



Italy: Recovery of input VAT on fuel purchases and implementing Decree of VAT group

Tax Alert
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Recovery of input VAT on purchases of fuel, oil and other transport-related services

Following the new rules introduced by the Budget Law 2018⁽¹⁾, from 1 July 2018 recovery of input VAT on purchases of fuel, oil and other transport-related services will be allowed provided the following conditions are both met.

- The supplier issues electronic invoices (XML) through a platform (SDI) managed by the Italian tax authority.
- The customer does not pay in cash: only traceable means of payments are admitted.

On 4 April 2018 additional details became available as the Italian tax authority (the 'ITA') issued Measure no. 73203/2018 (the 'Implementing Measure'), which lists all the means of payment - including the credit cards, debit cards and prepaid cards already expressly mentioned by law - that enable input VAT to be recovered.

The Implementing Measure clarifies that the means of payment indicated in the Budget Law 2018 for the recovery of input VAT on transport-related purchases of fuel and oil comprise all traceable means of payments, as opposed to cash. In particular, the means of payments listed in the Implementing Measure are:

- bank and postal cheques;
- bank and postal promissory notes;
- electronic means of payment such as direct debits, bank and postal transfers, post-office paying-in slips, debit cards, credit cards, prepaid cards, and any other electronic means that enable direct debiting of a bank account.

(1) Law no. 205 of 27 December 2017. See our previous [Tax Alert](#) dated 4 January 2018.

The ITA also includes, among the means of payment, the following methods typically used by companies in the fuel sector:

- netting agreements, provided that the parties do not pay in cash;
- cards (rechargeable or not) and vouchers, provided that the parties do not pay in cash.

The Implementing Measure clearly states that all the means of payment listed above are also valid for the deduction of the costs for corporate income tax purposes.

For the purposes of VAT recovery, the same payment rules should also apply to purchases of the other services indicated in article 19-*bis* (1) (d) of the Italian VAT Act (i.e. custody, maintenance, repairs and other transport-related services).

Finally, as of 24 January 2018, a business customer is jointly liable with the supplier for VAT not paid by the seller on supplies of fuel and gasoline intended for use as motor fuel. This rule only applies when the price is lower than the open market value.

Mandatory e-invoicing for the fuel sector

The Budget Law 2018 also provides that as of 1 July 2018:

- in the case of B2B transactions, e-invoicing will be mandatory for supplies of gasoline or diesel intended for use as motor fuel (including B2B supplies of transport fuel made at gas stations);
- in the case of B2C transactions, the electronic storage and transmission of daily payment data will be mandatory for supplies of gasoline or diesel fuel intended for use as motor fuel, (meaning that the supplier is exonerated from issuing a tax receipt/invoice).

On 22 March 2018 the customs agency and the ITA issued technical guidelines for the electronic storage and transmission of daily payment details of supplies of gasoline or diesel fuel intended for use as motor fuel.

As a direct consequence of the above rules, the '*scheda carburante*' will be abolished as of 1 July 2018.

VAT grouping rule - Implementing Decree just published

The Implementing Decree for the VAT grouping rules (introduced by the Budget Law 2017 - see our [Tax Alert](#) dated 17 November 2016) was issued on 6 April 2018 and is awaiting publication in the Official Gazette.

In particular, the Implementing Decree establishes the following.

- The financial, economic and organizational links between the taxable persons that join the VAT group should be in place when the option is exercised and, in any case, from 1 July of the year before that in which the VAT group becomes effective (e.g. from 1 July 2018 if the VAT group becomes effective from 1 January 2019).
- By 15 November 2018 at the latest, it is possible to opt for a VAT group effective from January 2019 (this derogates from the general rule according to which the option should be exercised at the latest by 30 September of the previous year).

Another decree, still to be issued by the tax authorities, will approve the forms to be used in electronically opting for the VAT group.

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