

05-2021

31/05/2021 **Italy** - COVID-19 Crisis: Tax Authorities Clarify VAT Treatment of Supplies of Goods and Services for Containment and Management of the Pandemic

The Italian tax authorities have recently published several clarifications regarding the VAT treatment applicable to supplies of goods and services related with the COVID-19 pandemic. In this context, it has been clarified that:

- The supply of certain types of multi-use gloves do not qualify as personal protective medical equipment and, therefore, fall outside the scope of application of the super-reduced VAT rate of 5% and the standard VAT rate of 22% applies.
- The supplies of leasing of pulmonary mechanical ventilator are subject to the super-reduced VAT rate of 5% from 1 January 2021.
- The supplies of in vitro diagnostic equipment for COVID-19, meeting certain requirements, are zero-rated until 31 December 2022.

Since measures concerning Covid-19 are rapidly changing, this article is for information purposes only. Any companies intending to act upon this article should first contact us for specific advice concerning these elements.

31/05/2021 **Italy** - Clarification of Rules for Intra Community Supplies of Electronic Services

The Italian tax authorities have clarified the procedure to identify qualifying taxable persons, to which services are supplied, for purposes of the application of the place of supply rules regarding intra community supplies of electronic services.

The tax authorities concluded that the main applicable criteria in order to identify the relevant purchaser in case of uncertainty is the one foreseen in the article 22 of Council Implementing Regulation 282/2011/EU, which is the nature and the use and enjoyment of the services and, secondly, the concluded agreement, the purchase order and the indicated VAT identification number.

31/05/2021 **Belgium** - Belgium Adopts Changes to VAT Territorial Scope and Clarifies VAT Exemptions

The Belgian Parliament has recently adopted changes to the VAT territorial scope and provided clarifications regarding VAT refunds.

Regarding the territorial scope, it has been clarified that although the United Kingdom is regarded as a third country as from 2021, a transitional regime will be applicable for a period of 4 years to Northern-Ireland, which foresees that the EU VAT rules regarding the supply of goods remain applicable.

Regarding the VAT refunds, a codification of the concept of "persons entitled to VAT refund" will be introduced, allowing in certain cases the refund to a person that is normally not entitled to it, such as a recognized administrative intermediary.

31/05/2021 **Italy** - VAT E-Commerce Package and of Supplies of Services and Distance Sales of Goods

The Italian Council of Ministers has recently approved a Legislative Decree implementing measures regarding the VAT e-commerce package and obligations for supplies of services and distance sales of goods, as consequence the transposition of the articles 2 and 3 of Council Directive (EU) 2017/2455 amending the EU VAT Directive (2006/112)) and the Directive 2009/132/EC.

31/05/2021 **Czechia** - Clarifications Regarding the VAT Refund Procedure

The Czech tax authorities have published clarifications regarding the VAT refund procedure for taxable persons established in the United Kingdom. Among such clarifications, it has been outlined the conditions that have to be met under the Non-EU VAT Refund Directive (86/560), also known as the 13th VAT Directive.

26/05/2021 - New Rules in VAT e-commerce in the European Union

From 1 July 2021, the new rules regarding the VAT e-commerce in European Union will come into force in the EU. The main changes foreseen by this new regime are the following:

- With the new One Stop Shop (OSS), online sellers can register in one EU Member State and this will be valid for the declaration and payment of VAT on all distance sales of goods and cross-border supplies of services to customers within the EU;
- The existing thresholds for distance sales of goods within the EU will be abolished and replaced by a new EU-wide threshold of 10 000 EUR;
- Special provisions are introduced whereby online marketplaces/platforms facilitating supplies of goods are deemed for VAT purposes to have received and

supplied the goods themselves (“deemed supplier”);

- New record keeping requirements are introduced for online marketplaces/platforms facilitating supplies of goods and services, including where such online marketplaces/platform are not a deemed supplier.
- Abolishment of the current import VAT exemption for goods in small consignments of a value below 22 EUR. This means that all goods imported in the EU will now be subject to VAT. On the other hand, a new special scheme for distance sales of low goods imported from third territories or third countries will be created, i.e. the Import One Stop Shop (IOSS), which has been created to simplify the declaration and payment of VAT;
- For distance sales of imported goods in consignments not exceeding EUR 150, simplification measures will be introduced, in case the IOSS is not used.

26/05/2021 **Italy** - Clarifications regarding the VAT Grouping Regime

The Italian tax authorities clarified that the supplies of goods and services carried out between entities of the same VAT group are subject to VAT when such goods or services are supplied with reference to an activity for which the relevant member of the VAT group opted for a separate application of VAT.

26/05/2021 - European Court of Justice, Case C-895/19 – Right to Deduct VAT on Intra-Community acquisition of goods

The ECJ has ruled that the articles 167 and 178 of Council VAT Directive 2006/112 / EC of 28 November 2006, must be interpreted as precluding national legislation under which the exercise of the right to deduct VAT relating to an intra community acquisition in the same tax period in which the VAT is due, is subject to an indication of the VAT due on the tax return submitted within three months of the end of the month in which the tax obligation in respect of the goods acquired arose.

26/05/2021 **Italy** - Clarifications Issued Regarding Procedure for Regularization of Incorrect Application of Reverse Charge Mechanism

The Italian Tax Authorities have recently clarified that, in cases where the reverse charge mechanism is incorrectly applied, penalties between 250 EUR and 10 000 EUR are due by the supplier, and the purchaser is jointly liable.

In addition, it has been also clarified that despite the mistake, the application of the VAT is frozen (i.e., with no need to issue a credit note) and the purchaser may

exercise the right to deduct the respective input VAT.

26/05/2021 **Czechia** - COVID-19 Crisis: Extension of Import VAT Exemption on Certain Supplies

Czech Republic has announced the extension, until 31 December 2021, of the VAT exemption in the import of certain supplies used to combat COVID-19. Such exemption is only applicable to supplies made by government organizations, non-profit organizations and rescue units.

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26/05/2021 - European Court of Justice, "ALTI", Case C-4/20 – Default Interest Owed by VAT Liable Person by Reason of Late Payment of VAT Will Not Be Included as Secondary Liability of Third Party

The ECJ has ruled that the article 205 of Council VAT Directive 2006/112/EC of 28 November 2006, read in the light of the principle of proportionality, must be interpreted as not precluding national legislation under which a person held jointly and severally liable, within the meaning of that article must pay, in addition to the amount of VAT not paid by the person liable for that tax, default interest owed by that person on that amount, where it is established that that person knew or ought to have known, when exercising his right of deduction, that that person would not pay that tax.

26/05/2021 **Italy** - Clarification regarding VAT Exemption applicable to Supplies of Financial Services

The Italian Tax Authorities have recently clarified that the services related with addressing, receiving, transmitting, settling amounts which are object of orders of payment related to credit cards and SEPA direct debit, supplies of charge-back and dispute management services are VAT exempt, insofar as they fall within the scope of article 10(1)(no. 1) of the VAT Act.

26/05/2021 **Italy** - Clarifications Issued Regarding Habitual Exporter Regime for UK Taxable Persons

The Italian Tax Authorities have recently clarified that taxable persons established in the United Kingdom and registered for VAT purposes in Italy, through direct VAT registration until 2020 and through the appointment of an Italian VAT representative from 2021, can continue to benefit from the habitual exporter regime.

21/05/2021 **France** - France Introduces Electronic Filing for VAT Refund Requests for Non-EU Businesses

From 1 July 2021 onwards, it will be required that non-EU taxable persons request VAT refunds electronically through a tax representative established in France. In this context, the Decree No. 2021-507 of 27 April 2021 foresees the rules that must be complied with in the event of such VAT refunds requests.

21/05/2021 **Denmark** - COVID-19 Crisis: Extension of VAT Loan Schemes

In order to attenuate the effects of the COVID-19 pandemic, Denmark has issued a law authorizing the extension of interest-free loans for VAT payments for small and medium-sized businesses.

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21/05/2021 **Germany** - Germany Implements EU VAT e-commerce package

The Federal Ministry of Finance has announced that there will be no further postponement concerning the EU VAT e-commerce package and that such new regulations will come into force on 1 July 2021.

21/05/2021 **Finland** - Finland Implements EU VAT e-commerce package

Finland announced the adoption of the EU VAT e-commerce package, which will enter into force on 1 July 2021.

21/05/2021 - European Court of Justice, “technoRent International and Others”, Case C-844/19 - Entitlement to Interest on Excess VAT or VAT Refund

The ECJ has ruled that the Article 90(1) and Article 183 of Council Directive

2006/112/EC of 28 November 2006, read in conjunction with the principle of fiscal neutrality, must be interpreted as meaning that a refund resulting from an adjustment of the taxable amount under Article 90(1) of the above mentioned directive must, like a refund of excess value added tax under Article 183 of this directive, give rise to the payment of interest where it is not made within a reasonable period of time.

21/05/2021 **Poland** - Ministry of Finance Clarifies SLIM VAT package

The Ministry of Finance has recently provided clarifications regarding the "SLIM VAT" package that entered into force at the beginning of the year 2021. Among other explanations it was provided that:

- A zero VAT rate can be applied to advance payments concerning export supplies, where the goods are exported outside the European Union within 6 months from the date of receiving the advance payment.
- The value of non-taxable gifts to unidentified recipients has been increased from 10 PLN to 20 PLN exclusive of VAT;
- Under certain conditions, taxable persons can correct and decrease their output VAT before receiving a confirmation that the purchaser of their goods or services received the corrected invoice related with discounts.

18/05/2021 **Malta** - Malta Adopts VAT E-Commerce Rules

The Maltese government announced the adoption of the EU VAT e-commerce package, which will enter into force on 1 July 2021.

18/05/2021 **Finland** - COVID-19 Crisis: Government Presents Additional Budget for 2021

The Finnish government has announced the extension, until 31 December 2021, of the zero VAT rate for goods used for testing, treating or preventing COVID-19 and that excise duties applicable to tobacco will be increased by 100 million EUR in 2022 and 2023.

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18/05/2021 **Bulgaria** - VAT Refunds to Non-EU Persons

Bulgaria amended the Ordinance № H-10 of 24 August 2006 related with the VAT refunds reimbursed to foreign persons, who are established outside the territory of the European Union.

One of the main amendments, concerns to the extension of the scope of the application of such VAT refunds if these Non-EU persons perform:

- supplies under the non-Union scheme;
- intra-EU distance sales of goods and supplies of goods facilitated by electronic interfaces under the Union scheme; and
- supplies of goods for which they apply the scheme for distance sales of goods imported from third countries.

18/05/2021 **Spain** - Spain Adopts VAT E-Commerce Rules

The Spanish government announced the adoption of the EU VAT e-commerce package, which will enter into force on 1 July 2021.

18/05/2021 **Belgium** - COVID-19 Crisis: Temporary Reduced VAT Rates for Restaurant and Catering Services

Belgium has recently announced the application of a temporary reduced VAT rate of 6% on the supplies of restaurant and catering services, applicable from 8 May 2021 until 30 September 2021.

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18/05/2021 **Italy** - COVID-19 Crisis: Clarifications Regarding VAT and Customs Duties Relief for Importation of Medical Equipment

The Italian customs authorities published Circular No. 15/2021, providing clarifications regarding the EU Commission Decision (EU) 2021/660 of 19 April 2021, which is related to the relief from import duties and VAT exemption on importation of goods needed to combat the effects of the COVID-19. Among the clarifications, it was announced the prolongation of this temporary relief until 31 December 2021. Since measures concerning Covid-19 are rapidly changing, this article is for information purposes only. Any companies intending to act upon this article should first contact us for specific advice concerning these elements.

18/05/2021 **Bulgaria** - VAT Refunds to Taxable Persons established in Northern Ireland

Bulgaria amended the Ordinance № H-9 of 2009 related with the VAT refunds reimbursed to foreign persons, who are established within the territory of the European Union.

One of the main amendments, concerns to introduction of rules for VAT refunds to taxable persons established in Northern Ireland.

18/05/2021 **Belgium** - COVID-19 Crisis: Import VAT Exemption on Certain Medical Supplies

Belgium announced an extension of the import VAT exemption on medical supplies, from 30 April until 31 December 2021. This measure prevails over the temporarily reduced VAT rate of 6% applicable for masks and hydroalcoholic gels.

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