

# ITALY

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## AT A GLANCE

Name of the tax	Value Added Tax
Local name	Imposta sul Valore Aggiunto (IVA)
Date introduced	January 1, 1973
Date of membership in EU	March 25, 1957
Administered by	www.agenziaentrate.gov.it

## VAT rates

Standard	21%
Reduced	4% and 10%
Other	Exempt
VAT Number format	IT 12345678911
VAT return periods	yearly
Thresholds registration	Eur 0
Recovery of VAT by non-established	YES
Businesses	YES

## HISTORY OF VAT

In Italy, the VAT legislation is contained in the DPR n. 633 of 26 October 1972, and amended several times. The VAT regime has replaced the General Agreement on tax Revenue (IGE) which had replaced another tax on trade in 1940. IGE, even with a lower rate than VAT, was considered a tax with distorting effects as it was not deductible by manufacturers or trading enterprises that caused the increasing of price of goods to each step. Differently from IGE, VAT falls only on the consumer.

Upon entry into force, on January 1, 1973 the standard rate was 12%, and increased up to 14% in 1977 to 15% in 1980 to 18% in 1982 to 19% in 1988 to 20% in 1997 and finally, with DL n. 138 of August 13 2011, the ordinary rate was fixed to 21%.

VAT rules have been affected by European Legislation starting from the Directive 67/227/CE and 67/228/CE of 1967 year which is a precise commitments of all Countries to introduce in its legislation VAT rules. Moreover a second group of rules adopted by European Community by the aiming to harmonize the different legislations was contained in the body of rules of the Directive 77/388/CE of 1977 year ( VI Directive) . Another important step towards a deeper harmonization of VAT rules among CE Countries was the Directive 91/680/CE which rules all the transaction among CE Countries: this rules were adopted in Italy by the D.L. 331/93. At the end, the last new rule which reformed VAT among EU Countries was the Directive 2006/112/CE while, the Directive 2008/8/CE , 2008/9/CE and 2008/117/CE were issued respectively to determine a new definition a territoriality among EU Countries , new criteria to reimburse VAT to foreign entities and the adoption of new Intrastat models.

## SCOPE OF VAT

VAT is applied on the sale of goods or provision of services rendered in the Italian Territory in connection with business transactions or professional activity and on the importations of goods effected by any person .

Therefore VAT is generally due on :

- Sales of goods
- Provision of Services

Among sales of goods, for instance, law provision include:

- Sales with reservation ion of ownership,
- Leases with clause of transfer of property , binding both parties,
- Transactions of goods between the principal and the mandatary and vice versa, in connection with commission contracts.

- Electricity and gas.

The following transactions are excluded from VAT:

- Sales of money or credits in money ,
- Transfer of a business unit to another company,
- Assignments related to non- building land,
- Sales of samples of small value and expressly marked.

Among services, it is subject to VAT, for instance:

- Leasing and rental contracts ,
- Sales, royalties or licensing of copyrights, industrial invention, drawings, models, process, trade-marks etc.
- Supply of drinks and food,
- Sales of contracts.

As indicative example, the following services are excluded from VAT:

- Bonds issue,
- Sales of contracts concerning money or credits transfer, transfer of business unit, assignments related to non- building land,
- Sales, royalties or licensing of performing rights and copyrights, made by the author or by his inheritor or legatees, with some exception.

## **REGISTRATION**

Before starting a business or a professional activity relevant for VAT purpose in Italy, it is requested for VAT purposes, to have a VAT number. Therefore a specific form must be submitted to any office of the Inland Revenue, or by an electronic intermediary enabled (subject being authorized by the Inland Revenue) who can request the opening of VAT by electronic device . This form must include:

- the data of the person (name, social security number, date of birth, residence);
- the place where intended to carry out the activity;
- a numeric code that identifies the activity ;
- where they will be kept the accountancy ;
- any option for one of the favored schemes provided by law.

Persons who are requested to ask a VAT number are:

- Entrepreneurs artisans and merchants, agents and representatives of trade, etc..
- Self-employed, professionals, holders of VAT registered or not registered professionals Partnerships, partnerships, Snc, Sas, Associated Studies
- Limited companies and commercial entities, SpA, Srl, Soc Cooperative, Sapa, public and private bodies other than companies
- Credit institutions, investment firms, other financial intermediaries, trust companies
- Other legal entities running a business.

### VAT Representative

Foreign companies may register in Italy for VAT purposes even they are not established in Italy. In this case there are two possibilities to request a VAT number:

- By a VAT Representative
- By Direct Identification (I.D.)

An important difference between the appointment of a VAT representative and the direct identification is the different responsibility vis a vis the tax authorities, in fact:

- The VAT representative is jointly and severally liable with the non-resident person engaged (principal) for all obligations under the rules and for the payment of VAT due;
- In case of direct identification, single-payer remains the non-resident person, even when it makes use of a consultant (auxiliary) in Italy.

The appointment of a VAT representative or ID is required:

- 1) When the transaction is relevant for VAT purposes in Italy and the purchaser, being a private entity, cannot pay the tax;
- 2) When there are "distance sales" of goods according to functional limits provided by the law;
- 3) When an EU operator introduces goods for the needs of its business in Italy.

### Assignment Procedure of VAT Representative

The VAT representative (Article 17 of Presidential Decree 633/72) must be appointed through a public act, a private deed or a registered letter recorded in a special register kept by the Inland Revenue Office in relation to the tax domicile of the representative or represented. (The assignment is made in accordance with procedures established by art. 1, paragraph 4, of

Presidential Decree 441/1997, in order to rebut the presumption of supply of goods). Alternatively, the VAT representative assignment may also be authenticated by a notary act of the foreign State adhering to the Aja Convention of October 5, 1961 (ratified in Italy by Law 11.20.1966, n. 1253) and bearing the stamp "Apostille" or legalized by Consul General of Italy to the foreign country. The apostille certifies that the notary or the authority of the Government which issued the document is legally authorized to do so.

The person appointed as VAT representative is requested to ask for VAT number for the principal. With the opening of the VAT position the foreign entity, through its representative, shall be subject to all the obligations and rights under the national VAT legislation. The act of assignment must be acquired before starting any activity for VAT purpose in Italy. The Italian operator that already has a VAT number, if it becomes a VAT representative, will have a further VAT identification number. Each VAT will be maintained independently with separate accounting.

The VAT representative can be a natural person or a legal person (resident or located in Italy). The assignment must be brought to the attention of suppliers prior the first operation.

#### Assignment Procedure in case of Direct Identification

For VAT purposes the direct identification can be asked only by non-residents who perform business or professional activities in another Member State of the European Union. The request of identification must be presented to the Tax Centre of Pescara by alternatively :

- manual presentation to the Tax Centre of Pescara ,
- registered post, enclosing a copy of the identification document of the claimant.

The Tax Centre of Pescara will after provide the VAT number to the claimant.

#### VAT Group and VAT Representative

The rules governing the Group VAT were introduced into national law with effect from January 1, 1980, consequently to the VI EEC Directive of 17 May 1977, no. 77/388/EEC. Under this decree, the special procedure for the payment of VAT group may only be carried out by stock companies and limited liability companies , which have a percentage higher than 50% of the capital the controlled company starting at least from the beginning of the preceding solar year respect the request to adopt VAT group liquidation .

The Inland Revenue has admitted the possibility of application of VAT Group liquidation procedure to all companies resident in the European Union territory having the legal forms equivalent to the ones requites by the Italian law, the majority of the capital in the Italian subsidiary according to VAT Group rule and operating in Italy through a permanent establishment, a tax representative or by identification direct, pursuant to art. 35-ter of Presidential Decree n. 633/1972 .

#### Procedure

According to the provisions of the Ministerial Decree December 13 1979 to adhere to the special regime of the VAT Group companies is the presentation by the parent company of a

declaration (Form Iva 26) to the Tax Authorities, within February 16 of every year .

## **VAT RATES**

There are three VAT rates in force in Italy:

- **4 %** (minimum rate), applied for example to the sales of basic necessities (food, newspapers or periodical, etc.).
- **10 %** (reduced rate), applied to tourism services (hotels, bars, restaurants and other tourism products), certain foods and special operations building rehabilitation;
- **21 %** (ordinary rate), to be applied in all cases where the legislation does not provide one of the previous two rates.

## **PLACE OF SUPPLY RULES (DEFINITION OF TERRITORY)**

With effect from 01/01/2010 the directives n. 2008/8/EC of 12/02/2008 ( Services Directive), no. 12/02/2008 , no. 2008/9/EC (Reimbursement Directive ), no. 2008/117/EC of 16/12/2008 (Intrastat Directive) have been incorporated into Italian legislative body . Therefore it was reformed the Article 7 of VAT law (DPR n. 633/72), in force until 31/12/2009, providing 7 new items:

- art. 7 contains the definitions of territoriality;
- art. 7-bis, which regulates the territoriality limited to the supply of goods;
- the art. 7-ter which governs the application of the territoriality of the so-called generic services;
- art. 7-quater, which regulates the territoriality in respect of particular services;
- art. 7 quinquies governs the place of supply of cultural, artistic, sporting, scientific, educational, entertainment and similar services;
- art. 7 sexies, matters of territoriality, introduces special provisions in relation to certain services rendered to non VAT liable persons;
- art. 7-septies also covers matters of territoriality, introduces such provisions with respect to certain services not subject to VAT in Italy if supplied to non VAT liable persons established outside the European Union.

In general, the Italian Territory is identified with that falls under the legal national sovereignty, from which it must however be excluded S. Marino and the Vatican City. From this Territory it is also excluded the municipalities of Livigno and Campione d'Italia and the territorial waters of Lake Lugano which are considered as outside from the "customs territory" .

The Territory of the European Union includes all European Union countries that have signed the European Treaty and which are subject to the directives and regulations required by the EU. Currently there are 28 States joining the European Union.

The Territory thus identified include:

- the space within the national borders;
- the airspace over the territory;
- the subsoil of the national territory;
- the sea within 12 nautical miles;
- zones, ports, customs free zones;
- merchant ships and civil airplanes in free space and military ships and aircraft in the territory of another country;
- oil platforms on the high seas and their bases of operations on the ground.

The Article. 7-bis of Presidential Decree n. 633/1972 regulates the supply of goods ruling it is subject to VAT in Italy:

- the supply of goods within the territory of the Italian State if they relate to real estates or movable property existing, physically and legally in the Territory when transferred ;
- the sale of goods dispatched from another EU state to Italy and installed, assembled by the foreign supplier or a third party on his behalf in Italy;
- the sale of goods made in Italy which do not leave the territory of the State, they are made by sellers and / or buyers who are not domiciled in Italy.

Therefore, sales of real estates are attracted to Italian VAT without considering the place of conclusion or execution of the contract or the place of residence of the seller or of the buyer .

Consistency with the VAT rule, it is not subject to Italian VAT :

- the sale of goods that do not physically exist in the State even if the seller and the buyer are taxable persons for VAT purposes in Italy ;
- the sale of real property located abroad, even if the seller and the buyer are taxable persons for VAT purposes in Italy ;
- the sale of goods shipped overseas and there assembled or installed even if such operations have been carried out by taxable persons for VAT purposes in Italy.

The second paragraph of Article 7-bis provides that the supply of goods on board ships, trains and planes in the course of the transport of passengers effected in the territory of the EU shall be regarded as effected in the Italian territory if the start of the journey was in Italy .

The supply of natural gas and electricity through distribution lines shall be regarded as effected in the Italian territory when the buyer/retailer is taxable person for VAT purposes in Italy , while, if the buyer is not a retailer , sales are subject to Italian VAT when the goods are consumed in Italy

The Article. 7-ter of DPR n. 633/1972 rules the supply of services, where it is provided that services are subject to Italian VAT when :

- services are rendered to a taxable person for VAT purposes in Italy also resident in Italy;

Therefore for the provision of services when both the buyer and the seller are taxable persons for VAT purposes (B2B), VAT is due where the buyer is resident . If the customer is, however, a private person not taxable for VAT purpose in Italy (B2C), VAT is due in the country of domiciliation of the seller .

Articles from 7 -quater to 7-septies introduce some exceptions to the above principles.

In particular, the art. 7-quarter provides that:

- real estate services are subject to VAT in the place where the property is situated;
- passenger transports are subject to Italian VAT only for the portion of the distance run in the Italian territory ;
- food service and catering are subject to VAT where the service is rendered ;
- short term rentals and leasing of transport vehicles are subject to VAT when vehicles are given to the recipient in the territory of the State.

Instead, art. 7-quinquies relative to cultural, artistic, sporting, scientific, educational and recreational , including fairs and exhibitions, provides for the application of the general rules of art. 7-ter in favor of the organizers of such activities and for principals that do not directly benefit from the services provided, while for private persons it is in force the rule of the place of the performance.

According to art. 7-sexies the services are subject to VAT in Italy only if supplied to private persons wherever resident taking into account that:

- Brokerage in the name and on behalf of the principal , VAT is due where the main operation is carried out;
- transport of goods , not in European Union , VAT is due according to the distance performed in Italy;
- for the transport of goods among European countries, VAT is due where the carriage starts;
- for the processes and services ancillary to the transport, VAT is due in the place of execution;
- for long term lease of transport vehicles , VAT is due in the place of use in the EU if the person making the supply is resident in Italy or the place of use in Italy if the provider is outside the EU;
- the services provided by electronic devices , VAT is due where the buyer is resident with some exceptions ;
- for the provision of telecommunications and television broadcasting, VAT is due where the provider is resident with some exceptions.



Accordingly to Article. 7 septies services are not subject to Italian VAT only if they are rendered to private buyers resident outside the EU, for the following transactions :

- sales, royalties, licenses of copyrights, etc.;
- advertising services;
- consultancy, technical assistance or legal, data processing;
- the banking, financial and insurance services ;
- the provision of personnel;
- the hire of goods other than transport vehicles;
- access to systems of natural gas or electricity;
- telecommunications services and remote broadcasting;
- services provided by electronic devices;
- some commitments connected to the operation above .

### **TIME OF SUPPLY RULES**

The article 6 of the Presidential Decree n. 633/1972 rules when the sale of goods or provision of services becomes payable for VAT purposes.

VAT becomes payable according to the kind of transactions performed by the parties, namely:

- for real estate, VAT is due when the deed of purchase is signed;
- for the supply of movable properties , VAT is due according to the date of delivery or forwarding of goods;
- for the provision of services , VAT is due when services are paid .

The article 6 also provides that, if prior to such times or independently of them, the invoice is issued or it is paid the service in whole or in part, VAT is due at these latest dates for the portion of the total amount paid or invoiced.

Therefore:

- advance payments (partial or total) received by cash, postal order or bank transfer , etc . triggers VAT obligations immediately;
- the issue of an invoice in advance, ie prior to the delivery or shipment of goods, prior to entering into a property purchase, prior to payment of the consideration, triggers all VAT obligations (registration document, tax clearance, etc. .) independently of the above events.

Notwithstanding the above, the provision of EU services rendered by a taxable person for VAT purpose not established in Italy to a taxable person for VAT purpose established in Italy and the provision of services other than those of Article. 7 quarter and quinquies given by a person established in Italy to a person subject to VAT not established in Italy , shall be payable for VAT purpose when completed or in case of periodic and continuous provision of services when accrued . If prior to the occurrence of the events indicated above it is paid in whole or in

part the service rendered, VAT is due only for the portion of the total amount paid or invoiced.

## EXEMPTIONS

When determined that a transaction falls within the scope of VAT, it must verify how the tax should be applied. Indeed, VAT operations can be:

- Taxable for VAT purpose and consequently subject to the tax rate of 4%, 10% or 21%;
- Not taxable for VAT purpose, as exports, similar operations, international services referred to in Articles 8, 9 and 8-bis of the VAT Law and intra-EU sales;
- Exempt, that is subject to VAT but not subject to any VAT rate (Article 10 of Presidential Decree no. 633/72);
- Outside the scope of VAT, that is not subject because of lack of requirements;
- Excluded from the tax base, that means they should not be included in the VAT base on which to apply the tax.

### Exemptions without the right to deduct ( Art 10 of VAT Act)

For ethic and economic reasons VAT exemptions have been provided in favor of:

- certain activities in the public interest (such as hospitalization, medical care, goods and services linked to welfare and social security work, school or university, certain cultural services);
- certain transactions regarding, among other things, insurance, lending, some banking services, the supply of stamps, gambling stakes of money and certain transfers of real property.

### Exemptions with deductibility

Transactions exempted with a right of deduction are:

- intra-EU supplies of goods, including transport vehicles and products subject to excise duty, dispatched from one Member State to a destination in another Member State;
- exports of goods from the EU to a destination in a third territory or a third country;
- certain transactions related to international transport to or treated as exports;
- the provision of services by brokers when engaging in transactions related to exports;
- certain transactions relating to international trade, for example, in the case of goods intended to be placed in customs warehouses and other deposits.

## RECOVERY OF INPUT VAT

### VAT Refund

Generally persons who have paid VAT in Italy can claim the refund under certain conditions to the Tax Authorities . The refund can regard a wholly year or even a quarter of the year .

The annual refund may be required in the following cases.

- 1) Persons who have closed a business;
- 2) Persons in activity, can claim VAT refund when
  - the VAT credit is higher than euro 2.582,28 and recurring any of the following conditions:
    - the claimant is constantly on credit position (average rate of purchases higher than that of sales or non-taxable transactions in excess of 25% of turnover, prevalence of sales excluded from VAT consequently to territory condition provided by art. 7 );
    - the refund is claimed for the purchase or importation of depreciable assets or goods and services for studies and research;
    - the claimant is a non-resident operator that is identified directly in Italy or having a VAT representative in Italy .
  - Regardless of the minimum of the credit claimed, if the taxpayer has a three-year period constantly on credit.

### Procedure

Those who intend to proceed with the VAT refund request must complete the yearly VAT form (line VX4), to be sent to the Italian Revenue Agency (Agenzia delle Entrate), from February 1 to September 30 of every year .

Afterwards Tax Office will ask the following documentation:

- a guarantee (issued by Banks, Insurance Companies ... authorized by the Government) covering approximately the amount claimed (in some cases this guarantee can be avoided), for the duration of three years, generally, starting from the day of VAT reimbursement;
- A Certificate (Certificato Unico) of the company issued by the Commercial Register ;
- A declaration of the claimant ( in case of companies) attesting the company is not subject to the discipline of " dummy companies";
- In some cases copies of some invoices or documentation attesting the VAT credit.

### Claims submitted by persons resident in EU Member State

Starting from 1 January 2010 a new procedure was adopted for VAT refund to taxable persons for VAT purposes established in another EU Member State.

Persons who are resident in another States of the European Union may request a refund of VAT paid on imports of goods and/or purchases of goods and services if they meet the following requirements:

- in the period they do not have a permanent establishment in Italy;
- Claimant is a person subject to VAT purposes in the country of domicile or residence;
- VAT for which reimbursement is sought must be deductible;
- Claimant has not carried out in Italy credit transactions except those for which the tax debtor is a buyer subject to VAT in Italy who carries out VAT by "reverse charge";
- Claimant carries out credit transactions in the other Member State conferring entitlement to deduct VAT.

In these cases the EU citizen who is not a resident of Italy must present the claim to the financial administration of its country, prior to September 30 of the following year or the first day after the quarter for quarterly refund, who will transmit, electronically, to the Italian authorities.

The refund request must be completed in Italian (it is also accepted that in English and French) and the amounts must be indicated in euro. The VAT refund can be claimed for periods not exceeding one year and not less than three months (Directive 2008/9/EC of 12 February 2008, acknowledged with DIg n. 18 of 2010).

For quarter claiming the minimum amount that can be refund is 400 Euros (if less, a refund will be annual) for requests for the year, however, the minimum amount refundable is 50 euro. The claim is submitted via web, the description of the goods to be entered must be inserted according to the "Table containing the codes to be used for the description of the goods purchased".

The operations control and management of reimbursement claims submitted electronically to the tax authorities are carried out by the Pescara Operational Centre - Via Rio Esparto, 21-65100 Pescara - fax: 0039 0855772325 - phone: + 39 085 5772 369, +39 085 5772204 - Email: cop.pescara.ivanonresidenti @agenziaentrate.it

### Claims for refund of VAT paid in Italy submitted by extra EU subjects

The provision of the preceding paragraph shall also apply to persons who are resident in countries outside the EU and subject to the clause of reciprocity.

For the refunds claimed by persons not established in the European Union, but in countries with which reciprocity agreements exist (Israel, Switzerland and Norway) the procedures for

claiming refunds do not change and the deadline for submission of applications are the same. They may be submitted until September of the calendar year following the reference period.

Claims for refund (form VAT 79) must be sent to:

Centro Operativo di Pescara - Via Rio Sparto, 21- 65129 Pescara in the following ways alternately

- handover
- ordinary mail
- express courier

In the last two cases, the mailing date will be considered. Applications received by fax or email will not be considered valid.

To the claim must be annexed the original purchase invoices, documentation attesting the payment of these invoices, certificate of residence.

## **COMPLIANCE OBLIGATIONS**

According to VAT law provision, invoices must include the following elements:

- Date of issue;
- Sequence number of the invoices ;
- Company name, residence or domicile of seller or of the tax representative and –if any – the location of the permanent establishment for non-residents;
- VAT number of the seller ;
- Company name, residence or domicile of purchaser or of the tax representative and –if any - the location of the permanent establishment for non-residents;
- VAT number of the purchaser or, in the case of taxable EU VAT identification number assigned by the State of establishment, and for private persons , the tax code;
- Nature, quality and quantity of goods and services which are the object of the transaction;
- Fees and other data necessary for the determination of the tax base, including those relating to the transferred assets by way of discount, premium or rebate art. 15, paragraph 1, no. 2);
- Price of goods and services needed for determining the tax base, also indicating any discount, premium or rebate in goods;
- VAT tax base, VAT rate and VAT due.

It is also provided by VAT law the formalities to issue an invoice in electronic format. VAT rules defines the electronic invoice as the invoice that has been issued and received in any electronic format. According to the provisions of law the use of electronic invoice shall be subject to acceptance by the recipient.

Moreover the article 21 paragraph 3 of Presidential Decree n. 633/1972 provides further requirement for electronic invoicing, such as:

- the authenticity of origin;
- the integrity of the content;
- the legibility of the invoice.

The origin and integrity of the electronic document must be guaranteed by the issuer, which has the ability to establish the relevant procedures.

#### Terms for issuing invoices

The invoice is issued when transaction is performed that for the provision of services generally coincides with the time of payment (except for EU services) and for the sale of goods at the time of delivery or shipment. For supplies of goods carried out by the transportation documents (DDT), it can be issued an invoice by the 15th day of the month following the month of delivery of the goods.

For the provision of services not subject to VAT in Italy because rendered to a person subject to VAT and established in another Member State of the European Union , the invoice must be issued by the 15th day of the month following the month in which the operation is carried out ;

For services rendered or received by a taxable person established outside the European Union the invoice is issued before the 15th day of the month following the month in which the operation is carried out.

#### VAT Bookkeeping

In case of sales, the taxpayer must record in VAT sales book, the invoices issued within 15 days, according to the numbering order and with reference to the date of their issue . For each invoice must be entered in the VAT book the serial number, the date of issue, the taxable amount , VAT amount due , the VAT rate and the name of the customer .

In case of retailers, the taxpayer can log into a special register relatively transactions carried out each day, the amount of global payments of taxable transactions and related taxes, distinguished according to the applicable tax rate. The annotation must be effected by the next working day. The determining of the amount of the daily fees, must be counted, including those related to invoices issued.

In case of purchases, the taxpayer must number invoices received by suppliers in increasing order of receipt which must be registered prior to the periodical liquidation or at the end of the annual period in which the right to deduct tax is done. For each invoice must be entered the VAT book the serial number, the date of issue, the taxable amount, VAT amount due, the VAT rate and the name of the supplier.

VAT books and invoices should be conserved for 10 years at maximum.

### VAT returns

The VAT return must be submitted in the period to the Inland Revenue between 1 February and 30 September of every year.

In case of claiming a quarterly VAT reimbursement, a special VAT return must be submitted electronically to the Inland Revenue by the last day of the month following the quarter in question, directly or through intermediaries authorized by the taxpayer to Entratel. If the deadline falls on a Saturday, Sunday or a public holiday, it is extended to the first following working day.

### VAT Payments

VAT can be paid to the Govern on monthly basis or on quarterly basis by Form F-24.

They are admitted to liquidate and paying on quarterly basis all persons subject to VAT who in a year do not exceed the turnover amount of euro 400.000 in case of services rendered and of euro 700.000 in the other cases.

When persons adopt the liquidation on quarterly basis, the deadline in which VAT must be paid to the Govern are :

- first quarter - May 16,
- second quarter - August 16,
- third quarter – November 16
- fourth quarter – March 16 .

The VAT payment on quarterly basis implies an increasing amount due of 1%for interests.

In case of liquidation on a monthly basis, VAT payments are due within the 16th day of the month following the month in question.



## Penalties

Penalties change accordingly to the gravity of the violation .

## Lack of documentation

It is sanctioned the omission of the document or recording of taxable transactions for VAT purposes, by a penalty of 100% to 200% of the VAT due .

## VAT Return

In case of omission in the presentation of the annual VAT return within the delay provided by law, the penalty is from 120% to 240% of the VAT due in the year.

## Non-taxable transactions

In case of omissions consequently to lack of documentation or registration of non-taxable, exempt and not subject transactions to VAT, the penalty is applied from rate of 5% to 10% of that consideration .

Such conduct clearly does not harm in terms of VAT, and in the case where it is not even relevant for the purposes of determining the income burden, the penalty ranges from € 258.83 to € 2,065.83 for each violation perpetrated.

## Self-amendment

The omitted or insufficient payment of VAT are burdened with penalties of 30% of the amount due more interests . This violation may be regularized by performing spontaneously payment:

- 3% if payment is made within 30 days of the prescribed time limit (short repentance)
- 3,75% if payment is made within longer than 30 days but within the deadline for submission of the VAT return for the year in which the violation was committed (long repentance).

In addition, taxpayers that regularize the omitted or late payment of VAT must pay a legal interest on an annual basis of 2,5% .

Repentance is invalid if it is missing even one payment of the amounts due (taxes, interest, penalties).

## **SPECIAL CASES**

Special rules in VAT matters are provided for persons operating in the following business sectors:

- publishing sector in connection with the trade of newspaper, books, magazines, catalogs,

- entertainment , games, shows,
- travel agencies,
- supply of scarps and waste,
- trading of tobacco, salt and matches,
- public cabin phones and other telecommunication services,
- sales of urban public transports.

### VAT non deductible

In some case VAT paid on purchases is not deductible from the VAT due on sales.

The most frequent cases concern:

- Purchase or importation of aircraft and related components and spare parts; (VAT is 100% deductible if the property is subject to its activity and it is intended to be used solely as instrumental under the actual company. Deduction always excluded for artists and professionals).
- Purchase or import of ships and pleasure craft and their components and spare parts. (VAT is 100% deductible if the property is subject to its activity and it is intended to be used solely as instrumental under the actual company. Deduction always excluded for artists and professionals)
- Purchase or importation of motor-driven vehicles (except for private use motorcycles with an engine cylinder capacity exceeding 350 cubic centimeters) and related components and spare parts. (Tax deductible to the extent of 40%. Tax deductible to the extent of 100%: if the property is used exclusively in the performance of; if it forms part of the activity of the enterprise)
- Purchase or importation of fuels, lubricants, provision of custody, maintenance, repair and use, transit highway. VAT deductible if, and to the same extent provided for the purchase or import of the aircraft, ship or recreational craft, the road transport vehicle to which it refers.
- The provision of transport of people. Non-deductible VAT. VAT 100% deductible if they form part of the activity of the enterprise.
- Purchases and imports of food and drinks. Non-deductible VAT. VAT 100% deductible:
  - if the goods are subject to its activity;
  - if the goods are the subject of administration in school, company or inter-company;
  - if the goods are the subject of administration by vending machines located on the premises.
- Entertainment expenses. Non-deductible VAT. 100% tax deductible in the case of purchase of goods with a unit cost up to € 25.82.
- Purchase and lease of buildings and portions of buildings for residential and related expenses of maintenance, recovery and management of real estate. Non-deductible VAT. 100% tax deductible in the case of undertakings which have as their exclusive or

principal building activity of the aforementioned buildings or portions of the above.

## **RIGHTS OF THE TAX PAYER AND THE VAT AUTHORITIES**

To verify the fulfillment of tax obligations, the Inland Revenue adopts various control instruments: automated and formal checks of tax returns, invitations to cross-examination and specific questionnaires, investigation activities (for example targeted controls and tax audits), financial investigations, the mentoring activities against companies having greater size, etc. ....

The assessment activities may take its origin from the acquisition of elements at the taxpayer (audits, inspections, access, requests for documents, questionnaires, etc.) or by the elements in the possession of the Inland Revenue (statements, acts recorded, communications miscellaneous).

The taxpayer may pre-empt these assessments by undertaking the following:

- communication with the authorities regarding irregularities
- invitation to cross-examination
- report of findings
- notice of assessment

### Communication of irregularities

Irregularity communications are issued as a result of the auditing tax returns, based on the data reported by the taxpayer or otherwise in the possession of the Inland Revenue (so-called automated control or "settlement"). If the taxpayer recognizes the validity of the complaint they can regularize their position by means of the payment, within thirty days of receipt of the notice, a reduced penalty is due (10% for communications from automated control, 20% for those from formal control).

### Invitation to cross-examination

The taxpayer may be requested by the Inland Revenue to enter the discussions on a possible tax claim and the reasons that led to its decision. If the taxpayer accepts the content of the request (ie the tax claim contained in the same), benefited from a system of penalties facilitated (the penalties are reduced to one-sixth of the minimum required by law). In case, however, where the taxpayer does not intend to join the content of the invitation - giving-up, in this way, the sanctions regime facilitated - can go to the office of the Inland Revenue and starting the cross - examination. This process can get to end accepting the claims of Inland Revenue or in the contrary proceeding to a tax litigation by the court .

## Report of findings

In the event of a tax audit by the premises of the taxpayer, the control activities carried out by the offices of the Inland Revenue or by the Tax police ends with the delivery of a report of findings (pvc) that lists any violations found and related charges. The taxpayer recipient of a report of findings based on breaches can accept claims of the Inland Revenue and in this case there is a reduction to 1/6 of the sanctions and tax payments of the sums due can be installed without giving any warranty.

## Notice of assessment

It is the act by which the tax claim office formally notifies the taxpayer as a result of a monitoring activity.

The acceptance of the content of the act and the payment of sums due, legally defined as "acquiescence" in fact involves the reduction to 1/6 of the administrative sanctions imposed, provided that the taxpayer:

- waives the right to appeal against the notice of assessment,
- waives to file a tax settlement,
- provides to pay, within the appeal is upheld, the total sums due, taking account of reductions.

## **EU DECLARATIONS**

### VIES

Before starting a transaction among other persons subject to VAT regime and resident in other States Members of the European Union, a resident person must get the inscription to VIES.

VIES (VAT Information Exchange System) is a system of automatic exchanges between the tax authorities of the Member States of the European Union, according to EU Regulation 904/2010. In this context, the service allows traders to verify the validity of the VAT identification number of their customers.

Traders within the EU must be identified by a VAT code assigned by the respective national administrations. They are, therefore, required to indicate on the sale invoices, the VAT identification number of the counterparty. This number must be formally correct and correspond to an existing VAT and operator activity.

### Intrastat models

According to EU VAT regime, Italy has adopted a declaration of purchases and sales of goods and service among persons subject to VAT, resident in other States Members of EU, so called INTRASTAT list, to submit to Tax Authorities accordingly to the following periodicity.

For sales :

- Monthly return if the supply of goods and / or services rendered are equal to or greater than € 50,000.00 in the reference quarter, and / or in one of the 4 previous quarters;
- Quarterly return if the supply of goods and / or services rendered are under € 50,000 .

For purchases :

- Monthly return if purchases of goods and / or services received equal or greater than € 50.000 in the reference quarter, and / or in one of the 4 previous quarters
- Quarterly return if purchases of goods and / or services received are below € 50.000

If the stakeholders during the quarter exceeded the threshold of € 50.000, the frequency of submission of Intrastat Lists will be immediately monthly.

The periodical deadlines for the submission of Intrastat lists are:

- for Monthly lists by the 25th of the month following the month of reference (eg monthly in January 20... by 25 February 20...);
- for Quarterly List by the 25th of the month following the reporting quarter (eg the first quarter of 20.. by 25 April 20..)

Important: if the deadline falls on a national holiday pushed back to the next business day.