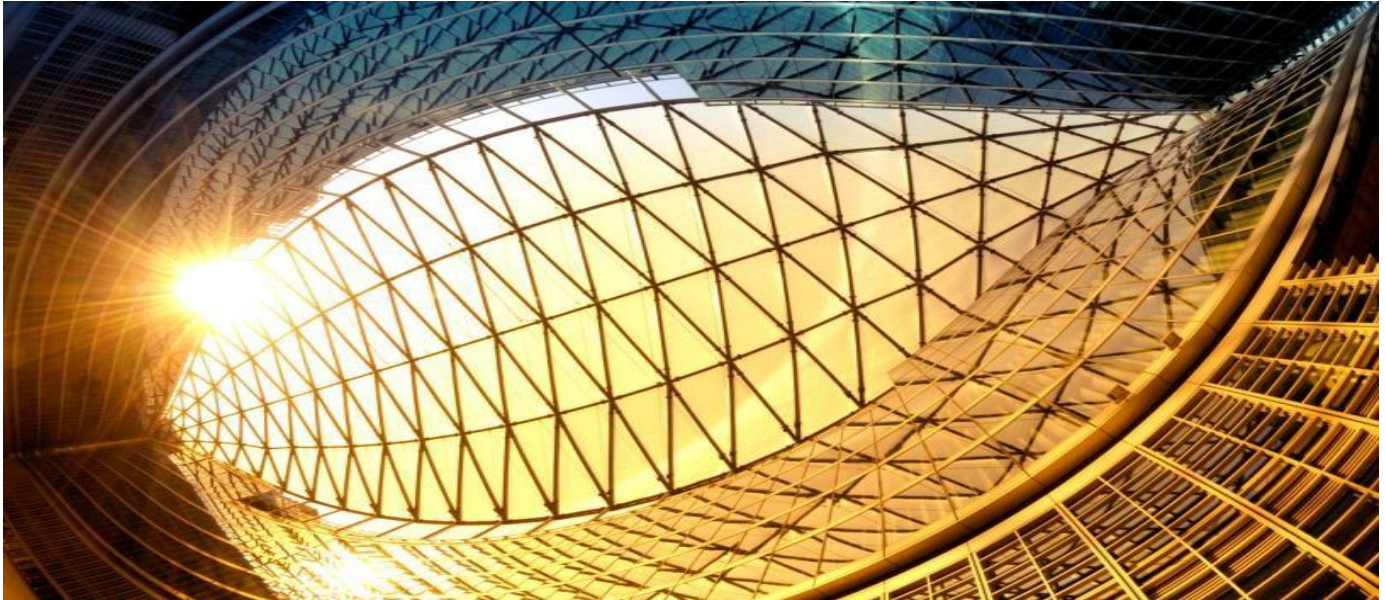


12 January 2016

Budget Law 2016 – New Italian VAT measures



Offices

Milan

Via Vittor Pisani 27, 20124
T: +39 02 676441 - F: +39 02 67644758

Ancona

Via I° Maggio 150/a, 60131
T: +39 071 2916378 - F: +39 071 2916221

Bologna

Via Andrea Costa 160, 40134
T: +39 051 4392711 - F: +39 051 4392799

Florence

Viale Niccolò Machiavelli 29, 50125
T: +39 055 261961 - F: +39 055 2619666

Genoa

P.zza della Vittoria 15/12, 16121
T: +39 010 5702225 - F: +39 010 584670

Naples

Via F. Caracciolo 17, 80122
T: +39 081 662617 - F: +39 081 2488373

Padua

Piazza Salvemini 2, 35131
T: +39 049 8239611 - F: +39 049 8239666

Perugia

Via Campo di Marte 19, 06124
T: +39 075 5734518 - F: +39 075 5723783

Pescara

P.zza Duca D'Aosta 34, 65121
T: +39 085 4210479 - F: +39 085 4220295

Rome

Piazza delle Muse 8, 00197
T: +39 06 809631 - F: +39 06 8077459

Turin

C.so Vittorio Emanuele II 48, 10123
T: +39 011 883166 - F: +39 011 8395865

Verona

Via Leone Pancaldo 68, 37138
T: +39 045 8114111 - F: +39 045 8114390

On 22 December 2015, the Italian Parliament approved the 2016 Budget Law, which was published in the Official Gazette on 30 December and came into force on 1 January 2016.

The most important VAT measures include the following.

Extension of the reverse-charge mechanism

Based on the split-payment mechanism, Italian public bodies do not pay VAT to their suppliers, but must remit it directly to the Treasury.

Therefore, Italian consortia (similar to EEIGs) that buy services from their members and supply them to Italian public bodies cannot offset input VAT (paid to their members) against output VAT (charged to the public bodies), ending up in a VAT repayment position.

In order for consortia to avoid the financial costs associated with being in a VAT repayment position, the 2016 Budget Law extended the reverse-charge mechanism to services rendered to a consortium by its members when the consortium is the supplier of a public body.

Before the reverse-charge mechanism can be applied to the above services, the implementation of the new rules has to be authorized by the European Council (in accordance with article 395 of Directive 2006/112/EC).

Statute of limitations

As of 2016, the statute of limitations on assessments of fiscal years (normally 5 years) has been extended by an additional year. Therefore, fiscal years will remain open to assessment until the end of the sixth year after the one in which an infringement is committed.

In cases of crime, the statute of limitations will also be six years (previously, the statute of limitations was 10 years).

Bad debt

Under the 2016 Budget Law, output VAT charged on supplies to customers undergoing bankruptcy and similar procedures will be recoverable (by means of

credit notes) from the start of the procedure. It will no longer be necessary to wait until the end of the procedure. This provision will be applicable to bankruptcy and similar procedures that are declared after 31 December 2016.

Other Budget Law provisions are, instead, retroactive and clarify certain historical issues, such as when enforcement proceedings are unsuccessful; the impact of terminating contracts regulating ongoing supplies; the possibility for a customer to issue a credit note in a reverse-charged transaction.

Reduced 4 percent VAT rate for e-periodicals

From 1 January 2016, e-periodicals with an ISSN code are subject to a reduced VAT rate of 4 percent. Therefore, the reduced VAT rate of 4 percent, granted to e-books by the 2015 Budget Law, is now extended to newspapers, daily news, dispatches of news agencies, books and magazines, regardless of whether they are in paper or electronic format.

The reduced VAT rate for e-periodicals (as well as the reduced VAT rate for e-books) could trigger an infringement procedure against Italy, as happened to France and Luxembourg (see European Court of Justice Case C-219/13). However, the Ministries of Culture of Italy, France, Germany and Poland officially requested on 19 March 2015 that the European Commission allow a reduced VAT rate for all types of books (paper and electronic). To date, to the best of our knowledge, no infringement procedures have been brought against Italy and there has been no response to the countries' request.

Future VAT rate increases

The 2016 Budget Law provides for a gradual increase in VAT rates, from 1 January 2017.

- The reduced rate of 10 percent will increase to 13 percent on 1 January 2017.
- The standard VAT rate will increase:
 - from 22 percent to 24 percent on 1 January 2017;
 - from 24 percent to 25 percent on 1 January 2018.
- The 'super' reduced VAT rate of 4 percent will remain unchanged.

The above VAT rate increases will not apply if certain budgetary targets are met.

Penalties

The implementation of the new administrative penalty system for VAT infringements (introduced by Law Decree no. 158/2015) has been moved up to 1 January 2016 (it was previously expected to enter into force on 1 January 2017).

Limit on cash payments

The limit of €999.99 has been raised to €2,999.99 from 1 January 2016.

New VAT rate of 5 percent

A new VAT rate of 5 percent has been introduced into the Italian VAT Act.

Medical and social services, and educational, home-care or outpatient or community and similar services provided by co-operatives and their consortia are subject to this new VAT rate of 5 percent (instead of the old rate of 4 percent).

Marinas

Services supplied by marinas will be subject to a permanent reduced VAT rate of 10 percent (previously the rate applied only until 31 December 2015).

Tax-free shopping

Certified intermediaries will be authorized to provide tax refunds to non-EU tourists based on specific thresholds to be set by an implementing decree within 180 days of the publication of the 2016 Budget Law.

New flat rate for supplies of agricultural products

In reference to the special VAT scheme for farmers, the 2016 Budget Law provides new flat rates for certain agricultural products (to be identified in an implementing decree).

Free-of-charge transactions with non-profit organizations

The threshold for providing services to non-profit organizations without an obligation to notify the Italian tax authorities has been increased to €15,000 (previously the limit was €5,164).

Contact us

Studio Associato - Consulenza legale e tributaria

Davide Morabito

KPMG, Tax & Legal

T: +39 045 811 4111

E: dmorabito@kpmg.it

Angela Abawi

KPMG, Tax & Legal

T: +39 045 811 4111

E: aabawi@kpmg.it

kpmg.com/it

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