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We have taken the greatest care in preparing the information contained herein, considering the need to make it as concise and timely as possible. However if you intend to use the information in making business decisions or in applying the relevant legal regulations, you are welcome to contact us for a more thorough examination of any specific matters.

Subject: New rules for electronic billing and payment of motor-vehicle fuel

The Budget Act for 2018 established a general obligation to issue invoices in electronic form, effective as of January 1, 2019. The effective date of this obligation is July 1, 2018, if the obligation concerns services rendered by subcontractors under contracts with public administrations, and also applies to sales of fuel for certain uses. The technical rules for implementing this new obligation were set forth in order issued by the director of the Revenue Agency on April 30, 2018, and were clarified in the Circular dated April 30, 2018.

1. When and where operators must issue electronic invoices

The obligation to issue electronic invoices (effective as of the dates specified above) applies to all sales of goods and services, including any changes made therein, made by and between parties resident or established in Italy, or identified in Italy for VAT purposes.

An electronic invoice must be issued in every case where the seller or provider is required to issue an invoice, including if the buyer – a private consumer – has specifically asked the seller to do so. Electronic invoices issued to end consumers must be made available to them through the Revenue Agency's online services. The issuer of the electronic invoice must make available directly to the customer an electronic copy thereof, or an analogical (paper) copy. It should be noted that even if the seller or provider is required to issue an electronic invoice, a **private consumer** can waive receipt of an electronic or analogical invoice.

Taxpayers who operate under the "advantageous regime" referred to in Law-Decree 98/2011, and those who apply the fixed-sum system referred to in Law 190/2014 are exempt from the obligation to issue electronic invoices.

The Revenue-Agency's order that set the technical rules for issuing and receiving electronic invoices established that "electronic invoices":

- must contain all the information required by art. 21 of Presidential Decree 633/1972, or (in the case of simplified invoices) all the data specified in art. 21-bis of that decree;
- are electronic documents that are created in a structured format and sent online to the "Interchange System" (hereinafter "SdI") which delivers them to the addressees. The invoice can be sent to the SdI by an intermediary operating on behalf of the issuer;
- are files created in the XML format (eXtensible Markup Language) that contain no macro-instructions or executable codes, and meet the technical specifications established by the Revenue Agency's order dated April 30, 2018. It should be noted that electronic invoices addressed to public administrations are still subject to the technical rules referred to in Ministerial Decree no. 55/2013.

2. Transmitting and checking electronic invoices

To facilitate and accelerate the electronic-invoicing process, electronic invoices can be sent to the SdI:

- via certified electronic mail ("PEC");
- via the web procedure and dedicated app made available by the Revenue Agency.

Through a specific function of the Revenue Agency's "Invoices and Prices" web service, holders of VAT accounts who issue electronic invoices will be able to acquire "automatically" the transferee's or buyer's ID data and online address through a QR-code.

Moreover, taxpayers who register with the SdI can send it their invoices via an "addressee code". The transmission can be done via:

- an applicative cooperation system, via the Internet, following the "web service" model;
- a system, based on the FTP protocol, for transmitting data between remote terminals.

Electronic invoices transmitted to and correctly received by the SdI (individually or more than one at a time) are then subject to **successive checks**, likewise performed by the SdI. If the result of the checks is positive, the SdI will deliver the electronic invoice to the addressee and send the invoker a “delivery receipt”. If the invoice does not pass the checks, in no more than five days the SdI will deliver a “discard receipt” to the issuer of the invoice (in such cases, the electronic invoice or the whole set of electronic invoices is considered to have never been issued).

As regards the delivery of electronic invoices, the Revenue Agency makes available to the addressee (the buyer or transferee, or an intermediary acting in the latter’s behalf) a service that registers the addressee’s telematic address (“addressee code” or PEC address).

If the SdI was unable to deliver the invoice due to technical reasons not ascribable to the SdI (for example, the online channel was not active or the PEC mailbox was full), the SdI will make the electronic invoice available to the transferee or buyer in the area reserved for him or her on the Revenue Agency’s website, and will so inform the party that sent the invoice. In this case, the seller or service provider will be required to notify the transferee or buyer promptly (otherwise than via the SdI) that the original of the electronic invoice is available in the reserved area on the Revenue Agency’s website. This notice can also be given by delivering to the addressee an electronic or analogical (paper) copy of the electronic invoice.

3. Storage of electronic invoices

Electronic invoices issued and received will be placed in a “substitute storage” system and will be kept stored for 10 years. This storage is used to archive electronic documents and ensures the legal validity of the documents stored. It can be done:

- in house by the taxpayer (high technology required);
- in outsourcing (signing a specific service contract with a software firm);
- through the Revenue Agency (signing a specific online service contract).

The substitute storage service will be accessible also through authorized intermediaries (UHY Italy).

4. Transactions with parties that are not established in Italy: the new transnational “spesometro” (sales and purchases list)

For transactions (sales and purchases of goods and services) entered into with a party that is not established in Italy, and in respect of which no customs bill or electronic invoice has been issued or received, the VAT subject who is established in Italy is required to notify the transaction data to the Revenue Agency online no later than the last day of the month after the one in which the document evidencing the transaction was issued or received. As clarified by the Order dated April 30, 2018, the term “date of receipt” means the date when the transaction was registered for VAT purposes.

According to the route and technical specifications detailed by the Revenue Agency, the data to be notified are the following:

- ID data of the seller / provider, or those of the transferee / customer;
- data of the document that evidences the transaction:

- the registration data referring to the documents received, including any relevant change notices;
- the transaction document’s number;
- the taxable base;
- the VAT rate applied and the amount of the tax charge (if the transaction does not require noting the tax charge on the invoice, the type of transaction must be specified).

The communication of these data is not mandatory (it is merely optional) for transactions for which a customs bill has been issued, and for transactions for which electronic invoices have been issued or received.

5. Sales of motor-vehicle fuel

As mentioned above, the effective date of the obligation to issue electronic invoices for sales of gasoline and diesel oil to be used as vehicle fuel has been advanced to July 1, 2018. For sales of other types of fuel, the obligation to issue electronic invoices will become mandatory as of July 1, 2019 (this is the case, for example, of sales of gasoline used to fuel generator motors, heating systems, etc.).

The obligation to issue an electronic invoice will also exist in the case of deferred invoices for which transportation or delivery notes have been issued, and contain the data suitable to identify the parties to the transaction.

It should be noted that as was clarified in the Circular dated April 30, 2018, the mandatory data to be entered on the electronic invoice do not include the licence number or any other data useful for identifying the vehicle that received the fuel (make, model, etc.), as is the case for fuel cards. In any case, the vehicle’s licence number and the other information can be inserted optionally in the electronic invoice so as to enable the cost to be referred to a specific vehicle and thus enable the buyer to deduct the cost.

6. Sales of motor-vehicle fuel: suitable and traceable means of payment

Another important innovation concerns the ways of paying for purchases of motor-vehicle fuel. For the costs and the VAT charge to be deductible, the relevant payment must be made with means that are traceable and suitable to prove that the transaction actually took place. For this purpose, the Circular has clarified that based on the law and on the order dated April 4, 2018, the following means of payment are suitable:

- bank and postal cheques, cashier's cheques, bank and postal money orders;
- electronic means of payment, for example direct charges, bank or postal transfers of funds, credit cards, debit cards or prepaid cards, or other electronic means of payment that enable the amount to be charged to the buyer's bank account.

In this connection, it should be noted that as the aforesaid Circular clarifies, it is no longer necessary that credit/debit cards be issued by financial operators who are required (by art. 7 of Presidential Decree 605/1973) to notify the tax registry ("*anagrafe tributaria*"). Instead, "payments made by a taxpayer through an intermediary but attributable to that taxpayer through an unbroken chain of payments made with traceable instruments" **must be deemed perfectly valid (for the purposes of deducting VAT and costs).**

The Circular explains this matter with an example in which fuel that was bought for a company car driven by an employee who was travelling on business was paid for with a credit/debit card or a prepaid card belonging to the employee (or with another type of instrument listed in the order dated April 4, 2018, and belonging to the same employee), and whose cost has already been reimbursed to the employee by his or her employer, likewise by means of a "traceable" and "suitable" instrument (for example, via a bank transfer of funds sent together with the employee's pay).

7. Further practical clarification on paying for purchases of motor-vehicle fuel

According to the Circular, payments can also be made through services offered by various operators (using cards, applications for **smartphones, tablets or other electronic devices**, and so on) that make it possible to buy fuel and have the purchase price charged directly to the buyer's bank account or credit card (either at the time of the purchase or later on), or to a fund kept by the seller and periodically replenished, depending on the use made of it. The Order dated April 4, 2018, also deems fully valid payments made at a time different from the time of the sale, as is the case, for example, of cards used in **netting agreements**, whereby the manager of the fuel distribution station undertakes to the fuel company to make periodic or continuous sales to the customer, who makes his or her purchases by means of magnetic cards issued directly by the fuel company.

The condition that must be met for the netting system to be valid is that the relations between the manager of the fuel station and the fuel company, and between the fuel company and the customer, be settled by means of the suitable and traceable types of payment instruments that are listed above and referred to in the Order dated April 4, 2018.

Other card-based systems (including rechargeable cards) are accepted too, as are vouchers "*that allow the buyer to buy fuel at the same VAT rate when the sale or recharge documented by the electronic invoice is paid for with the same payment instruments referred to above*".

June 8, 2018



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