



Italy: Law Decree no. 193 of 22 October 2016 is converted into law - New VAT measures confirmed

Tax Alert

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Law Decree no. 193 of 22 October 2016 has now been converted into law (the 'Law').

Quarterly communication of data in invoices received and issued

Currently, VAT payers must file an annual 'Communication of sales and purchases' (known as the 'Spesometro').

Under the Law, the 'Spesometro' will be removed and, as of 1 January 2017, VAT payers will have to report the data contained in invoices issued and received (including related credit and debit notes and customs bills). They will be expected to send the reports on a quarterly basis, by the end of the second month following the relevant quarter, **with the exception of the second quarter, for which the report should be filed by 16 September, instead of 31 August.**

For FY 2017 only, invoice data for the first and second quarters will be due by 25 July 2017.

The following details must be included in the report (the Law says that the Revenue Agency must issue implementation guidelines but does not say when):

- Data identifying the parties
- Invoice date and number
- Tax base
- VAT rate
- VAT amount
- Type of transaction.

A penalty of **€2** will apply for failing to submit the details of an invoice or submitting incorrect details (capped at **€1,000** per quarter). **If the submission is made, or corrected details provided, within 15 days of the deadline, the penalties will be reduced by 50% (capped at €500).**

Taxpayers opting, under article 1 of Legislative Decree no. 127/2015 (see our VAT Alert of...), for the quarterly communication of invoices received and issued are exonerated from the communication system described above and can benefit from certain incentives such as:

- priority processing of VAT refunds (repayment should be made within 3 months of submission of the claim);
- a **2-year reduction** in the statute of limitations, as long as certain requirements regarding the traceability of payments are satisfied and a specific box in the income tax return is duly flagged.

Quarterly communication of VAT settlements

As of 1 January 2017, VAT payers will have to report the figures for calculating periodical VAT settlements. They will be expected to do so on a quarterly basis, by the end of the second month following the relevant quarter, **with the exception of the second quarter, for which the report should be filed by 16 September, instead of 31 August.** Further guidelines are expected from the Revenue Agency, as indicated above.

Penalties ranging from **€500 to €2,000** will apply for submitting an incorrect report or for failing to submit a report for a quarter. **If the submission is made, or corrected details provided, within 15 days of the deadline, the penalties will be reduced by 50%.**

Taxpayers opting, under article 1 of Legislative Decree no. 127/2015, for the quarterly communication of invoices received and issued should still submit the quarterly VAT settlement report.

Removal of reporting obligations

As of 1 January 2017, the following reporting obligations will no longer apply:

- Intrastat returns for intra-EU purchases of goods and services (Modello INTRA 2).
- The annual return due from leasing companies and companies which lease and rent cars, caravans and other vehicles.
- **VAT-free purchases from San Marino.**

Currently, VAT payers must, on an annual basis, report supplies of goods and services of over €10,000, made to and by their trading counterparts in 'black-list' countries. Starting from the accounting year ongoing as at **31 December 2016**, reports of transactions with trading counterparts in 'black-list' countries ('black-list reports') will no longer be due.

Deadline for the annual VAT return

Annual VAT returns for FY 2017 onwards must be filed between 1 February and 30 April of the following year. The deadline for the annual VAT return for FY 2016 (the end of February 2017) remains unchanged.

Electronic invoices for tax free shopping

As of 1 January 2018, tax free purchases of goods carried to non-EU countries in a traveller's personal luggage (in compliance with article 38-*quater* of the Italian VAT Act) must be certified through e-invoices via the OTELLO system.

VAT refunds

VAT claims of up to €30,000 can be refunded without the need for a guarantee or a lawyer's certificate (i.e. the current threshold of €15,000 will rise to €30,000).

VAT warehouses

As of 1 April 2017, domestic supplies of goods introduced through VAT warehouses will not trigger VAT payments (currently, payments of VAT on domestic supplies are only suspended when the buyer is VAT-registered in another EU Member State).

As of 1 April 2017, VAT compliance for the removal of goods destined to remain in Italy will differ according to the origin of the goods:

- VAT due on removal from the VAT warehouse of goods that were originally introduced to the VAT warehouse through an **intra-EU purchase** will still be accounted for through the reverse-charge mechanism.
- VAT due upon removal from a VAT warehouse of goods introduced into the VAT warehouse as a **domestic purchase** will no longer be accounted for through the reverse-charge mechanism, but will have to be paid directly to the tax authorities by the VAT warehouse keeper, in the name and on behalf of the party that removes the goods (through F24 payment forms – no payment through offsets against other taxes is allowed). The VAT payer who removes the goods from the VAT warehouse will be entitled to recover the VAT by raising a self-invoice ('*autofattura*') and posting it in the input VAT ledger, including details on the invoice of the payment made by the VAT warehouse keeper.
- VAT due on removal from the VAT warehouse of goods that were originally introduced into the VAT warehouse as **imports** will have to be paid directly to the tax authorities by the VAT warehouse keeper (as per the previous paragraph) **until the issuance of a specific decree. After the decree is issued, VAT will be accounted for through the reverse-charge mechanism. If the decree is published before 1 April 2017, the current reverse charge mechanism will continue to apply without any interruption.**

The new rules also require the submission of a guarantee for the removal of goods introduced as imports.

Amending annual VAT returns

The Law makes it possible to file amending VAT returns, even if the amendment is in the taxpayer's favour, until the expiration of the statute of limitations (i.e. for annual VAT returns due as of FY 2016, this will be 31 December of the fifth year following that in which the return is filed; fiscal years preceding 2016 will become statute-barred on 31 December of the fourth year following that in which the return is filed).

Before the Law came into force, amending VAT returns in the taxpayer's favour could only be filed before the deadline for submitting the VAT return for the following year.

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