

Italy publishes decree regarding consumption tax on lubricating oils and preparations

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Italy's Ministerial Decree (MD) of 22 April 2020 issued by the Ministry of Economy and Finance was published in the Italian *Official Gazette* no. 118 of 9 May 2020. The MD sets forth detailed rules for the implementation of the new traceability system for the circulation in the Italian territory of lubricating oils (CN codes from 2710 19 81 to 2710 19 99) and lubricating preparations (CN code 3403, transported in bulk or in containers with a capacity exceeding 20 liters), referred to in the new article 7-bis of Legislative Decree no. 26 October 1995, 504 (in Italian, *Testo unico accise* or hereinafter "TUA"), where these products come from another Member State of the European Union (EU) and are intended to be released for consumption in Italy or subject to transit through Italy to be released for consumption elsewhere.

Specifically, in order to combat the fraudulent use of lubricating oils and preparations of EU origin, the MD has established that the circulation in Italy of these products, prior to their release for consumption, shall be subject to the request and the issuance of an "Administrative Reference Code" (in Italian, *Codice Amministrativo di Riscontro* or hereinafter "CAR") through the computerized system of the Italian Customs and Monopolies Agency (CMA). This code shall be entered in the transport documentation from the Member State of departure, and it shall be verified at the end of the circulation of these products in Italy.

Initially, the DM subordinated the entry into force of the above procedures to the early activation of the above application named CAR.

Following the COVID-19 pandemic, the Italian Government, with the latest Legislative Decree no. 34 of 19 May 2020, the so-called "Relaunch Decree" (in Italian, *Decreto Rilancio*), postponed, among others, the effectiveness of the new control system to 1 October 2020, excluding from this scope, transfers of small quantities of packaged product, initially included. This is in order to make the monitoring system more efficient.

One-off preliminary registration of economic operators

Economic operators transporting lubricating oils and preparations falling within the scope of this MD, such as:

- ▶ Persons operating in another EU Member State intending to introduce such lubricants in Italy (sending subject) or
- ▶ Persons in possession of the fiscal license of "intra-community purchaser" pursuant to art. 61, paragraph 1, letter d) of TUA intending to receive in Italy lubricants from other EU Member States (authorized subject),

must first register (one-time registration) on the CMA website by means of a specific IT procedure. Specifically, while Italian economic subjects intending to act as an "authorized subject" will have to register only in the case of receiving lubricant products of EU origin in Italy, economic subjects established in other EU Member States intending to act as a "sending subject" will have to register for all cases in which they intend to move lubricant products from the EU Member State where they operate to Italy and, specifically, to:

- a) The "authorized subject" plant, i.e., the intra-community purchaser
- b) The Italian Customs Office where perform customs formalities for the subsequent export of those lubricant products
- c) The competent Customs Office in relation to the place where the same products shall leave Italy to be destined for another EU Member State

After verifying the above requests for registration and assuming that all conditions are met, the CMA shall issue the authorization of "sending subject" or "authorized subject" and proceed with the further issuance of:

- ▶ The Unique Identifier code (in Italian, *Identificativo Unico* or hereinafter UI) with annual validity
- ▶ An operating code

which the abovementioned subjects will have to use within the main procedure described in the following section.

Request and issuance of the Administrative Reference Code (CAR)

In order to obtain the CAR, i.e., the code that must be reported in the transport document issued before the introduction of lubricants from another EU Member State in Italy, accompanying them from the place of introduction into the national territory to:

- a) The "authorized subject" plant receiving the same products
- b) The Italian Customs Office where customs formalities for the subsequent export of these lubricant products will be performed and completed
- c) The competent Customs Office in relation to the place where the same products leave Italy to be destined for another EU Member State

the "sending subject" and/or "authorized subject" will have access through a special telematic application called "LUB" available on the CMA website, not yet operational, dedicated to the issuance and the operational management of said CAR.

Also, depending on the physical handling of the lubricants referred to in cases a) b) and c) above, the CAR is to be requested electronically to CMA by the interested parties not earlier than 48 hours before the introduction of the EU products into the national territory and in any case at least 12 hours before the introduction of the EU products, proceeding as follows:

- Case a)

The Italian "authorized subject" shall access the LUB application with his SPID credentials and provide a series of data, including the UI of the "sender subject" of the lubricant products it will have to receive.

Afterwards, this latter, accessing the LUB application with its own UI and with its own operating code issued during the registration phase, must integrate the telematic request procedure already initialized upstream by the "authorized party" indicating its additional data.

- Cases b) and c):

The “sending subject” alone shall access the LUB application with its UI and its operating code and indicate a set of data, including the Customs Office of export (case b)) or the Customs Office of exit (case c)) where the lubricants will leave the national territory.

Once the required data has been entered and the above mentioned telematic procedures have been correctly completed, depending on the case, the CMA, through the LUB application, will issue:

- ▶ The CAR relating to the handling of lubricant products which will be valid for 48 hours (validity extendable - if necessary - within the application itself) from the time scheduled for the introduction of the lubricants in Italy.
- ▶ A document containing a summary of the data provided during this procedure, whose copy shall accompany the referenced products circulating in Italy.

The CAR is valid for a single transfer operation carried out with a single vehicle and equipped with a possible trailer.

If several batches of lubricant products are shipped to be received by different parties, a CAR must be requested or issued for each batch.

Conclusion of product circulation and discharge of the CAR

Again, depending on the manner in which the lubricant products are handled and given under the cases a) b) and c) above, the circulation of these products is deemed to be completed and the CAR discharged as follows:

- Case a)

The “authorized subject” must enter in the LUB application the note proving the lubricating products have been taken over, which is generally sent within the following 24 hours in the accounting records of the warehouse of this party and which indicates the location of the said warehouse, the quantities of products received and the related CN codes.

- Cases b) and c)

Presentation of the lubricant products, respectively at the Customs Office of export (case b)) or at the Customs Office of exit (case c)) of the national territory. The Customs Office will be main responsible for the discharge of the CAR.

Cases of exclusion

The CAR is not required for the circulation in Italy of the following products:

- ▶ Lubricant products from another Member State of the EU contained in vehicle engines for the purpose of their traction, in devices, machinery or other equipment
- ▶ Lubricating preparations falling within CN code 3403 where they are transported in containers of a capacity not exceeding or equal to 20 liters
- ▶ Oils under CN codes from 2710 19 81 to 2710 19 99 when packed in containers holding 210 liters or less
- ▶ Lubricants handled in Italy by an oil pipeline

Next steps

By means of a specific communication to be issued on its website, the CMA will inform economic operators of the activation of the LUB application and will publish, if necessary, supporting instructions or determinations, including the one aimed at regulating the CAR emission procedures related to when the lubricant oils covered by the new provisions must be received by a national subjects other than the “authorized subject.”

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