



# Italy: Fiscal Decree 2019 - VAT Measures

**Tax Alert**  
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This Tax Alert summarizes the most important VAT measures introduced by Law Decree no. 119 of 23 October 2018 (the "Decree"), which was published in the Official Gazette on the same date and came into force on 24 October 2018. The Italian Parliament will have to convert the Decree into law (with possible amendments) by 22 December 2018.

Some of the most important VAT measures are described below.

## Invoicing simplifications

### **Penalty regime for mandatory e-invoices - Article 10 of the Decree**

According to article 1(6) of Legislative Decree no. 127/2015, if e-invoices do not comply with the statutory requirements (e-invoices should be in XML format and transmitted through the 'Sistema di Interscambio' or 'Sdl system' - see our [Tax Alert](#) dated 4 January 2018) they will be treated as not having been issued and the (heavy) penalties imposed by article 6 of Legislative Decree no. 471/1997 will apply.

The Decree introduces a sort of six-month grace period (the first half of 2019) during which, for both suppliers and customers, the penalties imposed by article 6 of Legislative Decree no. 471/1997 will be reduced as follows.

- No penalties will apply if a compliant e-invoice is issued within the deadline for the VAT settlement of the relevant month.
- Penalties will be reduced by 80% if a compliant e-invoice is issued within the deadline for the VAT settlement of the month after the relevant one.

### **Invoicing deadlines - Article 11 of the Decree**

The Decree makes two amendments to article 21 of the Italian VAT Act.

- 'Immediate' invoices will have to be issued within 10 days of the tax point, as identified by article 6 of the Italian VAT Act. Currently, 'immediate' invoices must be issued by midnight of the day on which the tax point, identified by article 6 of the Italian VAT Act, is triggered.
- If the invoice is not issued on the tax point date, it should include (in addition to the invoice date) a reference to the tax point date.

These two rules will become effective from 1 July 2019 and will apply to all invoices, i.e. both electronic and paper invoices.

### **Recording of sales invoices in the output VAT ledger - Article 12 of the Decree**

The Decree modifies the time limit for recording sales invoices in the output VAT ledger as per article 23 of the Italian VAT Act.

According to the new rules, a sales invoice will have to be recorded in the output VAT ledger by the 15<sup>th</sup> of the month following that in which the transaction takes place, by reference to the month of sale.

Currently, sales invoices have to be recorded in the output VAT ledger within 15 days of being raised.

### **Recording of purchase invoices in the input VAT ledger - Article 13 of the Decree**

The Decree amends article 25 of the Italian VAT Act.

- The sequential numbering of purchase invoices when they are recorded in the input VAT ledger will no longer be necessary.
- Accordingly, it will no longer be necessary to record the sequential numbering in the input VAT ledger as per article 25(2) of the Italian VAT Act.

### **Who the mandatory invoicing rules apply to - Article 15 of the Decree**

The Decree amends article 1(3) of Legislative Decree no. 127/2015. According to the new wording, the mandatory e-invoicing rules will apply only to transactions between parties resident or established in Italy (therefore, non-established but VAT-registered taxpayers are excluded).

## **Other rules**

### **Time limit for input VAT recovery - Article 14 of the Decree**

The Decree slightly modifies the time limit for input VAT recovery, enabling VAT payers to recover the input VAT in the VAT settlement for the month when the tax point is triggered, even if the purchase invoice is received and recorded in the input VAT ledger by the 15<sup>th</sup> of the following month.

This rule does not apply to transactions whose tax point arises in a fiscal year different from that in which the purchase invoice is received.

### **Electronic reporting of daily receipts by retailers - Article 17 of the Decree**

It will be mandatory for retailers to electronically record and report their daily receipts to the tax authorities, as of:

- 1 July 2019, in the case of retailers whose annual turnover exceeds EUR400,000;
- 1 January 2020, in the case of all other retailers.

Electronic recording and transmission of daily receipts requires retailers to use a special electronic cash register called a '*registratore telematico*', approved by the tax authorities.

Moreover, retailers must issue e-invoices through the Sdl system if customers request them.

Currently, the electronic recording and transmission of daily receipts is mandatory only for certain businesses (e.g. fuel and vending machine businesses).

### **Tax-receipt lottery - Article 18 of the Decree**

The Decree introduces, as of 1 January 2020, a lottery for customers of retailers which electronically record and report their daily receipts.

Under the new rule - to be implemented through a forthcoming decree issued by the tax authority - customers will have the right to participate in the lottery by asking retailers to print their tax codes on receipts.

### **Extension of the VAT group rules to banking groups - Article 20 of the Decree**

The Decree extends the scope of the VAT group rules introduced by the Budget Law for 2017 (see our [Tax Alert](#) dated 19 January 2017).

- **Financial link:** the Decree provides that a financial link exists also between taxable persons established in Italy and joining a banking group (as per article 37-*bis* of Legislative Decree no. 385 of 1 September 1993 - the 'Banking Act').
- **Representative member:** in the case of banking groups, the representative member is the controlling member as per article 37-*bis*(1)(a) of the Banking Act.
- **Opting for a VAT group:** VAT grouping becomes effective from FY 2019 if the option (i) is exercised by 31 December 2018 and (ii), on that date, the financial, economic and organizational links are all in place. There is a financial link if, by 31 December 2018, the contract by which the banks form a group has been executed in accordance with article 37-*bis*(3) of the Banking Act.

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