



Italy: New rules to recover VAT with credit notes

Tax & Legal Alert

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The Italian Tax Authority (ITA) published – on 29 December 2021 – Circular no. 20/2021, which provides guidelines on the new ‘bad debt VAT relief’ rules in relation to insolvency proceedings (see here for our tax alert on this issue).

In the Circular, ITA also introduced a significant change to its previous guidelines on how to recover VAT (charged in past invoices) by means of credit notes.

The previous rules

The ITA had stated in Circular no. 1/2018 that if a credit note was issued by the deadline for submission of the VAT return for the year in which the right to adjust the output VAT was triggered, that output VAT variation could be included in the annual VAT return for that year.

As an example, if the right to adjust output VAT was triggered in FY 2020, the supplier could have issued a credit note in March 2021 (i.e. by the deadline to submit the FY 2020 VAT return, which was due on 30 April 2021) and recovered the VAT (through an output VAT variation) in the VAT return for FY 2020.

The new rules

In Circular no. 20/2021, the ITA changed approach and clarified that the VAT can be recovered only between the date of issue of the credit note and the deadline to submit the VAT return for the year in which the credit note is issued.

As an example, the Circular states that if the right to adjust output VAT is triggered in FY 2021, and the credit note is issued between 1 January and 30 April 2022 (i.e. still by the deadline to submit the FY 2021 VAT return), that VAT should no longer be recovered in the VAT return for FY 2021 but instead (through an output VAT variation) in the VAT return for FY 2022, to be submitted by 30 April 2023.

It is to be expected that the new rules will not apply retroactively, and that taxpayers who followed the previous ITA guidelines cannot be challenged.

Hopefully ITA will provide clear confirmation on this point shortly.

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