



Italy: Update on new Italian rules for electronic marketplaces

Tax Alert

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The Italian government introduced (with Law no. 12 of 11 February 2019, entered into force on 13 February - please refer to our [VAT Alert](#) dated 13 February 2019) a new measure (provided by Article 11-*bis* paragraphs 11 to 15) relating to the distance sales of certain goods, partly implementing (and anticipating) the VAT E-commerce Directive⁽¹⁾.

Article 11-*bis* applies to taxable persons who facilitate - through the use of electronic interfaces such as marketplaces, platforms, portals or similar tools - distance sales of mobile phones, video game consoles, tablet PCs and laptops. They are deemed to have received the supply from the initial seller (deemed B2B supply) and then to have made a supply to the final customer (deemed B2C supply).

The Italian Government (with the Decree of 25 February 2019) clarified that the aforementioned taxable persons must remit VAT to the Italian treasury (in accordance with Article 11-*bis*) by 16 April 2019 or, with an uplift of 0.40% calculated on a monthly basis, by 16 May 2019.

In a press release of 27 February, the Ministry of Finance further clarified that the VAT due within the aforementioned deadlines (16 April or, with an uplift, by 16 May) relates to the (deemed) supplies carried out during Q1 2019.

This (and many other aspects of the new rules) require further clarification, which the Government will hopefully provide before the aforementioned deadlines; indeed, since the new measures were introduced on 13 February, it would be reasonable to expect that they should apply only to the 'deemed' supplies carried out from March 2019 onwards, without covering also January and February 2019.

(1) Council Directive 2017/2455 of 5 December 2017, amending Council Directive 2006/112/EC of 28 November 2006.

This rule covers:

- distance sales of such goods, imported from third territories or third countries, and with an intrinsic value of not more than EUR 150;
- intra-EU distance sales of goods made by non-EU suppliers to B2C customers.

For the purpose of the rule, it is assumed that the seller of the eligible goods is a taxable person and that the buyer is not a taxable person.

The taxable person who facilitates the distance sales in question must keep proper records of the supplies. The records must be sufficiently detailed to enable the tax authorities of the Member States where those supplies are taxable to verify that VAT has been accounted for correctly. The records must be made available electronically on request to the Member States concerned. They must be kept for a period of 10 years from the end of the year during which the transaction is carried out.

If the taxable person facilitating the distance sales is not established in a country with which Italy has entered into a reciprocal assistance agreement, it should designate an intermediary to act in its name and on its behalf.

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