Executive summary

The Italian Budget Law for 2018 (Law no. 205/2017), modifying Legislative Decree no. 127/2015, introduced the obligation of electronic invoicing (e-invoicing).\(^1\)

A general business-to-business (B2B) and business-to-customer (B2C) e-invoicing obligation will apply, starting from 1 January 2019. It should be noted that, although the legislation provides for the e-invoicing obligation for all transactions performed between persons established/resident in Italy, as well as Italian Value Added Tax (VAT) registrations of non-established taxable persons, EU Council Decision 2018/593 of 16 April 2018 authorizes Italy to introduce mandatory e-invoicing only for invoices issued by taxable persons established in Italy.

Moreover, for both the public subcontract sector and for supplies of petrol or diesel fuel intended for use as motor fuel, the e-invoicing obligation will be effective as from 1 July 2018.

On 30 April 2018, the Italian Tax Authorities issued guidance in the form of:

- Measure no. 89757/2018, regarding the technical rules for the issuance and receipt of e-invoices
- Circular letter no. 8/E, regarding the new rules on e-invoicing and payments of fuel supplies
This Alert summarizes the key provisions under the new guidance.

**Detailed discussion**

**Supply of fuel**
- Mandatory e-invoicing as of 1 July 2018 applies only to supplies of petrol and diesel to be used as fuel for automotive purposes. Consequently, mandatory e-invoicing does not apply to the supply of diesel or gasoline for motors within airplanes, ships, electric generator equipment, heating equipment, gardening tools, or other items.
- Within the mandatory e-invoice for fuel as defined above, it is not necessary to include the license plate number, vehicle kind, or similar information that were previously mandatory for the “fuel card” (“scheda carburante”).
- If the buyer purchases fuel together with other goods or services (e.g., car leasing, repair services, spare parts, or car washing), if only one single invoice is issued, it needs to be an e-invoice.
- Deferred invoicing to be issued by the 15th day of the month following the taxable event (i.e., delivery/payment) and referring to all the supplies performed in the reference month will still apply; in this case, delivered single supplies of fuel may be documented via a delivery receipt.
- The Italian tax authorities will store e-invoices on behalf of the taxpayer provided the taxpayer applies for a specific e-archiving service agreement via the web at the time of the registration at the Interchange System (SDI).
- The supply of fuel shall be paid via electronic means (e.g., credit card, debit card), otherwise input VAT will not be recoverable. This is also a requirement for deducting the expense for income tax purposes.
- For the VAT and income tax deduction, it is not necessary that payment be made at the same time as the supply of fuel. This is the case of “netting agreements” where a specific payment card or pre-paid card is used.
- The supply of petrol vouchers (or cards or other means) that allow the taxable person to buy fuel at the oil stations belonging to the same petrol company network according to a specific agreement signed with such petrol company is subject to VAT and to e-invoicing at the time of the supply/re-charge (being a single-purpose voucher - SPV).
- Conversely, the supply of vouchers (or cards or other means) that allow the taxable person to buy fuel at oil stations managed by different companies or to buy different goods/services is not subject to VAT and thus subject to e-invoicing (being a multi-purpose voucher - MPV).
- The above clarifications regarding vouchers will be applicable as from 1 January 2019 (as per Directive 2016/1065). Until then, taxpayers who, in line with the previous position of the Italian tax authorities, are treating the supply of both SPV and MPV as outside the scope of VAT will not be subject to penalties.
- The electronic payment condition requested to apply a deduction for VAT and income tax purposes is also regarded as met when it is possible to reconcile and trace all payments in the chain, e.g., if the employee buys fuel for company cars for a business trip, the condition would be met as long as the employee pays via its personal credit/debit card and the employer refunds the expense via a traced payment (e.g., bank transfer).

**Supplies within the public sector**
The mandatory e-invoicing from 1 July 2018 applies also to supplies made within the public sector, in the case of a sub-contract but exclusively to:
- a. The relationship between the main supplier/contractor (A) and the Public Administration
- b. The relationship between the first sub-supplier/contractor (B) and the main supplier/contractor (A)

The mandatory e-invoicing does not apply to the relationship between other sub-suppliers/contractors (e.g., C, D, and E) and the first sub-supplier/contractor (B).

**Technical requirements for mandatory e-invoicing**
The following requirements are applicable as of 1 July 2018 for defined fuel supplies and sub-contracts in the public sector and as of 1 January 2019 for all other transactions:
- The transmission via the Interchange System (SDI) may regard either one single invoice or a group of invoices.
- The mandatory invoicing requirements also apply to e-invoices.
- The e-invoice shall be in the XML format without macro-instructions or executable codes that may impact the integrity of the invoice content.
The e-invoice may include other fields/data that are not mandatory.

The e-invoice delivery via the SDI can be made alternatively by:
- Certified e-mail (PEC);
- Electronic services made available by the Italian tax authorities (web or app);
- Web cooperation system (web service);
- FTP protocol.

Both the web service and the FTP protocol require a specific application at the time of the registration with the SDI.

The SDI performs some formal checks at the time of the delivery. If the checks are not passed, a reject report is issued within five days from the delivery/upload into the SDI. In this case, the invoice is considered not issued.

If the e-invoice includes a digital signature, the SDI performs some checks on the signature certificate validity.

The e-invoice can be delivered by/to an intermediary on behalf of the taxpayer/recipient.

The way the recipient wants to receive the e-invoice must be indicated at the time of the application/registration on the SDI.

When the checks of the SDI are passed and the e-invoice is delivered to the recipient, the supplier receives a delivery report including the date of receipt by the recipient.

If the delivery of the e-invoices to the recipient is not possible, the SDI makes the e-invoice available to the recipient on the tax authorities web-site dedicated area and informs the supplier accordingly so he can timely inform the customer accordingly.

When the e-invoice is made available on the Tax Authority’s website (dedicated area), for VAT purposes, the date of receipt is when the recipient logs in to the dedicated area for e-invoice visualization. The SDI informs the supplier accordingly.

For each file managed by the SDI an alpha-numeric code (hash) is generated and included in the delivery receipts generated.

Any request of issuance of a credit/debit note by the customer to the supplier is managed outside the SDI. The credit/debit note must be transmitted via the SDI.

The self-invoice to be issued by the customer, when it does not receive or receives an irregular invoice by the supplier within four months following the taxable activity, needs to be issued/delivered via the SDI. It will no longer be necessary to send this self-invoice to the tax authorities by ordinary mail.

For transactions not falling under mandatory e-invoicing (e.g., cross-border transactions), it is necessary to file a monthly communication (Spesometro) by the last day of the month following the invoice date.

For import and export transactions where a Customs bill is issued and for cross-border transactions where the supplier opted for e-invoicing, the Spesometro communication is optional.

Since e-invoices are stored/kept by the Italian tax authorities, the authorities may access such e-invoices only after having served a specific communication to the taxpayer.

Endnote

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Indirect Tax

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