



Italy: Opportunity to recover VAT charged by telecom operators on pre-paid SIMs

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Italian Revenue Agency Resolution no. 69/E, published on 22 October 2020, has clarified that companies which buy pre-paid/top-up SIM cards (in Italian: *'carte SIM ricaricabili'*) directly from telecom operators are entitled to recover the VAT charged by the operators if the SIMs are used by company employees for business purposes.

Why the clarification provided by Resolution no. 69/E is helpful

This clarification is welcome news because, until now, it was uncertain whether companies could recover VAT on pre-paid SIMs purchased directly from telecom operators, to be used by employees for business purposes.

This uncertainty derived from the fact that the sale of prepaid SIMs (and more generally of 'technical means' enabling the use of telecommunications services) falls under the special single-stage tax regime⁽¹⁾. Under this system, the output VAT on the sale is accounted for and paid by the telecom operator (holder of the concession or license to provide the telecommunications services – the so called 'first trader') on the basis of the price charged to the final customer, while all further transactions down the chain are disregarded, i.e. fall outside the scope of VAT.

Ordinarily, the documents issued by the first trader for the sale of pre-paid SIMs to the public should not show VAT separately from the price of the service. As an exception to this rule, taxable persons are entitled to ask for a VAT invoice, in which case the first trader is obliged to provide a separate indication of the amount of VAT due.

The Revenue Agency has now clarified that the amount of VAT shown on the invoice issued by the telecom operator to B2B customers is recoverable under the ordinary VAT rules if (i) the SIMs are used by company employees for business purposes, and (ii) the amount of VAT is shown separately on the invoice issued by the telecom operator.

(1) See article 74(1)(d) of the Italian VAT Act.

VAT opportunity

This clarification not only allows VAT recovery in the future but opens up the opportunity for VAT refund claims to be submitted by all those taxable persons that took a prudent approach and did not recover VAT during past years on prepaid SIMs for telecommunications services purchased directly from telecom operators under the single-stage tax regime and used, for business purposes, by their employees.

If you wish to discuss this recent resolution or explore the possibility of submitting a VAT refund claim, please feel free to contact us.

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