

ITALY



Name of the firm ITALYCONSULTANCY SRL

Address Via Nicastro n°1
20137 - Milano

Contact

milan@italyconsultancy.it Tel. ++39 02 55011460

<https://www.italyconsultancy.it>

AT A GLANCE

Name of the tax	Value Added Tax
Local name	Imposta sul Valore Aggiunto (IVA)
Date introduced	January 1, 1973
Date of membership in EU	March 25, 1957
Administered by	www.agenziaentrate.gov.it

VAT rates

Standard	22%
Reduced	4%, 5% and 10%
Other	Exempt

VAT Number format	IT 12345678911
VAT return periods	yearly
Thresholds registration	Eur 0
Recovery of VAT by non-established	YES
Businesses	YES
E -invoicing	YES

HISTORY OF VAT

In Italy, the VAT legislation is contained in the DPR n. 633 of 26 October 1972, and amended several times. The VAT regime has replaced the General Agreement on tax Revenue (IGE) which had replaced another tax on trade in 1940. IGE, even with a lower rate than VAT, was considered a tax with distorting effects as it was not deductible by manufacturers or trading enterprises that caused the increasing of price of goods to each step. Differently from IGE, VAT falls only on the consumer.

Upon entry into force, on January 1, 1973 the standard rate was 12%, and increased up to 14% in 1977 to 15% in 1980 to 18% in 1982 to 19% in 1988 to 20% in 1997 and finally, with DL n. 138 of August 13 2011, the ordinary rate was fixed to 21%.

VAT rules have been affected by European Legislation starting from the Directive 67/227/CE and 67/228/CE of 1967 year which is a precise commitments of all Countries to introduce in its legislation VAT rules. Moreover a second group of rules adopted by European Community by the aiming to harmonize the different legislations was contained in the body of rules of the Directive 77/388/CE of 1977 year (VI Directive) . Another important step towards a deeper harmonization of VAT rules among CE Countries was the Directive 91/680/CE which rules all the transaction among CE Countries: this rules were adopted in Italy by the D.L. 331/93. At the end, the last new rule which reformed VAT among EU Countries was the Directive 2006/112/CE while, the Directive 2008/8/CE , 2008/9/CE and 2008/117/CE were issued respectively to determine a new definition a territoriality among EU Countries , new criteria to reimburse VAT to foreign entities and the adoption of new Intrastat models.

SCOPE OF VAT

The Value Added Tax (IVA in Italian) is a general tax on consumption that is applied in Italy and in all other EU Member States. VAT is applied on the sale of goods or provision of services rendered in the Italian Territory. A transaction is subject to VAT in Italy only if it is deemed to take place in Italy.

The buyer pays the VAT to the supplier in addition to the cost of the goods or services acquired. In the case of imports, the VAT is paid to customs. For certain supplies of goods and services the reverse charge mechanism applies. Under the reverse charge mechanism the supplier does not charge any VAT, as it is the purchaser who accounts for it.

As a general rule, the supplier owes the tax to the tax authorities when he issues an invoice and not at the time he receives payment. However, the supplier is entitled to a credit for the VAT shown on his own suppliers' invoices, or for the VAT paid on imports, regarding any goods and services he has acquired for his business needs. The buyer is entitled to the VAT credit at the time he receives the invoice from his supplier and not at the time he makes the payment.

This VAT mechanism means that the actual tax burden is only borne by the end user, who has no right to recover the VAT he has paid.

TAXABLE AMOUNT

The taxable amount for VAT is the price received for goods and services. For imported goods, the taxable value is the value for purposes of customs duty increased by the customs duty itself.

The general rate is 22%. Reduced rates apply in certain cases.

VAT is not levied on the exportation of goods outside the European Union and on intra-Community supplies (they are both zero-rated). As of 1 January 1993, when goods are transported from one EU Member State to another, and both the supplier and the recipient are entrepreneurs for VAT purposes, the transaction is no longer considered an import, but an intra-Community acquisition.

VAT is generally due on :

- Sales of goods
- Provision of Services

Among sales of goods, for instance, law provision include:

- Sales with reservation ion of ownership,
- Leases with clause of transfer of property , binding both parties,
- Transactions of goods between the principal and the mandatary and vice-versa, in connection with commission contracts.
- Electricity and gas.

The following transactions are excluded from VAT:

- Sales of money or credits in money ,
- Transfer of a business unit to an another company,
- Assignments related to non- building land,
- Sales of samples of small value and expressly marked.

Among services, it is subject to VAT, for instance:

- Leasing and rental contracts ,
- Sales, royalties or licensing of copyrights, industrial invention, drawings, models, process, trade-marks etc.
- Supply of drinks and food,
- Sales of contracts.

As indicative example, the following services are excluded from VAT:

- Bonds issue,
- Sales of contracts concerning money or credits transfer, transfer of business unit, assignments related to non- building land,
- Sales, royalties or licensing of performing rights and copyrights, made by the author or by his inheritor or legatees, with some exception.

TAXABLE PERSONS

Individuals and companies are taxable if they carry out a business, a profession or an artistic activity. Importers are taxable regardless of their activity.

The Italian permanent establishment of a foreign mother company is a VAT taxable person in Italy, while a representative office is not.

REGISTRATION

Before starting a business or a professional activity relevant for VAT purpose in Italy, it is requested for VAT purposes, to have a VAT number. Therefore a specific form must be submitted to any office of the Italian Revenue Agency, or by an electronic intermediary enabled (subject being authorized by the Italian Revenue Agency) who can request the opening of VAT by electronic device. This form must include:

- the data of the person (name, social security number, date of birth, residence);
- the place where intended to carry out the activity;
- a numeric code that identifies the activity ;
- where they will be kept the accountancy ;
- any option for one of the favored schemes provided by law.

The VAT position must be requested within 30 days from establishing a business enterprise or permanent establishment in Italy.

Persons who are requested to ask a VAT number are:

- Entrepreneurs artisans and merchants, agents and representatives of trade, etc..
- Self-employed, professionals, holders of VAT registered or not registered professionals Partnerships, partnerships, Snc, Sas, Associated Studies
- Limited companies and commercial entities, SpA, Srl, Soc Cooperative, Sapa, public and private bodies other than companies
- Credit institutions, investment firms, other financial intermediaries, trust companies
- Other legal entities running a business.

VAT REPRESENTATIVE

VAT is due by all persons making taxable supplies of goods or services in Italy, regardless of their residence.

If a foreign taxable person, that does not have a permanent establishment in Italy, makes a supply that is taxable in Italy to a purchaser who is a taxable person in Italy, the VAT obligation of the foreign taxable person is fulfilled by the Italian taxable person (through the reverse charge mechanism). Under the reverse charge mechanism the foreign supplier does not charge any Italian VAT, as it is the Italian purchaser who accounts for the Italian VAT. However, when the purchaser is not a taxable person in Italy, the foreign supplier has to charge the Italian VAT.

Non-residents that have no permanent establishment in Italy may appoint a VAT representative to exercise their rights and fulfil their obligations under the VAT law. If a tax representative is appointed, he is responsible for completing all the formalities that the entrepreneur himself would be required to fulfil.

Non-residents (but resident in any other EU Member State), as an alternative, may directly exercise their rights and fulfil their obligations in Italy by means of the "direct identification". In this case, the non-resident must first submit a declaration to the competent authority (the VAT office in Pescara) which will release the VAT number to the non-resident. This procedure also applies to residents of non-EU States with which Italy has signed an agreement about mutual assistance regarding indirect taxes.

An important difference between the appointment of a VAT representative and the direct identification is the different responsibility towards the Italian Revenue Agency, in fact:

- The VAT representative is jointly and severally liable with the non-resident person engaged (principal) for all obligations under the rules and for the payment of VAT due;
- In case of direct identification, single-payer remains the non-resident person, even when it makes use of a consultant (auxiliary) in Italy.

The appointment of a VAT representative or ID is required:

- 1) When the transaction is relevant for VAT purposes in Italy and the purchaser, being a private entity, cannot pay the tax;
- 2) When there are "distance sales" of goods according to functional limits provided by the law;
- 3) When an EU operator introduces goods for the needs of its business in Italy.

Assignment Procedure of VAT Representative

The VAT representative (Article 17 of Presidential Decree 633/72) must be appointed through a public act, a private deed or a registered letter recorded in a special register kept by the Italian Revenue Agency in relation to the tax domicile of the representative or represented. (The assignment is made in accordance with procedures established by art. 1, paragraph 4, of Presidential Decree 441/1997, in order to rebut the presumption of supply of goods).

Alternatively, the VAT representative assignment may also be authenticated by a notary act of the foreign State adhering to the Aja Convention of October 5, 1961 (ratified in Italy by Law 11.20.1966, n. 1253) and bearing the stamp "Apostille" or legalized by Consul General of Italy to the foreign country. The apostille certifies that the notary or the authority of the Government

which issued the document is legally authorized to do so.

The person appointed as VAT representative is requested to ask for VAT number for the principal. With the opening of the VAT position the foreign entity, through its representative, shall be subject to all the obligations and rights under the national VAT legislation. The act of assignment must be acquired before starting any activity for VAT purpose in Italy. The Italian operator that already has a VAT number, if it becomes a VAT representative, will have a further VAT identification number. Each VAT will be maintained independently with separate accounting.

The VAT representative can be a natural person or a legal person (resident or located in Italy). The assignment must be brought to the attention of suppliers prior the first operation.

Assignment Procedure in case of Direct Identification

For VAT purposes the direct identification can be asked only by non-residents who perform business or professional activities in another Member State of the European Union. The request of identification must be presented to the Tax Centre of Pescara by alternatively :

- manual presentation to the Tax Office of Pescara ,
- registered post, enclosing a copy of the identification document of the claimant.

The Tax Office of Pescara will then provide the VAT number to the claimant.

VAT Group and VAT Representative

The rules governing the Group VAT were introduced into national law with effect from January 1, 1980, consequently to the VI EEC Directive of 17 May 1977, no. 77/388/EEC. Under this decree, the special procedure for the payment of VAT group may only be carried out by stock companies and limited liability companies , which have a percentage higher than 50% of the capital the controlled company starting at least from the beginning of the preceding solar year respect the request to adopt VAT group liquidation .

The Italian Revenue Agency has admitted the possibility of application of VAT Group liquidation procedure to all companies resident in the European Union territory having the legal forms equivalent to the ones requires by the Italian law, the majority of the capital in the Italian subsidiary according to VAT Group rule and operating in Italy through a permanent establishment, a tax representative or by identification direct, pursuant to art. 35-ter of Presidential Decree n. 633/1972.

Procedure

According to the provisions of the Ministerial Decree December 13 1979 to adhere to the special regime of the VAT Group companies is the presentation by the parent company of a declaration (Form Iva 26) to the Tax Authorities, within February 16 of every year .

VAT RATES

There are different VAT rates in force in Italy:

- 22%: this is the standard VAT rate applicable to many of the common types of goods and services offered by companies.
- 4%: applicable to some foodstuffs, medical equipment, books, newspapers, periodicals, etc.
- 5%: applicable to the transport of passengers (in some cases) and to certain types of foodstuffs for which the 4% rate does not apply.
- 10%: applicable in case of water supplies, pharmaceutical products, admission to cultural services (cinema, theatre, shows).
- exempted: VAT exemptions apply to medical services, gaming and gambling, export sales, the contribution of assets to a company and others.

Examples of goods and services taxable at 0%

- Intra-EU supplies of goods
- International transportation services
- Export supplies
- Bunkering to high sea vessels

Examples of goods and services taxable at 4%

- Books, newspapers and periodicals
- Certain foodstuffs
- E-books and all other e-publishing materials identified with codes ISBN (International Standard Book Number) and ISSN (International Standard Serial Number)
- Medical equipment
- Supplies of food and drink in a staff restaurant

Examples of goods and services taxable at 5%

- Provision of social, health and education services (e.g., medical diagnostics, provision of hospital services and care) by Cooperative Sociali and their consortiums (i.e., special entities aimed at rehabilitation and care of socially disadvantaged persons) to certain categories of people, such as the elderly, the disabled, drug-addicted persons and AIDS patients.

Examples of goods and services taxable at 10%

- Medicines
- Supplies of food and drink in restaurants, bars and hotels
- Supplies of electricity, methane and liquid petroleum, all for domestic use
- Electricity and gas for use by extraction enterprises and industrial enterprises
- Accommodation services rendered by marina resorts

The term “exempt supplies” refers to supplies of goods and services that are not liable to VAT and that do not qualify for input tax deduction.

Examples of exempt supplies of goods and services

- Education (under certain conditions)

- Finance
- Insurance
- Postal services
- Medical services

PLACE OF SUPPLY RULES (=DEFINITION OF TERRITORY)

With effect from 01/01/2010 the directives n. 2008/8/EC of 12/02/2008 (Services Directive), no. 12/02/2008, no. 2008/9/EC (Reimbursement Directive), no. 2008/117/EC of 16/12/2008 (Intrastat Directive) have been incorporated into Italian legislative body. Therefore it was reformed the Article 7 of VAT law (DPR n. 633/72), in force until 31/12/2009, providing 7 new items:

- art. 7 contains the definitions of territoriality;
- art. 7-bis, which regulates the territoriality limited to the supply of goods;
- the art. 7-ter which governs the application of the territoriality of the so-called generic services;
- art. 7-quater, which regulates the territoriality in respect of particular services;
- art. 7 quinquies governs the place of supply of cultural, artistic, sporting, scientific, educational, entertainment and similar services;
- art. 7 sexies, matters of territoriality, introduces special provisions in relation to certain services rendered to non VAT liable persons;
- art. 7-septies also covers matters of territoriality, introduces such provisions with respect to certain services not subject to VAT in Italy if supplied to non-VAT liable persons established outside the European Union.

In general, the Italian Territory is identified with that falls under the legal national sovereignty, from which it must however be excluded S. Marino and the Vatican City. From this Territory it is also excluded the municipalities of Livigno and Campione d'Italia and the territorial waters of Lake Lugano which are considered as outside from the "customs territory".

The Territory of the European Union includes all European Union countries that have signed the European Treaty and which are subject to the directives and regulations required by the EU. Currently there are 28 States joining the European Union.

The Territory thus identified include:

- the space within the national borders;
- the airspace over the territory;
- the subsoil of the national territory;
- the sea within 12 nautical miles;
- zones, ports, customs free zones;
- merchant ships and civil airplanes in free space and military ships and aircraft in the territory of another country;
- oil platforms on the high seas and their bases of operations on the ground.

The Article. 7-bis of Presidential Decree n. 633/1972 regulates the supply of goods ruling it is subject to VAT in Italy:

- the supply of goods within the territory of the Italian State if they relate to real estates or movable property existing, physically and legally in the Territory when transferred ;
- the sale of goods dispatched from another EU State to Italy and installed, assembled by the foreign supplier or a third party on his behalf in Italy;
- the sale of goods made in Italy which do not leave the territory of the State, they are made by sellers and / or buyers who are not domiciled in Italy.

Therefore, sales of real estates are attracted to Italian VAT without considering the place of conclusion or execution of the contract or the place of residence of the seller or of the buyer.

Consistency with the VAT rule, it is not subject to Italian VAT:

- the sale of goods that do not physically exist in the State even if the seller and the buyer are taxable persons for VAT purposes in Italy;
- the sale of real property located abroad, even if the seller and the buyer are taxable persons for VAT purposes in Italy;
- the sale of goods shipped overseas and there assembled or installed even if such operations have been carried out by taxable persons for VAT purposes in Italy.

The second paragraph of Article 7-bis provides that the supply of goods on board ships, trains and planes in the course of the transport of passengers effected in the territory of the EU shall be regarded as effected in the Italian territory if the start of the journey was in Italy.

The supply of natural gas and electricity through distribution lines shall be regarded as effected in the Italian territory when the buyer/retailer is taxable person for VAT purposes in Italy, while, if the buyer is not a retailer, sales are subject to Italian VAT when the goods are consumed in Italy.

The Article. 7-ter of DPR n. 633/1972 rules the supply of services, where it is provided that services are subject to Italian VAT when :

- services are rendered to a taxable person for VAT purposes in Italy also resident in Italy;

Therefore for the provision of services when both the buyer and the seller are taxable persons for VAT purposes (B2B), VAT is due where the buyer is resident . If the customer is, however, a private person not taxable for VAT purpose in Italy (B2C), VAT is due in the country of domicile of the seller.

Articles from 7-quater to 7-septies introduce some exceptions to the above principles.

In particular, the art. 7-quarter provides that:

- real estate services are subject to VAT in the place where the property is situated;
- passenger transports are subject to Italian VAT only for the portion of the distance run in the Italian territory;
- food service and catering are subject to VAT where the service is rendered;

- short term rentals and leasing of transport vehicles are subject to VAT when vehicles are given to the recipient in the territory of the State.

Instead, art. 7-quinquies relative to cultural, artistic, sporting, scientific, educational and recreational , including fairs and exhibitions, provides for the application of the general rules of art. 7-ter in favor of the organizers of such activities and for principals that do not directly benefit from the services provided, while for private persons it is in force the rule of the place of the performance.

According to art. 7-sexies the services are subject to VAT in Italy only if supplied to private persons wherever resident taking into account that:

- Brokerage in the name and on behalf of the principal , VAT is due where the main operation is carried out;
- transport of goods , not in European Union , VAT is due according to the distance performed in Italy;
- for the transport of goods among European countries, VAT is due where the carriage starts;
- for the processes and services ancillary to the transport, VAT is due in the place of execution;
- for long term lease of transport vehicles , VAT is due in the place of use in the EU if the person making the supply is resident in Italy or the place of use in Italy if the provider is outside the EU;
- the services provided by electronic devices , VAT is due where the buyer is resident with some exceptions;
- for the provision of telecommunications and television broadcasting, VAT is due where the provider is resident with some exceptions.

According to Article 7-septies, services are not subject to Italian VAT only if they are rendered to private buyers resident outside the EU, for the following transactions:

- sales, royalties, licenses of copyrights, etc.;
- advertising services;
- consultancy, technical assistance or legal, data processing;
- the banking, financial and insurance services;
- the provision of personnel;
- the hire of goods other than transport vehicles;
- access to systems of natural gas or electricity;
- telecommunications services and remote broadcasting;
- services provided by electronic devices;
- some commitments connected to the operation above.

TIME OF SUPPLY RULES

The time when VAT becomes due is called the “time of supply”.

The article 6 of the Presidential Decree n. 633/1972 rules when the sale of goods or provision of services becomes payable for VAT purposes.

VAT becomes payable according to the kind of transactions performed by the parties, namely:

- for real estate, VAT is due when the deed of purchase is signed;
- for the supply of movable properties, VAT is due according to the date of delivery or forwarding of goods;
- for the provision of services, VAT is due when services are paid.

The article 6 also provides that, if prior to such times or independently of them, the invoice is issued or it is paid the service in whole or in part, VAT is due at these latest dates for the portion of the total amount paid or invoiced.

Therefore:

- advance payments (partial or total) received by cash, postal order or bank transfer, etc. triggers VAT obligations immediately;
- the issue of an invoice in advance, ie prior to the delivery or shipment of goods, prior to entering into a property purchase, prior to payment of the consideration, triggers all VAT obligations (registration document, tax clearance, etc. .) independently of the above events.

Notwithstanding the above, the provision of EU services rendered by a taxable person for VAT purpose not established in Italy to a taxable person for VAT purpose established in Italy and the provision of services other than those of Article 7 quarter and quinquies given by a person established in Italy to a person subject to VAT not established in Italy, shall be payable for VAT purpose when completed or in case of periodic and continuous provision of services when accrued. If prior to the occurrence of the events indicated above it is paid in whole or in part the service rendered, VAT is due only for the portion of the total amount paid or invoiced.

EXEMPTIONS

VAT transactions can be:

- Taxable for VAT purposes and consequently subject to the tax rate listed above;
- Not taxable for VAT purpose, as exports, similar operations, international services referred to in Articles 8, 9 and 8-bis of the VAT Law and intra-EU sales;
- Exempt, that is subject to VAT but not subject to any VAT rate (Article 10 of Presidential Decree no. 633/72);
- Outside the scope of VAT, that is not subject because of lack of requirements;
- Excluded from the tax base, that means they should not be included in the VAT base on which to apply the tax.

Exemptions without the right to deduct (Art 10 of VAT Act)

For ethic and economic reasons VAT exemptions have been provided in favor of:

- certain activities in the public interest (such as hospitalization, medical care, goods and services linked to welfare and social security work, school or university, certain cultural services);
- certain transactions regarding, among other things, insurance, lending, some banking services, the supply of stamps, gambling stakes of money and certain transfers of real property.

Exemptions with deductibility

Transactions exempted with a right of deduction are:

- intra-EU supplies of goods, including transport vehicles and products subject to excise duty, dispatched from one Member State to a destination in another Member State;
- exports of goods from the EU to a destination in a third territory or a third country;
- certain transactions related to international transport to or treated as exports;
- the provision of services by brokers when engaging in transactions related to exports;
- certain transactions relating to international trade, for example, in the case of goods intended to be placed in customs warehouses and other deposits.

RECOVERY OF VAT

Foreigners who visit Italy may receive a refund of the VAT tax paid on goods bought for deportation. In order to proceed with the refund, the visitor must present his passport, the receipts of the goods and a proof of the deportation of the goods to an Italian VAT refund station, usually found in airports, tourist offices or international travel hubs.

Companies that are an EU business but do not usually supply goods or services to Italy (and have thus never been subject to VAT registration in Italy) cannot deduct the VAT.

Generally persons who have paid VAT in Italy can claim the refund under certain conditions to the Tax Authorities. The refund can regard a wholly year or even a quarter of the year.

As a general rule, if the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A refund of the credit may be claimed annually or quarterly if specific conditions are met. If the conditions for requesting a refund are not met, the input tax credit may be carried forward to offset output tax in the next VAT period.

The **annual refund** can be claimed, if:

- The average VAT rate paid by the taxable person on purchases exceeds the average VAT rate applied to its sales, increased by 10 percentage points.
- Exports, intra-Community supplies or international services make up more than 25% of the taxable person's total turnover.

- The VAT credit arises from purchases or imports of depreciable assets or purchases of goods and services for research and development (R&D) activities. However, the repayment is limited to the amount of VAT on purchased or imported depreciable assets and R&D goods and services.
- The majority of transactions are out of the scope of VAT under the place-of-supply rules.
- The taxpayer is a non-established business registered for VAT in Italy.
- The taxable person has an input tax credit in the annual VAT return for three consecutive years. In this case, the repayment is limited to the lowest of the credit amounts in the three years.

The VAT credit refund procedure may trigger the filing of a bank guarantee to the tax authorities. Starting from 2015, the bank guarantee is not due in case the VAT credit claimed for refund is lower than EUR 30,000.

Claims submitted by non-resident persons

For businesses established in the EU, the refund is made under the terms of the EU 8th Directive.

For businesses established outside the EU, a refund is made under the terms of the EU 13th Directive.

COMPLIANCE OBLIGATIONS

According to VAT law provision, invoices must include the following elements:

- Date of issue;
- Sequence number of the invoices ;
- Company name, residence or domicile of seller or of the tax representative and -if any - the location of the permanent establishment for non-residents;
- VAT number of the seller ;
- Company name, residence or domicile of purchaser or of the tax representative and -if any - the location of the permanent establishment for non-residents;
- VAT number of the purchaser or, in the case of taxable EU VAT identification number assigned by the State of establishment, and for private persons , the tax code;
- Nature, quality and quantity of goods and services which are the object of the transaction;
- Fees and other data necessary for the determination of the tax base, including those relating to the transferred assets by way of discount, premium or rebate art. 15, paragraph 1, no. 2);
- Price of goods and services needed for determining the tax base, also indicating any discount, premium or rebate in goods;
- VAT tax base, VAT rate and VAT due.

It is also provided by VAT law the formalities to issue an invoice in electronic format. VAT rules defines the electronic invoice as the invoice that has been issued and received in any electronic format. According to the provisions of law the use of electronic invoice shall be subject to acceptance by the recipient.

Moreover the article 21 paragraph 3 of Presidential Decree n. 633/1972 provides further requirement for electronic invoicing, such as:

- the authenticity of origin;
- the integrity of the content;
- the legibility of the invoice.

The origin and integrity of the electronic document must be guaranteed by the issuer, which has the ability to establish the relevant procedures.

Electronic invoicing

Italian VAT law permits electronic invoicing in line with EU Directive 2010/45/EU.

A general B2B and B2C electronic invoicing obligation applies from 1st January 2019. The electronic invoicing obligation only applies to transactions between established/resident persons.

For import and export transactions where a customs bill is issued and for cross-border transactions where the supplier opted for electronic invoicing, there is no obligation to include it in the communication of invoices issued and received to/from non-established persons (so called “Esterometro”).

VAT Bookkeeping

According to Italian law, invoices issued and received, credit notes and all the documents relevant for VAT purposes (e.g., documents of transport, etc.) must be kept for VAT purposes up to the end of the statute of limitation period, i.e.:

- 31 December of the fifth year following the one of filing of the annual VAT return; (for years prior to 2016, the term was the fourth year)
- 31 December of the seventh year following the one in which the (omitted) annual VAT return should have been filed (for years prior to 2016, the term was the fifth year)

For civil law purposes, all the VAT relevant documents (books, ledgers, invoices, correspondence, etc.) must be kept for 10 years.

Electronic invoices must be archived electronically according to the requirements of Italian law. The Italian Revenue Agency offers a free-of-charge archiving service. In particular, the e-invoice files will be kept by the Italian tax authority's e-invoicing platform, “Sistema di Interscambio” (SDI) until 31 December of the eighth year following the one of submission of the related return

or until the definition of eventual court trials.

The same files could be used by the tax police in the performance of the economic and financial police tasks and by the tax authorities and by the tax police for risk analysis and the checks carried out for tax purposes.

VAT returns

All Italian taxable persons must submit an **annual VAT return**. The VAT return period is the calendar year. The annual VAT return must be filed from 1 February through 30 April of the following year.

In case of claiming a quarterly VAT reimbursement, a special VAT return must be submitted electronically to the Inland Revenue by the last day of the month following the quarter in question, directly or through intermediaries authorized by the taxpayer to Entratel. If the deadline falls on a Saturday, Sunday or a public holiday, it is extended to the first following working day.

In addition to annual returns, the taxpayers have to submit **monthly or quarterly returns** according to the periodic VAT calculation.

All VAT returns must be filed electronically directly by the taxpayer, using the Revenue Agency's electronic services (Entratel or Fisconline services) or through authorized intermediaries such as business consultants and accountants. The filing receipt is transmitted electronically by the Revenue Agency to the user who filed it.

VAT Payments

Italian taxable persons calculate VAT payments on a monthly or quarterly basis, depending on annual turnover, and pay the VAT. All taxable persons have to communicate on a quarterly basis the data of periodic VAT liquidations, independent of their obligation to pay the VAT on a monthly or quarterly basis.

VAT may be paid on a quarterly basis if the turnover realized during the previous year (or anticipated for the first year of activity) does not exceed EUR 400,000 for supplies of services or EUR 700,000 for supplies of goods. In case of quarterly payments, an interest at a rate of 1% must be added to quarterly VAT payments.

Monthly payments are due by the 16th day of the month following the month for which VAT is due. Quarterly payments are due by the 16th day of the second month following the quarter for which VAT is due, except for the last quarter. The balance for the last quarter is due on 16 March of the following year if the taxpayer spontaneously opts for quarterly payments (that is, a taxpayer that has revenues under certain thresholds and that opts to calculate the VAT balance on a quarterly basis instead of a monthly basis).

The Italian law has also introduced an advance payment of VAT. The advance payment is due by 27th December of the current year. Different methods are available to calculate the advance

payments (forecast, historical or transactions actually carried out).

Intrastat

Italian taxable persons that trade with other EU Member States must complete fiscal and statistical reports, known as Intrastat. Separate reports apply to intra-Community supplies of goods and intra-Community supplies of services (Intrastat Dispatches), and simplifications for the completion of the Intrastat forms or exception from their submission apply, as follows:

- Intra-EU acquisitions of goods

The Intrastat return related to the intra-EU acquisitions of goods is mandatory on a monthly basis only for statistical purposes and only if the total amount of acquisitions is greater than EUR 200,000 for at least one of the four previous quarters.

No Intrastat return for intra-EU acquisitions of goods has to be filed by taxpayers who do not exceed the above threshold, since all the relevant information will be acquired by the authorities through the other mandatory communications (please see communication of invoice data above).

The Intrastat return related to the intra-EU purchases of services will be mandatory only for statistical purposes on a monthly basis and only in case the total amount of intra-EU purchases of services for at least one of the four previous quarters is equal or higher than EUR 100,000.

No Intrastat return for purchases of services has to be filed by taxpayers who do not exceed the above threshold since all the relevant information will be acquired by the authorities through the other mandatory communications (please see communication of invoice data above).

The Intrastat return related to intra-EU dispatches of goods remains mandatory. However, the submission of statistical information is optional for taxpayers who submit an Intrastat return on a monthly basis with a total amount of intra-EU supplies of goods, during at least one of the four previous quarters, less than EUR 100,000.

The Intrastat return related to the intra-EU supplies of services remains mandatory. However, the service code necessary to identify the specific service supplied/purchased will be related to a simplified list of codes, which means that it should be easier to connect services with the related codes.

Statistical information is required from businesses that mainly file monthly reports. Columns (which is the section of the Intrastat return for the statistical value), delivery conditions and transport conditions must be filed if the threshold of EUR 20 million is exceeded or in the case of a movement of goods without the transfer of property or similar rights.

Intrastat declarations must be filed in euros. Returns are due on a monthly basis, by the 25th day of the month following the return period (previously there was an option to submit the returns on a quarterly basis, under conditions, which is no longer in force).

Penalties

Penalties change accordingly to the gravity of the violation.

Late communications/registrations/returns

Failure to inform the Italian VAT authorities regarding the beginning of activities: a penalty ranging from EUR 500 to EUR 2,000.

- Failure to issue and record invoices for taxable transactions: a penalty ranging from 90% to 180% of the VAT not invoiced or posted.
- Failure to issue and record invoices for exempt and exempt-with-credit transactions or certain transactions not subject to VAT: a penalty ranging from 5% to 10% of the amount not invoiced or posted. However, if the violation is not relevant for the assessment of the income, a penalty ranging from EUR 250 to EUR 2,000 applies.
- Failure to make payments of VAT: a penalty of 30% of the payment not made, plus interest on the late payment.
- Failure to maintain VAT records: a penalty ranging from EUR 1,000 to EUR 8,000.
- Failure to file the annual VAT return: a penalty ranging from 120% to 240% of the VAT due, a minimum amount of EUR 250, applies. However, if the VAT return is filed within the legal term foreseen for the submission of the VAT return relevant for the following year and, in any case, before any audit is started, the penalty is reduced to half (i.e., ranging from 60% to 120% of VAT due), with a minimum amount of EUR 200.

Late payments and filings

If the annual VAT return is omitted, the penalty is 120% to 240% of the VAT due. The minimum penalty is EUR 250.

If the annual VAT return is submitted more than 90 days after the deadline but within one year from it, the penalty is 60% to 120% of the VAT due, if any. The minimum penalty is EUR 200.

The penalty for the late payment of VAT is equal to 30% of the VAT paid late. However, if the late payment does not exceed a period of 90 days from the statutory deadline, the penalty is reduced by half; if the late payment does not exceed 15 days from the statutory deadline, the penalty is reduced to an amount equal to 1/15 for every day of delay. In addition, interest is accrued or charged at an annual rate of 0.8% (starting 1 January 2019) in the case of voluntary settlement and 3,5% in the case of settlement of the tax audit report and in certain other circumstances.

VIIES

Before starting a transaction among other persons subject to VAT regime and resident in other EU Member States, a resident person must get the inscription to VIIES.

VIIES (VAT Information Exchange System) is a system of automatic exchanges between the tax authorities of the Member States of the European Union, according to EU Regulation 904/2010 . In this context, the service allows traders to verify the validity of the VAT identification

number of their customers.

Traders within the EU must be identified by a VAT code assigned by the respective national administrations. They are, therefore, required to indicate on the sale invoices, the VAT identification number of the counterparty. This number must be formally correct and correspond to an existing VAT and operator activity.