

Italy imposes VAT obligation on marketplace operators for e-commerce transactions

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Executive summary

In accordance with the European Union (EU) Directive no. 2017/2455, as from 1 January 2021, the responsibility for the payment of Value Added Tax (VAT) on distance sales (sales to European consumers via the internet) of goods will be the *marketplace* operators, with the aim of combating VAT fraud. A marketplace operator is a taxable person who facilitates (under certain circumstances) distance sales of goods through an electronic interface, such as a marketplace, a platform, a portal or similar means.

The Italian Government (through Law Decree no. 34/2019) introduced the obligation for marketplace operators to report transactions facilitated through such platforms to the Italian Revenue Agency as from 2019 until the end of 2020.

This Alert summarizes the reporting requirements for e-commerce transactions.

Detailed discussion

Reporting party

All taxable persons who facilitate certain distance sales through the use of an electronic interface (*marketplace*) must report their transactions. The obligation also concerns nonresident taxable persons, who, if they do not have a fixed establishment in Italy, must appoint a VAT representative or identify themselves directly for VAT purposes in order to comply with such obligation.

Information to be reported

Distance sales of goods imported from third countries and distance sales of goods within the EU.

The following data shall be reported:

- ▶ Identification data of each supplier
- ▶ Total number of units sold in Italy
- ▶ For such units, total amount of sales price or, alternatively, the average sales price, expressed in Euro.

Deadline to report

The first data transmission deadline is 31 October 2019.

By this date, the data to be sent reports:

- ▶ For the period from 13 February to 30 April 2019, only sales of mobile phones, game consoles, tablet PCs and laptops. For imported goods, only the sales of goods with an intrinsic value not exceeding €150 shall be reported
- ▶ For the period from 1 May 2019 to 30 September 2019, sales of any kind of goods

Future communications are on a quarterly basis and shall be filed by the end of the month following the reference quarter. The fulfilment should expire on 31 December 2020 when the EU directive comes into force.

Data must be transmitted through the website of the Italian Tax Authorities (*Entratel* or *Fisconline*), either directly or through an approved intermediary (e.g., tax professionals).

Responsibility in the case of data omission

In the case of non-transmission of data, the taxable person who facilitated the sales is considered liable for the VAT amount due, unless he proves that VAT has been duly paid by the supplier.

In the case of incomplete transmission of the data, the taxable person will not be considered liable if he proves that he has taken all the necessary measures to correctly detect and identify the data on the electronic interface.

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