

## INFORMATION - Italy

### Use and Enjoyment - VAT Directive 2006/112/EC - Article 59a

In Italy, use and enjoyment rules are applicable to telecommunications and broadcasting services provided to non-VAT taxable persons.

On the basis of the Decreto legislativo (legislative decree) n° 42 dated 31 March 2015, telecommunications and broadcasting services provided to an Italian customer are not subject to Italian VAT if the service is used and enjoyed outside of the EU (Art. 7-sexies (1) (g) of DPR 633/72). Thus, only paragraph a) of article 59a has been implemented.

### Time of supply / chargeability - Deferment and Cash Accounting Scheme - VAT Directive 2006/112/EC - Article 66

In Italy, the basic time of supply for goods and services is the earliest of the following events: the delivery of goods; the performance of services; or receipt of full or partial payment.

### Time of supply / chargeability - Continuous supplies - VAT Directive 2006/112/EC - Article 64(2)

In Italy, continuous supplies of services are taxable in accordance with the general principles laid down in Directive 2006/112/EC.

### Re-valuation of services at open market value - VAT Directive 2006/112/EC - Article 80

N/A

### Bad Debt relief - VAT Directive 2006/112/EC - Article 90

In Italy, a bad debt relief claim can be made in those cases where the customer is in bankruptcy or other similar official procedures (e.g. foreclosure, etc.).

In particular if the consideration of a transaction already invoiced is totally or partially reduced due to customer's insolvency, bad debt relief can be claimed (and thus a credit note can be issued) when the bankruptcy or similar procedure is completed and there is no chance for the supplier to recover the debt.

Reference to the above may be found in the Italian VAT Act (DPR 633/72), Article 26.

### Application of reduced VAT rates - VAT Directive 2006/112/EC - Article 98

In Italy, no reduced VAT rates apply with respect to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

The VAT rate on e-books has been reduced from 22% to 4% with effect from 1 January 2015. The Law 208/2015 (published in the Official Gazette n° 302 dated 30/12/2015) and the so-called *Stability Law for 2016*, have extended the reduced VAT rate from 22% to 4% also to newsletters, periodicals and editorial products in general, conveyed through any physical medium or by electronic means of communication.

### Standard VAT Rate - VAT Directive 2006/112/EC - Article 96-97

In Italy the standard VAT rate is 22%.

### Release from payment of insignificant amounts of VAT - VAT Directive 2006/112/EC - Article 212

In Italy, no payment is due where the annual VAT payable is lower than EUR 10,33.

Reference to the above may be found under DPR n. 126 of 16 April 2003, art. 3.

### Invoicing Obligations - Obligation to issue an invoice - VAT Directive 2006/112/EC - Articles 217-249

In Italy, a taxable person is not required to issue an invoice with respect to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons, unless expressly requested by the customer.

The Decreto del Ministro dell'Economia e Finanze (Ministerial Decree) dated 27/10/2015 (published in the Official Gazette n. 263 dated 11/11/2015), provides also, with effect from 1 January 2015, the release from the obligation to issue simplified invoices for telecommunications, broadcasting and electronic services supplied to non taxable persons.

On the basis of the Decreto Legislativo n. 42 dated 31/03/2015 (entered into force starting from 03/05/2015) currently applicable on telecommunications, broadcasting and electronic services and according to the Circular Letter n. 22/E dated 26/05/2016, the release from invoicing obligations applies to:

- extra-EU suppliers applying for the non-EU MOSS regime in Italy;
- Italian suppliers applying for the EU MOSS regime;
- suppliers that, having applied for the MOSS regime in another EU Member State provide telecommunications, broadcasting and electronic services to non-VAT taxable persons established in Italy.

The release from invoicing obligations applies only to those supplies rendered towards non-VAT taxable persons resident or established in Italy. Conversely, for telecommunications, broadcasting and electronic services supplied by an Italian taxable subject towards private customers established in other EU countries, the rules of the Member State of consumption apply.

#### **Invoicing Obligations - Content of an invoice - VAT Directive 2006/112/EC - Articles 217-249**

The supplier, unless exempt, should issue an invoice in accordance with the Italian VAT legislation. A simplified invoice may be issued under certain conditions (e.g. amount not higher than EUR 100, etc.).

The invoice can be issued in a foreign language, but an Italian translation must be provided upon request from the Italian Tax Authorities.

Reference to the above may be found in Article 21 of the Italian VAT Act (DPR 633/72).

#### **Invoicing Obligations - Time limit for issuing an invoice - VAT Directive 2006/112/EC - Articles 217-249**

As per the Italian VAT legislation, there are no specific provisions regarding the time limit for issuing an invoice in relation to the supply of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons. So the general invoicing rules apply.

Reference to the above may be found in Articles 21, 21bis and 22 of the Italian VAT Act (DPR 633/72).

Special rules apply for the pre-paid telecommunication traffic (e.g. pre-paid cards) where the VAT is applied by the supplier at the time the pre-paid traffic is sold (i.e. the pre-paid card is delivered to the customer who pays immediately the consideration).

Reference to the above may be found in Decreto del Ministro dell'Economia e Finanze (Ministerial Decree) No 366 dated 24 October 2000.

#### **Invoicing Obligations - Summary Invoices - VAT Directive 2006/112/EC - Articles 217-249**

In Italy, for services which may be identified by appropriate documentation and which are provided in the same calendar month to the same customer, one invoice (together with the details of the services) may be issued by the 15th day of the month following the month when the taxable event of those services occurred.

Reference to the above may be found in Article 21 of the Italian VAT Act (DPR 633/72).

#### **Invoicing Obligations - Electronic invoices - VAT Directive 2006/112/EC - Articles 217-249**

E-invoices are admitted if accepted by the customer (art. 21,1, DPR 633/72). When the customer is a public administration, it is obliged to issue an electronic invoice.

#### **Invoicing Obligations - Batch of electronic invoices - VAT Directive 2006/112/EC - Articles 217-249**

There are currently no specific provisions in the Italian legislation on the issuance of batch invoices for the supply of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons. The general rules provided under Directive 2006/112/EC applies.

#### **Additional obligations deemed necessary for collecting VAT and preventing evasion (anti-avoidance measures) - VAT Directive 2006/112/EC - Article 273**

Italy has not implemented any rules or anti-avoidance measures that may directly impact telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

#### **Stand-still scheme - Derogations for States which were members of the Community on 1 January 1978 - VAT Directive 2006/112/EC - Articles 370-391**

There are no provisions which are applicable under a Stand-still Scheme in the Italian VAT legislation or subject to common practice in Italy that may be relevant for telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

#### **Stand-still scheme - Derogations for States which acceded to the Community after 1 January 1978 - VAT Directive 2006/112/EC - Articles 370-391**

N/A

#### **VAT Treatment of vouchers**

There are currently no specific provisions in the Italian legislation with regards to vouchers. Some general principles are provided in this respect by the Italian Tax Authorities' interpretations on a case by case basis.

#### **Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (E-learning activities)**

In Italy, the supply of education by an eligible body is an exempt supply with no right to input VAT deduction.

Eligible bodies are schools or institutions recognized by Public Administration, non-profit entities, etc.

Reference to the above may be found in the Italian VAT Act (DPR 633/72), Article 10.

#### **Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (Gambling activities)**

In Italy, gambling activities are exempt with no right to input VAT deduction, there is no specific exemption for the supply of online gaming services but in practice these services are also treated as exempt with no input VAT deduction.

Reference to the above may be found in the Italian VAT Act (DPR 633/72), Article 10.

There is no specific guidance in the Italian legislation regarding the VAT treatment of bonus points or credits earned as part of e-gambling activities.

## Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (General)

There are no further exemptions in the Italian VAT legislation under which the supply of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons may fall.

## VAT Registration Process

Instructions and information regarding MOSS registration are available on the Italian VAT Authorities official website ([www.agenziaentrate.gov.it](http://www.agenziaentrate.gov.it)):

[http://www1.agenziaentrate.gov.it/english/services/moss/index\\_moss.htm](http://www1.agenziaentrate.gov.it/english/services/moss/index_moss.htm).

On the following link there is also a FAQ section:

[http://www1.agenziaentrate.gov.it/english/services/moss/faq\\_2.htm](http://www1.agenziaentrate.gov.it/english/services/moss/faq_2.htm).

MOSS registration is regulated by art. 74-quinquies e 74-sexies, DPR 633/1972 and provvedimenti del Direttore dell'Agenzia delle Entrate (Order of the Director of the Italian Revenue Agency) n. 122854/2014 of 30 September 2014 and n. 56191/2015 of 23 April 2015.

## Access to web-portal and contact details of the local VAT Authorities

The web link for the registration is [http://www1.agenziaentrate.gov.it/english/services/moss/index\\_moss.htm](http://www1.agenziaentrate.gov.it/english/services/moss/index_moss.htm) (EN), and

<http://www.agenziaentrate.gov.it/wps/content/Nsilib/Nsi/Home/CosaDeviFare/Richiedere/Regimi+Opzionali/MOSS/Scheda+Info+MOSS/> (IT).

General Contact and contact point VAT obligations and reimbursements:

Agenzia delle Entrate

Via C. Colombo 426 c/d - 00145- Rome, Italy

e-mail: [mossitaly@agenziaentrate.it](mailto:mossitaly@agenziaentrate.it)

webpage:

<http://www1.agenziaentrate.gov.it/english/services/moss/help-desk.htm>

## Appointment of a VAT Agent

The Decreto legislativo n. 42 dated 31 March 2015 on telecommunication, broadcasting and electronic services does not require the appointment of agents with respect to MOSS users in Italy.

## Penalties for non-compliance (Failure to register and late registration)

Missing, incorrect and/or late MOSS VAT registration, which do not allow the identification of the taxpayer or the place where the taxpayer's business activity takes place, is subject to a penalty between EUR 500 and EUR 2.000. Further penalties may be applicable for violations of other requirements.

Registration under the MOSS will be not be considered complete if the Tax Authorities cannot identify the taxpayer or the place where the taxpayer's business activity takes place.

Reference to the above may be found in Decreto legislativo 471/1997. The penalty will be reduced to a fifth of the minimum (€ 100) if missing information is given within 30 days from the Tax Office request.

## Penalties for non-compliance (Non-payment and late payment of VAT)

For missing and/or late payment of VAT, the following penalties apply:

- a) 2% of the VAT not correctly paid for each day of delay, if VAT is paid up to the 15th day following the due date;
- b) 30% of the VAT not correctly paid in the other cases (i.e. missing payment or late payment after 15th day following the due date).

Interest is also payable with respect to missing/late VAT payments.

In case of spontaneous joined late payment of VAT, penalties and interests, penalties may be reduced to an amount included between 1/10 to 1/5 of the penalties above mentioned, depending on the time when the spontaneous late payment is made.

Reference to the above may be found in sections D. Lgs. 471/1997 and D. Lgs. 472/1997 of the Italian VAT Act.

## Penalties for non-compliance (Non-submission and late submission of VAT returns)

For missing/late MOSS VAT returns: a penalty of 120% up to 240% of the VAT due and not paid will apply (with a minimum penalty equal to EUR 250).

Reference to the above may be found in Decreto legislativo 471/1997.

## Penalties for non-compliance (Incomplete and incorrect VAT returns)

For incorrect MOSS VAT returns: a penalty of 90% up to 180% of the VAT due and not paid will apply. Reference to the above may be found in Decreto legislativo 471/1997.

## Penalties for non-compliance (Non-compliance with invoicing and accounting obligations)

a) for missing/late invoicing (where mandatory) and posting of the invoices in the Italian VAT ledgers: penalties ranging from 90% to 180% of the VAT amount wrongly invoiced;  
b) for missing or irregular bookkeeping : penalties range from EUR 1.000 to 8.000 EUR , however this could cause an assessment of the Italian Tax Authorities based on presumptive elements. Moreover, violations relating to the content and documentation of the periodical MOSS returns are subject to penalties from EUR 250 to EUR 2.000. Reference to the above may be found in Decreto legislativo 471/1997.  
Nevertheless, it must be reminded that for cross-border supplies of telecommunications, broadcasting and electronic services by non-EU or EU providers to customers domiciled or resident in Italy, no invoicing obligation is provided. For supplies made by providers established in Italy to customers domiciled or resident in Italy, invoicing is not mandatory, unless the customer requires such document.  
Reference to the above may be found in Article 22 of the Italian VAT Act (DPR 633/72).

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