



**EUROPEAN COMMISSION**

DIRECTORATE-GENERAL FOR TAXATION AND THE CUSTOMS UNION

Indirect Taxation and Tax Administration

**VAT and Other Turnover Taxes**

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TAXUD/C/1

**VAT in the European Community**

**APPLICATION IN MEMBER STATES**

**INFORMATION FOR THE USE OF AUTHORITIES,  
OPERATORS, INFORMATION NETWORKS ETC.**

**N.B.**

**This document collates a range of basic information on the application of VAT arrangements in the Member States which has been obtained from the tax authorities concerned.**

**The sole purpose of distributing details of national provisions is to create a work tool. In no way does this document reflect the views of the Commission of the European Communities. Nor does it signify approval of the relevant legislation.**

# ITALY

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## GENERAL INFORMATION

### **1. IF A FOREIGN TRADER WANTS TO OBTAIN INFORMATION ABOUT YOUR VAT SYSTEM, WHOM SHOULD HE CONTACT? (ADDRESS, TELEPHONE, FAX, EMAIL)**

A foreign operator can obtain information about the Italian VAT system from the following department:

**Agenzia delle Entrate**

**Via C. Colombo, 426 C/D**

**00145 ROMA 00187 ROMA**

**[dc.normativa@agenziaentrate.it](mailto:dc.normativa@agenziaentrate.it)**

Tel. (switchboard) +39 06 50543200

### **2. WHAT IS THE ADDRESS OF THE NATIONAL TAX ADMINISTRATION WEBSITE? WHICH CATEGORIES OF INFORMATION ON VAT IS AVAILABLE ON THAT WEBSITE (GENERAL INFORMATION, LEGISLATION, CONTACT POINTS, FORMS, ETC.)? AND IN WHICH LANGUAGE(S)?**

Agenzia delle Entrate website: [www.agenziaentrate.it](http://www.agenziaentrate.it).

Various types of VAT information are available on the website: general information, tax documentation, taxpayer guides, online magazines and forms.

The general information is in Italian. The Order of the Director of Agenzia delle Entrate of 30 December 2005, published in Gazzetta Ufficiale No 48 of 27/2/2006, provides that, from 1 January 2006, the Pescara Operations Centre ([www.agenziaentrate.it](http://www.agenziaentrate.it)) handles relations with non-resident taxpayers who wish to settle obligations and exercise rights with regard to VAT.

The VAT forms are available in Italian, English (currently being prepared), German and Slovenian.

Taxpayer guides are available in Italian and in certain other languages: English, French, German, Albanian, Arabic, Romanian and Serbo-Croatian.

### **3. WHERE IS IT POSSIBLE TO FIND NATIONAL VAT LEGISLATION AND REGULATIONS? IN WHICH LANGUAGE(S) ARE THEY AVAILABLE?**

Regulations and practices are obtainable, in Italian only, from the database of the Economic and Tax Documentation Department. Anyone may refer to the database at the websites [www.finanze.it](http://www.finanze.it).; [www.agenziaentrate.it](http://www.agenziaentrate.it).

## VAT REGISTRATION OF FOREIGN TRADERS

### **4. WHAT ARE THE CIRCUMSTANCES GOVERNING THE NEED TO BE REGISTERED FOR VAT?**

Registration is necessary in cases where a non-resident taxable person supplies vatable goods or vatable services in Italy to customers who are not engaged in business, arts or professions or are not established in the territory of the State (Article 17, third paragraph of Presidential Decree 633 of 26 October 1972).

### **5. WHAT ARE THE SITUATIONS WHERE REGISTRATION IS UNNECESSARY BECAUSE THE RECIPIENT OF THE GOODS OR SERVICES IS LIABLE FOR THE TAX? IN SUCH SITUATION, IS IT POSSIBLE TO REGISTER ON A VOLUNTARY BASIS?**

Under Article 17(2) of Presidential Decree 633/1972, where a taxable person not established in the territory of Italy makes a supply of goods or services subject to VAT to a taxable person established in Italy, the recipient is liable for all VAT obligations and must pay the tax by means of the reverse charge procedure. This procedure is compulsory for Italian persons.

### **6. WHOM SHOULD A FOREIGN TRADER CONTACT TO GET REGISTERED FOR VAT? (DETAILS ABOUT THE DEPARTMENT, INCLUDING ADDRESS, TELEPHONE AND FAX E-MAIL...)**

To request direct registration and consequently obtain a VAT identification number, the foreign trader must complete and sign form ANR/3, available on the Agenzia delle Entrate website at [http://www.agenziaentrate.it/ilwwcm/connect/Nsi/Strumenti/Modulistica/Modelli+di+istanza\\_richiesta\\_domanda/IVA+AA9\\_10+AA7\\_10/Modello+di+comunicazione+IVA+ANR\\_3/](http://www.agenziaentrate.it/ilwwcm/connect/Nsi/Strumenti/Modulistica/Modelli+di+istanza_richiesta_domanda/IVA+AA9_10+AA7_10/Modello+di+comunicazione+IVA+ANR_3/).

Applications for direct VAT registration in the State, made by means of form ANR/3 must be posted or delivered direct to the following office:

**Agenzia Entrate - Centro Operativo di Pescara**

**Area Controlli - Servizio identificazione non residenti**

**Via Rio Sparto, n. 21 - 65129 Pescara.**

**Tel: 0039 085 5772245/2249/2465**

**Fax: 085 5772377**

**E-mail: [cop.pescara.ivanr@agenziaentrate.it](mailto:cop.pescara.ivanr@agenziaentrate.it)**

For further information, the Pescara Operational Centre can be contacted at the above contacts.

On the other hand, if a tax representative is appointed, the appointment should be notified to the Agenzia delle Entrate office responsible for the representatives own tax domicile.

**7. PLEASE DESCRIBE THE DETAILED PROCEDURES (INCLUDING NECESSARY DOCUMENTS) FOR ISSUING VAT IDENTIFICATION NUMBERS, SPECIFICALLY TO FOREIGN TRADERS.**

The foreign trader must complete the commencement of trading declaration form (ANR/3), available on the Agenzia delle Entrate website at [www.agenziaentrate.gov.it](http://www.agenziaentrate.gov.it) and on the website of the Ministry of the Economy and Finance at [www.finanze.gov.it](http://www.finanze.gov.it). Only if the foreign trader has no permanent establishment in Italy may he designate a tax representative or register directly.

The declaration must be submitted by electronic means (ENTRATEL) either directly or via authorised parties.

The validity of a VAT registration has no time limit: it remains valid until the operator ceases trading.

## **THRESHOLDS**

**8. WHICH THRESHOLD DO YOU OPERATE AS REGARDS INTRA-COMMUNITY DISTANCE SELLING UNDER ARTICLE 34 OF THE VAT DIRECTIVE (2006/112/EC)?**

Where the total value of the goods supplied to each Member State did not, in the previous and the current calendar year, exceed EUR 100 000.00 or a lower threshold established by an individual Member State for the goods imported into it.

**9. WHICH THRESHOLD DO YOU OPERATE AS REGARDS ACQUISITIONS BY NON-TAXABLE LEGAL PERSONS OR EXEMPT PERSONS UNDER ARTICLE 3(2) OF THE VAT DIRECTIVE (2006/112/EC)?**

For acquisitions, the threshold laid down by the directive ranges from EUR 35 000 to EUR 100 000. Italy applies the EUR 35 000 threshold.

## **APPOINTMENT OF TAX REPRESENTATIVES BY FOREIGN (NON-EU) TRADERS**

### **10. WHAT ARE THE SITUATIONS IN WHICH THE APPOINTMENT OF A TAX REPRESENTATIVE IS OBLIGATORY?**

Generally, foreign operators not resident in the EU are required to appoint a tax representative in our country whenever they conduct a transaction in Italy (Article 7 of Presidential Decree 633/1972) with a taxable person who cannot tax that operation by self-invoicing (a private consumer) or with a person that is not established in the territory of the State, unless the non-established person has a fixed establishment in Italy.

### **11. WHAT ARE THE CONDITIONS GOVERNING THE APPOINTMENT OF A TAX REPRESENTATIVE?**

Article 17(3) of Presidential Decree 633/1972 requires the tax representative to be appointed as prescribed by Article 1(4) of Presidential Decree 441 of 10 November 1997. Under the Article, the tax representative's appointment must be recorded in a public or registered private deed or by letter entered in a register for the purpose at the Agenzia delle Entrate office responsible for the area in which the representative's tax domicile is located. The appointment may also be recorded in a deed authenticated by a notary of a Member State which has ratified the 1961 Hague Convention. However, to be considered a public deed, such a deed must be legalised by the Italian Consul-General to the foreign state.

A foreign taxable person's tax representative may be a natural person resident in Italy, or a legal person (partnership, business entity, corporation etc) with an office in Italy. The same person may represent several foreign operators. Please note that the tax representative must have been appointed before the date on which the first operation took place in Italy, and must be notified to the other contracting party before the operation takes place.

### **12. WHAT ARE THE RIGHTS AND OBLIGATIONS OF TAX REPRESENTATIVES?**

The tax representative may exercise all the rights, and is bound to fulfil all the obligations, deriving from application of the rules on value-added tax relating to operations effected in Italy by, or with, the taxable person represented.

Hence the representative may apply for VAT repayments and is also bound to take all steps required by the internal rules on value-added tax (submission of the declaration of commencement of trading, application for allocation of a VAT number, issue and registration of invoices receivable, entry of invoices payable, completion of the periodic settlements and related tax payments, submission of the annual return and notification of VAT data).

Please note that the tax representative is jointly and severally liable for such obligations with the person represented (Article 17(3) of the said Presidential Decree).

**13. WHAT ACTION CAN YOU TAKE IN THE EVENT OF FAILURE BY A TRADER IN ANOTHER COUNTRY TO DESIGNATE A TAX REPRESENTATIVE IN YOUR TERRITORY?**

If a foreign operator fails to appoint a tax representative in Italy, in cases where such appointment is compulsory, the applicable penalties are those provided by Legislative Decree 471 of 18 December 1997, governing non-criminal fiscal penalties in matters of direct and value-added taxes and tax collection.

**14. IS IT NECESSARY TO SET UP A BANK GUARANTEE?**

No.

**APPOINTMENT OF TAX REPRESENTATIVES BY FOREIGN TRADERS ESTABLISHED IN THE EU**

**15. IS IT POSSIBLE TO APPOINT A TAX REPRESENTATIVE OR A TAX AGENT?**

While traders who have a fixed establishment in the Italian territory cannot appoint a tax representative, for foreign operators resident in the EU, the appointment of a tax resident in Italy may be optional or mandatory, as explained in point 10. Please note that, where such appointment is compulsory, foreign operators resident in the EU (or non-EU operators resident in countries that have concluded an agreement with Italy) may, as an alternative, identify themselves directly in our country, as provided in Article 35ter of Presidential Decree 633/1972. Thus they can meet their obligations and exercise their rights under the Italian rules on value-added tax directly, without having to resort to the appointment of a tax representative. Where the foreign operator, resident in the EU, only carries out non-taxable, exempt or non-liable operations in our country, Article 44(3) of Decree Law 331 of 30 August 1993 provides for a “streamlined tax representative”, who issues invoices receivable and completes Intrastat forms, but does not fulfil the other obligations ordinarily applicable to a vat-able person.

**16. WHAT ARE THE CONDITIONS GOVERNING THE APPOINTMENT OF A TAX REPRESENTATIVE?**

See point 11.

**17. WHAT ARE THE RIGHTS AND OBLIGATIONS OF TAX REPRESENTATIVES?**

See point 12.

**18. ARE THERE SITUATIONS WHERE IT IS OBLIGATORY TO SET UP A BANK GUARANTEE?**

No.

# INVOICING

## RULES ABOUT INVOICING

### **19. WHERE CAN THE RELEVANT RULES (LAWS, REGULATIONS, INSTRUCTIONS, GUIDELINES...) BE FOUND?**

The rules on invoicing appear in Article 21 of Presidential Decree 633 of 26 October 1972, as amended by the Legislative Decree implementing Directive 2001/115/EC, which simplifies, modernises and harmonises the conditions laid down for invoicing in respect of value-added tax.

## ISSUANCE OF INVOICES

### **20. CASES WHERE AN INVOICE NEEDS TO BE ISSUED**

Article 21 of Presidential Decree 633/1972 makes it compulsory to issue an invoice for every taxable operation. Supplies of goods and services as identified by Articles 2 and 3 of the said Decree 633, are taxable.

### **21. WHAT ARE THE RULES ON CORRECTIVE INVOICES (CREDIT / DEBIT NOTES)?**

Article 26 of the said Presidential Decree 633/1972 establishes the rules to follow for adjustments up or down.

Upward adjustments are compulsory. This means it is always necessary to issue a supplementary invoice. Downward adjustments are generally optional, but only in the cases specified in Article 26. There are no deadlines for implementing downward adjustments if they are due to errors or explicit contract clauses, or required by law (e.g. administrative or judicial declarations of nullity, revocation, cancellation or avoidance of a contract).

If the events giving rise to adjustments (up or down) occur as a result of an agreement made between the parties, the adjustment cannot be applied more than one year after the operation was carried out.

If the supplier issues a credit note voluntarily, the note may either be recorded as reducing sales or as increasing purchases. In this case, a customer who has already registered the operation as a purchase must record an upward adjustment of sales or a downward adjustment of purchases. This does not prejudice his right to return of the amount paid to the supplier, as recoupment.

## **22. WHAT IS THE TIME LIMIT FOR ISSUING INVOICES?**

Under Article 21(4) of Presidential Decree 633/1972, the invoice must be issued at the time of execution of the operation, established as per Article 6 of the Decree.

For supplies of goods, consignment or despatch will be recorded on a transport or other document which identifies the parties between whom the operation took place. That document must have the features prescribed by Presidential Decree 472 of 14 August 1996. In such cases, the invoice must be issued by 15<sup>th</sup> of the month after that of consignment or despatch. It must also mention the dates and numbers of the documents concerned. In that case, it is possible to issue just one invoice for supplies made during one calendar month between the same parties. By way of derogation, the invoice may be issued during the month after that of consignment or despatch of the goods, provided that the customer made the supplies to third parties through its own supplier.

## **23. WHAT ARE THE RULES FOR SUMMARY INVOICING?**

Under Article 21(3) of Presidential Decree 633/1972, just one invoice may be issued for operations carried out on the same day to the same consignee. Under Article 74(4) of Presidential Decree 633/1972, just one invoice may be issued for several operations in each calendar quarter, for provisions of services provided to the same customer by road hauliers entered on the roll as per Law 298 of 6 June 1974. Such provisions shall be pursuant to Article 21(4), first sentence, of Presidential Decree 633/1972.

## **24. WHAT ARE THE CONDITIONS IMPOSED ON SELF-BILLING?**

Under Article 17(2) of Presidential Decree 633/1972, the obligations relating to supplies of goods and services in Italy by non-resident taxable persons must be fulfilled by customers resident in Italy who buy the goods or use the services for business, artistic or professional purposes.

Under Article 34(6) of Presidential Decree 633/1972, if customers buy goods or use services while in business from tax-exempt farmers, they must issue an invoice by the means and in the terms of Article 21 of Presidential Decree 633/1972. Such invoice must state the relevant tax, worked out at the rates applicable to the compensation percentage. They must give a copy to the farmer and record it separately, as per Article 25 of Presidential Decree 633/1972.

Moreover, under Article 1(109) of Law 311 of 30 December 2004, persons who in pursuit of their business purchase truffles from non-professional or occasional pickers not holding a VAT identification number must self-bill in accordance with the procedure and time limits set out in Article 21 of Presidential Decree 633 of 26 October 1972, save for the fact that they may omit the supplier's identification details on the invoice. Such customers must pay to the tax authorities the VAT on such self-billed invoices without any right of deduction. Such customers must pay to the tax authorities the VAT on such self-billed invoices without any right of deduction.

Under Article 6(8) of Legislative Decree 471 of 18 December 1997, the customer involved in business, the arts or exercising a profession who has bought goods or services without issue of an invoice in accordance with the law, or with issue of an incorrect invoice by the other contracting party is punished (without prejudice to the supplier's liability) by an administrative penalty of one hundred percent of the tax. The

minimum fine is ITL 500 000. This applies unless the customer regularises the operation by the following means:

- a) if the operator has received no invoice four months after the date of effecting the operation, he or she must pay the tax to the office competent for its tax affairs within the next 30 days and produce a duplicate document containing the information required by Article 21 of Presidential Decree 633/1972 on invoicing for operations;
- b) if the operator received an incorrect invoice, he or she must, within 30 days of registration of that invoice, produce a duplicate further document to the office referred to in a) above, containing the same information, and pay any greater tax which may be due.

**25. IS THERE ANY SPECIFIC RULE IN RELATION TO OUTSOURCING OF INVOICES TO A PERSON WHO IS ESTABLISHED OUTSIDE THE EU?**

A third party, resident outside the EU, is allowed to issue invoices on paper or electronically, provided that this is notified in advance to the tax authority, the Italian taxable person commenced trading at least five years earlier, the Italian taxable person has committed no serious VAT offences and that no payment order has been served upon him or her.

## **CONTENT OF INVOICES**

**26. UNDER WHAT CONDITIONS MUST THE VAT NUMBER OF THE CUSTOMER BE ON THE TAX INVOICE?**

The invoice must quote the VAT number of the customer for the goods or services, if he or she is liable for tax at the location of the supplier and must quote the applicable regulation (Article 21(2)(f) of Presidential Decree 633/1972). *For transactions conducted with persons established in the territory of another Member State of the Community, the invoice must bear the VAT identification number given by the Member State of establishment of the recipient or customer* (Article 21(2) (f-bis) of Presidential Decree 633/1972).

**27. ANY OTHER SPECIFIC RULE IN RELATION TO THE CONTENT OF THE INVOICE**

The specific rules on the content of the invoice can be found in Article 21 of Presidential Decree 633/1972.

## **ELECTRONIC INVOICING**

**28. AS REGARDS INVOICES SENT WITH ADVANCED ELECTRONIC SIGNATURES, IS IT OBLIGATORY TO USE QUALIFIED CERTIFICATED AND SECURE-SIGNATURE-CREATION DEVICES? IF SO, PLEASE GIVE DETAILS.**

By agreement with the recipient, the invoice may be sent electronically without macro-instructions or an executable code. The certification of the date, the authenticity of the origin and the integrity of the content of the electronic invoice are guaranteed by applying the temporary reference and qualified electronic signature to each invoice or batch of invoices or by using EDI (electronic data interchange) systems guaranteeing the required authenticity and integrity (Article 21(3) of Presidential Decree 633/1972). The qualified electronic signature is an advanced electronic signature based on a qualified certificate, and generated by an *ad hoc* secure device (Article 1(1)(h) of the Decree of 23 January 2004).

**29. AS REGARDS INVOICES SENT BY ELECTRONIC DATA INTERCHANGE, IS AN ADDITIONAL SUMMARY DOCUMENT ON PAPER OBLIGATORY? IF SO, PLEASE GIVE DETAILS ABOUT ITS CONTENT AND PROCEDURE.**

The recipient's consent is necessary to send the invoice electronically. Therefore there is no requirement to print the invoice out on paper. However, the document must be made tamper-proof by qualified electronic signature and date reference.

Therefore the obligation to send or deliver a paper document only arises when the recipient has not consented to electronic transmission. In that case, the standard provisions of Article 21 of Presidential Decree 633/1972 must be followed.

**30. DO YOU ALLOW INVOICES ISSUED PURSUANT TO ARTICLE 233(1), SECOND SUBPARAGRAPH OF THE VAT DIRECTIVE (2006/112/EC) ("BY OTHER ELECTRONIC MEANS")? IF SO, UNDER WHICH CONDITIONS AND FORMALITIES?**

It is possible to send invoices in accordance with the provision of Article 22(3)(c) of the Sixth Directive, as explained by Agenzia delle Entrate in its Circular 45 of 19 October 2005 (point 2.6.1).

**31. ANY OTHER SPECIFIC RULE IN RELATION TO ELECTRONIC INVOICING**

Apart from the provisions of Article 21 of Presidential Decree 633/1972, further rules are contained in the Prime Ministerial Decree of 13 January 2004, the Decree of 23 January 2004, the CNIPA (the National Centre for Information Technology in Government) Decision No 11 of 19 February 2004 and on Legislative Decree 82 of 7 March 2005.

## **STORAGE OF INVOICES**

### **32. WHAT ARE THE RULES ON THE PLACE OF STORAGE OF INVOICES?**

The rules on the place of storage of invoices are contained in Article 39 of Presidential Decree 633/1972 and Articles 3 and 4 of the Decree of 23 January 2004.

### **33. IS PRIOR NOTIFICATION OF INVOICES STORED IN ANOTHER COUNTRY AN OBLIGATION? IF SO, PLEASE GIVE DETAILS.**

Article 35(2)(d) of Presidential Decree 633/1972 requires that, at the time of the declaration of commencement of trading, the place or places where all documents required by that decree and by other regulations are held must be stated. In particular, Article 39 of Presidential Decree 633/1972 states that the place of storage of electronic invoices may be in another State, provided there is legal provision for mutual assistance with that State.

### **34. WHAT IS THE OBLIGATORY STORAGE PERIOD FOR INVOICES?**

The following must be pointed out concerning the period for keeping invoices:

- For tax purposes, the VAT legislation refers to the provisions concerning income tax investigations, whereby invoices must be kept until 31 December of the fourth year after submission of the return relating to the year in which they were issued. In case of tax investigations, invoices must be kept until resolution of any tax dispute relating to them.
- For the purposes of civil law, under Civil Code Article 2220, invoices must be kept for 10 years from the date of last registration.

### **35. WHAT ARE THE SPECIFIC RULES ON STORAGE FORM AND POSSIBLE CONVERSIONS?**

The invoice storage requirements can be found in Article 39 of Presidential Decree 633/1972 on keeping and maintaining records and documents.

### **36. ANY OTHER SPECIFIC RULE IN RELATION TO INVOICE STORAGE.**

Apart from the provisions of Article 39 of Presidential Decree 633/1972, further rules are contained in the Prime Ministerial Decree of 13 January 2004, the Decree of 23 January 2004, the CNIPA (the National Centre for Information Technology in Government) Decision No 11 of 19 February 2004 and on Legislative Decree 82 of 7 March 2005.

## **SIMPLIFIED INVOICES**

### **37. WHAT ARE THE SITUATIONS WHERE SIMPLIFIED INVOICING IS ALLOWED PURSUANT TO ARTICLE 238 OF THE VAT DIRECTIVE? AND WHAT ARE THE APPLICABLE RULES?**

The invoice must contain all the information required in Article 21 of Presidential Decree 633/1972.

## PERIODIC VAT RETURNS

### **38. UNDER WHAT CIRCUMSTANCES IS A TRADER OBLIGED TO SUBMIT A VAT RETURN?**

Gli operatori sono sempre tenuti a presentare la dichiarazione IVA, ad eccezione dei contribuenti minimi che sono soggetti ad un regime semplificato.

### **39. AT WHAT INTERVALS ARE VAT RETURNS AND ASSOCIATED PAYMENTS TO BE MADE?**

The VAT return is made annually, while payments may take place monthly or quarterly.

### **40. WHAT IS THE PROCEDURE FOR REFUNDING THE EXCESS VAT INDICATED IN THE PERIODIC VAT RETURNS? WHAT ARE THE TIME LIMITS, IF ANY, FOR REFUNDING EXCESS VAT?**

Refund of the excess credit resulting from the annual VAT return may only be claimed if the conditions laid down in Article 30 and Article 34(9) of Presidential Decree 633 of 26 October 1972 are met.

To claim VAT refund, in addition to making such choice when filing the annual return, the taxpayer must submit the specific Form VR, or Form PR and 26/LP in the case of persons opting for the special Group VAT scheme, to the tax collection agency having territorial jurisdiction.

For persons not established in Italy who have appointed their tax representative in Italy, the competent tax collection agency is the one having territorial jurisdiction over the tax domicile of the tax representative, while for persons not established in Italy who have directly registered for VAT in Italy, under Article 35-ter of Presidential Decree 633 of 26 October 1972, the tax collection agency having territorial jurisdiction is the tax collection office of Pescara.

Under Article 20 of Decree 567 of 30 December 1993, annual VAT refunds can be paid directly by the tax collection office. In such cases, the refund must be paid within 60 days of submission of the refund claim.

If in one calendar year the taxpayer has already used for “external” compensation more than EUR 516,456.90 or if the refund claim exceeds this amount, or if the claimant has ceased activity or is undergoing bankruptcy proceedings, the refund shall be paid by the Agenzia delle Entrate office having territorial jurisdiction. The refund must be paid within three months of the refund claim date.

For persons not established in Italy who have appointed their tax representative in Italy, the competent Agenzia delle Entrate office is the one having territorial jurisdiction over the tax domicile of the tax representative, while for persons not established in Italy who have directly registered for VAT in Italy, under Article 35-ter of Presidential Decree 633 of 26 October 1972, the office of the Agenzia delle Entrate having territorial jurisdiction is the Operational Centre of Pescara.

Refund of the excess credit resulting from the periodic assessments may be claimed in accordance with Article 38-bis(2) of Presidential Decree 633 of 26 October 1972. The refund period for claims submitted during the year is the calendar quarter. Please note that quarterly refunds are claimed only three times, since the excess credit for the fourth quarter cannot be claimed back separately but is included in the annual VAT return and must therefore be claimed as an annual refund. Quarterly refunds may be claimed by the end of the month following the reference quarter, by electronic submission of the TR form via the Agenzia delle Entrate website. The refunds must be paid by the competent Agenzia delle Entrate office by the 20<sup>th</sup> day of the second month following the reference quarter. For example, the refund of the excess credit for the first quarter must be claimed by 30 April, and the office must pay it by 20 May.

For both types of refunds, interest will be payable if the refund is not paid by the regulatory time limits, unless the taxpayer failed to submit the required documentation within 15 days from submitting the refund claim.

For both types of refund, under Article 38-bis of Presidential Decree 633 of 26 October 1972, the claimant must provide appropriate security.

Forms VR, 26/LP and 26/PR and their instructions are available from website:

<http://www.agenziaentrate.gov.it/ilwwcm/connect/Nsi/Strumenti/Modulistica/Modelli+di+dichiarazione+2010/IVA+2010>

The TR form and its instructions are available from website:

[http://www.agenziaentrate.gov.it/ilwwcm/connect/Nsi/Strumenti/Modulistica/Modelli+di+istanza\\_richiesta\\_domanda/Rimborso+compensazione+credito+IVA+trimestrale+2009](http://www.agenziaentrate.gov.it/ilwwcm/connect/Nsi/Strumenti/Modulistica/Modelli+di+istanza_richiesta_domanda/Rimborso+compensazione+credito+IVA+trimestrale+2009)

For information on refunds, the free phone number accessible from Italy is **848.800.444** selecting option **3**.

From abroad, the number to be dialled is **003906-96668933** (cost charged to caller).

**41. DOES A SPECIAL REGIME AS REGARDS PERIODIC VAT RETURNS EXIST FOR SMALLER TRADERS AND/OR CERTAIN CATEGORIES OF BUSINESS? IF SO, PLEASE DESCRIBE IT.**

No.

**42. DO YOU OPERATE SIMPLIFIED CALCULATIONS OF TAX LIABILITY? IF SO, WHAT ARE THE QUALIFYING CRITERIA, TO WHOM DO THEY APPLY AND WHAT IS THE NATURE OF THE SIMPLIFICATION?**

The criteria, taxable persons and simplifications are set out in the following Articles of Presidential Decree 633/1972:

1. Article 34 (special scheme for farmers);
2. Article 34-bis (related agricultural activities);
3. Article 74 (arrangements for specific sectors);
4. Article 74-ter (arrangements for travel agencies); and

5. Article 74-quater (arrangements for entertainment activities).  
Other relevant provisions are Article 1, paragraphs 96 to 117 of Law 244 of 24 December 2007 (Lowest bracket taxpayers);

## **RECAPITULATIVE STATEMENTS**

### **43. IS SUBMISSION OF QUARTERLY RECAPITULATIVE STATEMENTS AUTHORISED? IF SO, UNDER WHAT THRESHOLD AND ON WHAT CONDITIONS?**

By way of implementation of Directive 2006/112/EC the INTRA forms provide for recapitulative statements of the supplies of goods and services as well as of the acquisitions of goods and services.

The recapitulative statements may be submitted quarterly, provided that the persons concerned did not earn, in the four preceding quarters and for each type of transaction, a total quarterly amount in excess of EUR 50,000. If such threshold is exceeded, the recapitulative statements must be submitted each month.

### **44. ARE ANY ADDITIONAL DETAILS REQUIRED, OTHER THAN THOSE REQUIRED UNDER ARTICLE 266 OF THE VAT DIRECTIVE (2006/112/EC)?**

At the time of filling in this questionnaire, the forms have not been published. Therefore, please consult the forms that will be published on this website: [www.agenziadogane.gov.it](http://www.agenziadogane.gov.it)

### **45. DO YOU OPERATE SIMPLIFIED PROCEDURES AS REGARDS RECAPITULATIVE STATEMENTS AS PROVIDED FOR IN ARTICLE 269 OF THE VAT DIRECTIVE (2006/112/EC)? IF SO, WHAT ARE THE RELATED THRESHOLDS FOR APPLYING SUCH PROCEDURES?**

No.

## **ELECTRONIC RETURNS**

### **46. IS IT POSSIBLE TO SUBMIT VAT RETURNS BY ELECTRONIC MEANS? IF SO, HOW AND USING WHICH TECHNOLOGY? WHO SHOULD BE CONTACTED TO APPLY TO SUBMIT RETURNS ELECTRONICALLY?**

Submission of the annual VAT return by the persons required to submit it can only be effected by electronic means. Therefore, returns submitted via a post office are

considered to have been prepared on a form not in accordance with the approved one, and hence are liable to a penalty from EUR 258 to EUR 2 065 pursuant to Article 8(1) of Legislative Decree 471 of 1997 (see Circular 54/E of 19 June 2002).

Under Article 8 of Presidential Decree 322 of 1998, the VAT return for the year 2009 must be submitted in the period from 1 February to 30 September 2010 if the taxpayer is required to include the VAT return in the unified return.

The return is deemed to have been submitted on the day on which it is transmitted electronically, more precisely on the day on which receipt of the data by the Agenzia delle Entrate is completed (see Circular 6/E of 25 January 2002).

Presidential Decree 322 of 1998 does not establish a time limit for delivery of the return to the intermediaries who must then make the electronic transmission, but only lays down the time limit by which the returns must be submitted electronically to the Agenzia delle Entrate.

Please note that, under Article 2 and 8 of Presidential Decree 322 of 22 July 1998 as subsequently amended, returns (including Form VR) submitted within ninety days from expiry of the above terms are valid, but subject to the penalties provided for by law.

On the other hand, those submitted later than ninety days after the deadline are deemed not to have been submitted, but entitle the Agency to collect the tax due if any.

The return may be submitted electronically:

- a) directly;
- b) via authorised intermediaries.

The Revenue Agency's data transmission services, Entratel and Fisconline, may be accessed on the Internet at <http://telematici.agenziaentrate.gov.it>. Users who still use the virtual private network can continue to utilise it to access Entratel.

a) Direct electronic submission

Persons who prepare their own return may choose to submit it directly; in this case, the return is deemed to have been submitted on the day on which receipt of the data by the Agenzia delle Entrate is completed.

Proof of submission of the return is given by the confirmation of receipt issued by the Agenzia delle Entrate.

Persons who choose to directly submit the return must use:

- data transmission service Entratel, if they are required to submit the withholding agent's return (simplified or standard Form 770) in respect of a number of persons in excess of twenty;
- the Internet data transmission service (Fisconline), if they are required to submit the withholding agent's return in respect of a number of persons less than twenty; or, while being required to submit electronically the other returns provided for by Presidential

Decree 322 of 22 July and subsequent amendments, they are not required to submit the withholding agent's return.

Under a measure of the Director of the Agenzia delle Entrate of 10 June 2009, persons other than natural persons must submit the return electronically via appointed agents, whose names are indicated:

- electronically, via their legal representative, authorised to use the Revenue Agency's electronic services;
- by submitting a paper application, on the appropriate forms;
- their details must be submitted to the Agenzia delle Entrate office that issued authorisation, if the user is already authorised, or to any office in the Region where the entity has its tax domicile,
- if the user is not yet authorised, the application may be submitted by either the legal representative or by the business representative.

The agents designated in the manner set out above may also appoint other agents tasked with using the Revenue Agency's data transmission services in the name and on behalf of the non-established company directly identified for VAT purposes. The appointed agents may only transmit the return electronically; therefore they must hold a valid authorisation to use either Entratel or Fisconline.

For detailed information, see Circular 30/E of 25 June 2009 and its technical annex.

b) Electronic submission via authorised intermediaries (appointed persons and group companies)

Appointed persons (Article 3(3) of Presidential Decree 322 of 22 July 1998 as subsequently amended). The intermediaries listed in Article (3)(3) of Presidential Decree 322 of 22 July 1998, as subsequently amended, are required to transmit to the Agenzia delle Entrate electronically, using the Entratel data transmission service, both the returns prepared by them on behalf of the taxpayer and those prepared by the taxpayer and which they have undertaken to submit electronically.

The following categories of authorised intermediaries are required to make electronic submission of the returns prepared by them:

- those entered on the rolls of accountants and work consultants;
- those who as at 30 September 1993 were registered in the registers of experts held by the Chambers of Commerce for the tax subcategory, having a degree in law or business studies or equivalent, or an accountancy high school diploma;
- those registered in the registers of lawyers;
- those registered in the register of auditors established under Legislative Decree 88 of 21 January 1992;
- the entrepreneurs' associations referred to in Article 32(1)(a), (b), and (c), of Legislative Decree 241 of 1997;

- associations whose members mainly belong to ethnic-language minorities;
- tax assistance centres (Caf) for employees;
- tax assistance centres (Caf) for enterprises;
- those who habitually practice as tax advisors;
- those entered on the rolls of agronomy, farming and forestry experts.

The following are also required to make electronic submission of the returns prepared by them: professional firms and service companies at least half of whose partners or more than half of whose share capital is held by persons registered in certain professional registers, as specified by the Decree (*decreto dirigenziale*) of 18 February 1999.

These persons can fulfil their obligation to submit electronic returns also via companies participated by national professional councils, rolls and registers identified in the above-mentioned decree, their members, the associations representing them, their national social security funds or via individual members of said associations.

These entities transmit the returns using their authentication code, but the commitment to transmit the returns is made by the individual members vis-à-vis their clients.

Acceptance of the returns prepared by the taxpayer is voluntary, and the intermediary providing the data transmission service may charge a fee for the service rendered.

**47. IS IT POSSIBLE TO SUBMIT RECAPITULATIVE STATEMENTS BY ELECTRONIC MEANS? IF SO, HOW AND USING WHICH TECHNOLOGY? WHO SHOULD BE CONTACTED TO APPLY TO SUBMIT RETURNS ELECTRONICALLY?**

Provisions are made for electronic submission of said recapitulative statements to the Customs Agency.

## **OBLIGATIONS ON IMPORTATION**

**48. WHAT PERSONS CAN BE DESIGNATED OR RECOGNISED AS LIABLE FOR PAYMENT OF VAT ON IMPORTATION UNDER ARTICLE 201 OF THE VAT DIRECTIVE?**

Under article 1 of the VAT Decree such tax is payable on imports made by any persons. No subjective requirements apply, as the goods are considered to be imported for “marketing”. Therefore, any person who introduces into Italy goods from non-EU countries must pay the tax at Customs on their importation, in accordance with the rules laid down in Title V of the decree (Articles 67 to 70).

**49. WHAT ARE THE RULES ON DECLARING AND PAYING VAT ON IMPORTATION?**

VAT is payable on each transaction in the manner and within the time limits set out in Customs legislation (Presidential Decree 43 of 23 January 1973, Consolidated Text of Customs Laws).

**50. IS THE “DEFERRED PAYMENT” OPTION UNDER ARTICLE 211 OF THE VAT DIRECTIVE APPLIED? IF SO, UNDER WHAT CONDITIONS?**

Under Article 67 of the VAT Decree, goods imported into Italy in free circulation for which customs duties and equivalent taxes have been paid, can be granted suspension of VAT payment at Customs, if they are intended for onward shipping to other EU countries.

Goods imported into Italy in free circulation, if intended for storage in the VAT warehouses established pursuant to Article 50-bis of Decree Law 331 of 1993, do not pay VAT at Customs.

## **ADMINISTRATIVE REQUIREMENTS**

**51. DO YOU OPERATE A FLAT-RATE SCHEME? IF SO, TO WHOM AND HOW DOES THE SCHEME APPLY?**

See point 42.

**52. DO YOU OPERATE SIMPLIFIED ADMINISTRATIVE REQUIREMENTS OTHER THAN THOSE ALREADY MENTIONED? IF SO, PLEASE GIVE A DESCRIPTION.**

See point 42.

**53. IN WHICH LANGUAGE(S) ARE FORMS (PERIODIC VAT RETURNS AND RECAPITULATIVE STATEMENTS) AVAILABLE OR TRANSLATED INTO?**

Annual VAT return forms and the related instructions are available in Italian, English, German and Slovenian.

The recapitulative statements are only available in the Italian language.

## RIGHT OF DEDUCTION

### **54. FOR WHICH CATEGORIES OF GOODS AND SERVICES IS THERE NO RIGHT OF DEDUCTION?**

Budget Law 2008 replaced much of Article 19-bis(1) to bring the national legislation on VAT deduction into line with Community law. This step was made subsequent to Council Decision No 2007/441/EC of 18 June 2007, established case law of the Court of Justice and certain infringement proceedings initiated by the European Commission against Italy, notably in the sector of mobile telephony services.

By way of derogation from the general principles laid down in Articles 19 and 19-bis, for certain goods and services, certain general limitations are laid down to the right of deduction (this is known as “objective non-deductibility” as it is irrespective of the actual use of the services), while for others a qualified and specific link to the “main activity” of the enterprise is required.

VAT is non-deductible in respect of the following types of purchases or imports:

- 1) aircraft, their components and spare parts; (\*)
- 2) luxury goods, pleasure boats and their components and spare parts; (\*)
- 3) motorcycles the capacity of which exceeds 350 cubic centimetres, and their components and spare parts; (\*)
- 4) passenger transport services;
- 5) foodstuffs and beverages; (\*)
- 6) promotional expenses, as defined for the purpose of income tax, if the unit cost does not exceed EUR 25.82; (\*)
- 7) residential properties (\*)

*(\*) Deduction is admitted if the goods are part of the main activity of the undertaking, or if they are instrumental to the habitual activity pursued by the entrepreneur.*

### **55. ARE THERE CATEGORIES OF GOODS AND SERVICES IN WHICH THERE IS A PARTIAL RIGHT OF DEDUCTION? IF SO, WHAT IS THE PERCENTAGE?**

For purchases made from 28 June 2007 onwards, VAT on motor vehicles is deductible as to 40 percent if the motor vehicles are not exclusively used in pursuit of the business activity, trade or profession. This provision does not apply when the motor vehicles are part of the main activity of the enterprise or to motor vehicles used by sales agents and representatives.