



Italy: Recent guidelines from Italian tax authorities on the right to recover input VAT charged late by the supplier following a self-disclosure

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The Italian tax authorities, with ruling no. 267, published on 21 August 2020, in response to a request filed by KPMG, confirmed the right of the recipient to recover VAT recharged by the supplier, following a self-disclosure by the latter to correct the VAT treatment of the original transaction.

This is an important clarification from the Italian tax authorities because for the first time it confirms that customers have the right to recover VAT charged late by the supplier, following a self-disclosure, even when the ordinary deadline for the input VAT recovery has expired.

The case

The supplier, a company established in the EU and registered for Italian VAT purposes in Italy, had supplied goods subject to Italian VAT to another company, with no fixed establishment or VAT registration in Italy. The supplier had not declared VAT on those supplies and, to correct its Italian VAT position, made a subsequent self-disclosure, recharging the omitted VAT to its customer. With the VAT ruling, KPMG requested the Italian tax authorities to confirm that the recipient was entitled to recover the additional VAT recharged by the supplier following the self-disclosure, even though the ordinary deadline for the input VAT recovery (i.e. the deadline for the submission of the VAT return for the year when the original supply was made) had already expired.

The response from Italian Tax Authorities

The Italian tax authorities confirmed that the customer is entitled to recover the Italian VAT recharged by the supplier.

The right to recover VAT does not arise from the original tax point (i.e. when the original transaction took place), but from the date when the customer receives the debit note with the additional VAT; the right to recover VAT recharged via debit note expires with the annual VAT return of the year when the debit note is received.

Furthermore, the ruling confirms that the above principles apply even if the recipient was not registered for Italian VAT purposes when the sale took place. In such a case, in order to recover the VAT recharged following the self-disclosure, the recipient has to obtain VAT registration or appoint a VAT representative prior to the payment of the VAT to the supplier.

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