Italy: Law Decree no. 193 of 22 October 2016 - VAT measures

Tax Alert

26 October 2016

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Quarterly communication of data in invoices received and issued (paragraphs 1 and 3 of article 4 of the Decree)

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

Pursuant to the Decree, the '*Spesometro*' will be removed and, as of 1 January 2017, VAT payers will be required to communicate to the tax authorities the data contained in invoices issued and received (including customs bills), on a quarterly basis. They will be expected to do so by the end of the second month following the relevant quarter.

By law, the following details must be included in the communication (under the Decree, the Revenue Agency is required to issue implementation guidelines in this respect, although no deadline is given for this in the Decree):

— Data identifying the parties;

— Invoice date and number;

— Taxable base;

— VAT rate applied;

— VAT amount;

— Type of transaction.

A penalty of €25 may apply for failing to submit or submitting an incorrect declaration of each document (capped at €25,000).

Quarterly communication of VAT settlements (paragraphs 2 and 3 of article 4 of the Decree)

As of 1 January 2017, VAT payers will be required to communicate to the tax authorities accounting data relevant 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 (further guidelines are expected from the Revenue Agency, as indicated in the paragraph above).

Penalties ranging from between €5,000 and €50,000 may apply for submitting an incorrect declaration or for failing to submit a declaration each quarter.

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Removal of reporting obligations (paragraphs 4 and 5 of article 4 of the Decree)

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

— Intrastat returns (and registers of EU purchases) 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.

Starting with the accounting year ongoing as at 31 December 2017, reports of transactions with trading counterparts in 'black-listed' countries ('black-list reports') will no longer be due.

Currently, VAT payers must report supplies of goods and services for an amount higher than €10,000 to and from trading counterparts in 'black-list' countries on an annual basis (transactions carried out in the accounting year before the one ongoing as at 31 December 2017 will have still to be declared)

Deadline for the annual VAT return (paragraph 4 of article 4 of the Decree)

Starting with the annual VAT return due for the 2017 fiscal year (due in 2018), this must be filed between 1 February and 30 April of the following year.

The deadline for the annual VAT return for the 2016 fiscal year (the end of February 2017) remains unchanged.

VAT warehouses (paragraph 7 of article 4 of the Decree)

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

As of 1 April 2017, the output VAT due upon removal from a VAT warehouse of goods destined to remain in Italy 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 VAT payer (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 relevant VAT by raising a self-invoice ('*autofattura*') and posting it in the input VAT ledger, including details on it of the payment made by the VAT warehouse keeper.

As a sole exception to this rule, VAT due on removal from the VAT warehouse of goods (destined to remain in Italy) that were originally introduced to the VAT warehouse through an Intra-EU purchase will still be accounted for through the reverse-charge mechanism.

The Revenue Agency is also expected to issue further guidelines on the new VAT warehousing provisions (no deadline for this is given).

Amending annual VAT returns (article 5 of the Decree)

The Decree 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 the annual VAT returns due as of the 2016 fiscal year, 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 Decree 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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