

Italy enacts new VAT provisions including postponement of rate increase

EY Tax News Update: Global Edition

EY's Tax News Update: Global Edition is a free, personalized email subscription service that allows you to receive EY Global Tax Alerts, newsletters, events, and thought leadership published across all areas of tax. Access more information about the tool and registration [here](#).

Also available is our [EY Global Tax Alert Library](#) on ey.com.

Executive summary

The conversion of Law Decree n. 124/2019 (by Law n.157/2019) and the 2020 Italian Budget Law (Law n. 160/2019) were published in the Italian *Official Gazette*, respectively on 19 December and 27 December 2019. Both the new Law and the Budget Law enact new value-added tax (VAT) measures.

The key VAT measures include:

- ▶ Postponement of VAT rate increases
- ▶ New deadline for the submission of the so-called "esterometro"
- ▶ New rules regarding letters of intent
- ▶ Extension of the reverse charge for contract and subcontract agreements
- ▶ Place of supply rules related to the short-term hiring of pleasure boats

Detailed discussion

VAT rate increases postponed

Art. 1, par. 3, of the 2020 Budget Law sets forth the "safe-guard clause" - initially set forth by the 2015 Stability Law - providing for the VAT ordinary and reduced rate increase as from 2021 in the absence of alternative equivalent financial resources.

Accordingly, VAT rates will not increase in 2020 and the following rates will continue to apply:

- ▶ Standard rate: 22%
- ▶ Reduced rates: 4%, 5% and 10%

As from 2021, the VAT rates are scheduled to increase as follows:

- ▶ The ordinary rate to 25% as from 1 January 2021 and to 26.5% as from 1 January 2022
- ▶ The 10% reduced rate to 12% as from 1 January 2021

No increases will apply to the 4% and 5% super-reduced rates.

The increase can be replaced (in whole or in part) by regulatory measures ensuring the same positive effects on public finances through rationalization and revision of public spending.

New deadline for the submission of “Esterometro”

Taxable persons established in Italy are obliged to periodically submit data relating to the transactions with counterparties not established in Italy (so-called “esterometro” form).

Art. 16, par. 1-bis, of Law Decree n. 124/2019 amended the deadline for the filing of the above form and - as from 1 January 2020 - the esterometro shall be submitted on a quarterly basis, by the end of the following month of each quarter of reference, rather than on a monthly basis.

So the deadlines for 2020 are:

Period	Deadline
1st quarter	30 April 2020
2nd quarter	31 July 2020
3rd quarter	02 November 2020
4th quarter	01 February 2021

New rules for the letters of intent

According to art. 6, par. 1, lett. c, of Law Decree 124/2019, the use of letters of intent (i.e., the request by a taxable person qualifying as “habitual exporter” to purchase goods or services without application of VAT) is no longer allowed for taxpayers purchasing gasoline and diesel intended for use as motor fuel.

The use of letters of intent will still be allowed only for the purchase of diesel made by certain specific taxpayers listed by the law (i.e., taxable persons carrying out the transport of goods/people as their business activity purchasing diesel fuel from identified suppliers).

Furthermore, art. 12 of Law Decree n. 34/2019, converted into Law n. 58/2019, enacted new rules for the filing of letters of intent, effective starting from 1 January 2020.

According to the new provisions, letters of intent should be submitted electronically by the habitual exporter to the Italian tax authorities and the habitual exporter is no longer required to send the form to its supplier or to the Customs Authorities, nor book references of the letter in a specific ledger.

The supplier should check the protocol filing number of the respective letter in the own reserved web area of the official tax authorities' website.

The supplier shall issue the zero rated invoice to the purchaser quoting the aforesaid protocol number and is no longer required to quote the number and date of the letter of intent, nor book references of the letter in a specific ledger.

An Implementing Decree shall be issued by the Italian tax authorities with detailed instructions on new rules under exam.

Extension of reverse charge for contract and subcontract agreements

Art. 4, par. 3, of the Law Decree n. 124/2019 introduced new lett. a-quinquies in art. 17, par. 6 of DPR n. 633/1972 (Italian VAT law), under which the reverse charge is applicable to:

- ▶ Supplies of services according to qualifying contract or subcontract agreements, with a predominant use of manpower, carried out mainly at the premises of the customer with its own business assets.

Reverse charge is however not applicable if aforesaid supplies of services are rendered to:

- ▶ Public Administration and other Public bodies (where VAT application is fulfilled through the split payment mechanism)
- ▶ Qualifying employment agencies

New rules will be effective subject to approval of derogation by the European Union (EU) Council, in accordance with art. 395 of EU VAT Directive (2006/112/EC).

Place of supply of short-term hiring of pleasure boats

As from 1st April 2020, in order to avoid double taxation, no taxation, or distortion of competition for VAT purposes, art. 1, par. 725 of the 2020 Budget Law introduces a new criterion in order to define the place of supply of short-term hiring/leasing/rental services of pleasure boats.

In particular, rather than applying a fixed percentage based on the length of the boat for determining the use outside territorial waters, the place of supply of such services is now considered to be out of EU when it is proven, through appropriate documental evidence, that the boat is actually used outside the EU.

A specific implementing Decree shall be issued by Italian tax authorities in order to clarify the condition requirements set forth by the new provision.

For additional information with respect to this Alert, please contact the following:

Studio Legale Tributario, Rome

- ▶ Nicoletta Mazzitelli nicoletta.mazzitelli@it.ey.com
- ▶ Emma Greco emma.greco@it.ey.com
- ▶ Serena Paone serena.paone@it.ey.com

Studio Legale Tributario, Milan

- ▶ Stefano Pavesi stefano.pavesi@it.ey.com
- ▶ Anselmo Martellotta anselmo.martellotta@it.ey.com
- ▶ Marco Cantisani marco.cantisani@it.ey.com
- ▶ Marion Dorré marion.dorre@it.ey.com

Studio Legale Tributario, Treviso

- ▶ Fabio Babolin fabio.babolin@it.ey.com

Studio Legale Tributario, Turin

- ▶ Anna Paola Deiana anna-paola.deiana@it.ey.com

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

Indirect Tax

© 2020 EYGM Limited.
All Rights Reserved.

EYG no. 000387-20Gbl

1508-1600216 NY
ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

ey.com