payment. The new legislation will apply to payment services provided by PSPs from 1 January 2024 onwards.

If the PSP fails to keep the information listed below, it will incur a penalty ranging from EUR1,000 to EUR8,000. If it fails to communicate these data to the Italian Tax Authority (‘ITA’) the penalty will range from EUR2,000 to EUR21,000.

### The record keeping obligations

A PSP located in Italy must transmit certain information on relevant payees and payments to ITA by the end of the month following the relevant calendar quarter. That information includes:

- the BIC or other company ID which uniquely identifies the PSP;
- the name of the payee and, where available, the payee’s VAT number or tax ID and address;

- the IBAN or other code which uniquely identifies the payee’s location;
- if the payee does not have a payment account, the BIC or other company ID which identifies the PSP used by the payee to receive the monies;
- the details of the cross-border payments and refunds.

Later guidelines will be issued by ITA about the technical transmission procedures and format of the information. ITA will then transmit the information to CESOP, in compliance with the obligations listed in Council Regulation (EU) No 904/2010.

### The scope of the new rules

The scope of these new rules is broad and will affect virtually all PSPs involved in cross-border payments and, potentially, PSPs not established in Italy but providing payment services to payers located in Italy. E-commerce platforms that settle payments between a seller and a buyer may also fall under the rules. Businesses should assess whether they provide payment services and which types of customers are being served, in order to identify whether a reporting obligation for cross-border payments may arise. The specific role played by the business in the payment chain is relevant and should be analyzed carefully.

KPMG’s Italian VAT team is ready to clarify how to apply the new rules and comply with the new reporting obligations.

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