



NEWSLETTER NO. 3 - 2021

28 January 2021 Page 1/3

Dear clients,

please find below the most important tax measures on electronic invoicing and recording of daily proceeds introduced under the Italian law no. 178 as of 30 December 2020 (2021 Italian Budget Law), published in the Official Gazette of the Republic of Italy no. 322 as of 30 December 2020.

TAX RECEIPT LOTTERY

Goods and services purchased through electronic payment devices only may participate in a drawing of prizes that are awarded in the framework of a nation-wide lottery.

If a merchant refuses to acquire a lottery code, as of 1 March 2021 final consumers may report such refusal on the dedicated section of the lottery portal of the Italian Customs and Monopoly Agency's web site.

NB: Please be advised that the lottery start planned on 1 January 2021 is postponed again, as provided for under section 3 (9) of the Italian legislative decree 183/2020. The provisions required for the lottery to start and to be implemented shall be set forth under a decision to be adopted by the Italian Customs and Monopoly Agency by 1 February 2021.

CASHBACK

The entire amount of refunds assigned in the context of an initiative aimed at promoting the use of electronic payment means (so-called cash back) shall not add to the recipient's income in the tax period and shall not be subjected to any levy whatsoever.

RECORDING DEADLINE FOR QUARTERLY INVOICES

Those who settle VAT on a quarterly basis may opt to record invoices in the register under section 23 of the Italian DPR 633/1972 by the end of the month following the quarter in which the transactions are carried out and with reference to the month in which such transactions have been carried out.

NB: This provision is added to section 7 of the Italian DPR 542/1999 under paragraph 3-bis titled <<Simplifications relating to VAT settlement and VAT payments by minor taxpayers>>.

CROSS-BORDER TRANSACTIONS (CROSS-BOARDER TRANSACTION REPORT (ESTEROMETRO) TO BE REPLACED)

Data on the sale of goods and the performance of services

NEWSLETTER NO. 3 - 2021

28 January 2021 Page 2/3

relating to transactions as of 1 January 2022 carried out by and vis-à-vis non-residents are submitted electronically as a XML file by accessing the Sdl (*sistema di interscambio*) platform. This does not apply to transactions for which a customs slip or an e-invoices have been issued or received.

Furthermore,

- a) data on transactions carried out vis-à-vis non-residents (in Italy) must be submitted electronically within the deadlines for the issuance of invoices and documents used to certify compensation;
- b) data on transactions performed by non-residents (in Italy) must be submitted electronically no later than on the fifteenth day of the month following the one in which the document certifying the transaction or the performance of a transaction is received.

Transactions carried out as of 1 January 2022 are subject to an administrative penalty of EUR 2 for each invoice up to a maximum amount of EUR 400 per month. Such penalty is reduced to half, up to a maximum amount of EUR 200 per month, if the transaction is carried out within the fifteen days following the deadline, or if correct data are submitted within such deadline.

PROHIBITION TO ISSUE ELECTRONIC INVOICES FOR B2 HEALTHCARE SERVICES

The prohibition to issue e-invoices through the Sdl platform for those obliged to submit data to the Italian health card system (section 10-bis of the Italian law-decree 119/2018) is confirmed for 2021 as well as for 2019 and 2020. Such prohibition also extends to those who provide healthcare services to individuals, even though they are not obliged to submit data to the Italian health card system, due to express reference to section 10-bis of the Italian law-decree 119/2018 contained in section 9-bis of the Italian law-decree 135/2018.

PRE-COMPILED VAT DOCUMENTS AND USE OF DATA CONTAINED IN THE ITALIAN TAX REGISTER (ANAGRAFE TRIBUTARIO)

The Italian tax authority will experimentally use tax data contained in the Italian tax register system (*anagrafe tributaria*) to prepare draft documents (VAT registers, VAT settlement and annual VAT returns) for VAT transactions carried out as of 1 January 2021.

VAT payers that intend to avail themselves of an intermediary to access pre-compiled documents must provide the latter with a power of attorney that allows the intermediary to use e-invoicing services.

JOINT LIABILITY FOR THE PAYMENT OF STAMP DUTIES

The seller of a good or the provider of a service shall be liable jointly with the purchaser or the beneficiary for the payment of stamp duties, as provided for under section 22 of the Italian DPR 642/1972, even if the document is issued by a third party on their behalf.

RECORDING OF DAILY RECEIPTS

The electronic recording under section 2 (1) and section 2 (2) of the Italian legislative decree 127/2015 and the delivery of a trade document or an invoice, upon the customer's request, must occur before the transaction is closed.

ADVANCED COLLECTION SYSTEMS

The deadline for the entry into force of the simplifications for merchants using advanced collection systems is postponed from 1 January 2021 to 1 July 2021.

NEWSLETTER NO. 3 - 2021

28 January 2021 Page 3/3

NEW PENALTIES

As of 1 January 2021 the penalty amounts to 90 percent of the tax due for the unrecorded amount or the amount not submitted (with a minimum amount of EUR 500),

- if amounts are not recorded or submitted or in the event of late recording or submission; or
- if incomplete or untrue data are recorded or submitted. The above penalty is the same for each transaction;
- if electronic data acquisition devices do not work or if they work improperly. However, even if there are no omitted annotations, an administrative penalty ranging from EUR 250 to EUR 2,000 applies in the event of failure to request maintenance in due time or failure to have such devices periodically verified within the deadline set forth by law.

An administrative penalty of EUR 100 per transaction applies for the failure to submit data and/or for late submission of data or for the submission of incomplete or untrue data on daily proceeds pursuant to the Italian legislative decree 127/2015, if such infringement did not affect the correct settlement of tax. Section 12 of the Italian legislative decree 472/1997 does not apply.

An administrative penalty ranging from EUR 1,000 to EUR 4,000 (pursuant to section 2 (4) of the Italian legislative decree 127/2015) applies in the event of failure to install electronic data acquisition devices. Any alternative procedures that may be introduced under the implementing measures adopted by the Italian tax authority shall remain unaffected thereof.

A penalty ranging from EUR 3,000 to Euro 12,000 applies to those who tamper with electronic data acquisition devices or alter them in any other way and use them for tax avoidance purposes, once they have been tampered with or altered, or allow others to do so, unless a criminal offence has been committed.

One penalty only applies, if the infringement regards the recording or the submission of one transaction only.

VAT CEILING

In order to tackle fraud due to the use of false VAT ceilings, the Italian tax authority carries out specific risk analysis and substantive assessments, as provided for under section 51 of the Italian DPR 633/1972, in order to make sure that no illegal declarations of intent are issued and declared invalid.

If irregularities emerge after such assessments, taxpayers are no longer allowed to issue new declarations of intent by using the Italian tax authority's electronic channels.

If a protocol number of an invalid declaration of intent is shown on an electronic invoice, the Sdl (*sistema di interscambio*) platform pursuant to section 1 (211) and section 1 (212) of the Italian law 244/2007 blocks the issuance of an e-invoice qualifying as not liable to VAT pursuant to section 8 (1) of the Italian DPR 633/1972.

Yours sincerely,

HAGER & PARTNERS