



## NEWSLETTER NO. 18 - 2024

27 December 2024 Page 1/4

### LEGISLATIVE DECREE 180/2024

The Italian legislative decree 180/2024 (published in the Official Gazette dated 30 November 2024) was adopted to implement the council directive (EU) 2020/285 of 18 February 2020 on the common system of value added tax as regards the special scheme for small enterprises and the council directives (EU) 2022/542 of 5 April 2022 amending the council directives 2006/112/EC and (EU) 2020/285 as to the VAT rates.

The new provisions on VAT exemption provide as follows: i) the rules of the exemption scheme applicable in Italy to «taxable individuals» established in another EU member state; ii) the rules on the exemption scheme applicable in other EU member states to «taxable individuals established on the Italian territory».

The exemption scheme is recognized to persons not established on the Italian territory at the same conditions as those set forth for flat-tax payers under the Italian law 190/2014, and hence is restricted to non-resident individuals only.

Similarly to established persons, non-established taxable persons are exonerated from VAT obligations as soon as they apply the exemption scheme on the Italian territory. Taxable persons continue to be obliged to certify and to issue invoices. Invoices may be issued as simplified invoices pursuant to article 21-bis of the Italian DPR 633/1972, if requirements are met.

Taxable persons established in Italy, even if they do not qualify as flat-tax payers under the Italian law 190/2014, determine the eligibility thresholds for the exemption scheme in another EU Member State (cross-border exemption) based on the turnover calculated according to the VAT directive rules.

Moreover, to implement directive 2022/542/EU, specific territorial criteria are introduced for the provision of services relating to cultural, artistic, sporting, scientific, educational, recreational and similar activities if they are provided as streaming services or otherwise made available virtually.

The provisions on the implementation of the above-mentioned directives will be effective as of 1 January 2025.

Please find below a short analysis of the most important news.

### EU VAT EXEMPTION SCHEME

#### Rules of the exemption scheme applicable in Italy to persons established in other EU member states

#### Eligibility requirements

Taxable persons established in another EU member state may apply the exemption scheme on the Italian territory, if the following requirements are met:

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## NEWSLETTER NO. 18 - 2024

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27 December 2024 Page 2/4

- a) EU turnover of no more than EUR 100,000 in the previous calendar year;
- b) Italian turnover of no more than EUR 85,000 or below the lower threshold set forth under article 1 (54) of the Italian law 190/2014 in the previous calendar year;
- c) EU turnover of no more than EUR 100,000 in the period of the calendar year prior to the notification pursuant to letter d);
- d) prior notification to the own Member state of establishment of the intention to avail itself of the exemption scheme on the Italian territory;
- e) identification by the EX identification number for the application of the exemption scheme in the Member state of establishment only.

EU operators meeting exclusion requirements similar to those set forth under the Italian law 190/2014 are excluded from this tax benefit

### VAT obligations

A taxable person admitted to the exemption scheme is exempted from all VAT obligations on the Italian territory, except from the duty to certify daily receipts and to store the relevant documents.

Simplified invoices, if any, may be issued pursuant to article 21-bis, even if their total amount exceeds the threshold set forth under article 21-bis (1) of the Italian DPR 633/1972.

A non-established taxable person must provide for VAT identification on the Italian territory and file a VAT tax return, if it did not submit the quarterly notices on transactions made in the reference quarter to its Member state of establishment.

### Termination of the exemption scheme

A non-established taxable person ceases to apply the exemption scheme in Italy:

- a) if it gave notice to the Member state of establishment of its intention not to avail itself of the

- exemption scheme on the Italian territory, starting from the first day of the calendar quarter following the one in which the Member state of establishment received such notice or if such notice was received during the last month of the calendar quarter, starting from the first day of the second month of the subsequent calendar quarter;
- b) if the turnover requirements are no longer met; i.e. if the turnover exceeded EUR 85,000 or the lower threshold set forth under article 1 (54) of the Italian law 190/2014 or if the other requirements set forth under article 70-quaterdecies (2) of the Italian DPR 633/1972 are no longer met;
- c) if the EUR 100,000 turnover threshold in the Member State is exceeded, starting from the calendar year during which the threshold is exceeded. In such case, the tax is due starting from the performance of the transaction that causes the threshold to be exceeded, and starting from the same date the taxable person must provide for VAT identification in the Member State and for all VAT obligations to be fulfilled;
- d) in all other cases in which the EX identification number is deactivated, as soon as such identification is terminated.

The Italian tax authority notifies the date on which the exemption scheme has ceased to be applicable on the Italian territory in a timely manner, based on the information received by the Member state of establishment and other available information (if any).

### Rules on the exemption scheme applicable in other EU Member States by persons established in Italy

A taxable person established on the Italian territory may be eligible for the exemption scheme in other EU Member States that adopted the system, if the following requirements are met:

- a) EU turnover of no more than EUR 100,000 in the calendar year prior to the notice;
- b) EU turnover of no more than EUR 100,000 in the period of the current calendar year prior to the

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## NEWSLETTER NO. 18 - 2024

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27 December 2024 Page 3/4

notice;

- c) the turnover achieved on the territory of the state of exemption does not exceed the one set forth by such state for the adoption of the exemption scheme;
- d) prior notification to the Italian tax authority of the intention to avail itself of the exemption scheme on the territory of other States of exemption;
- e) identification for the adoption of the exemption scheme on the Italian territory only.

The notification under d) must contain the following information:

- (i) name and surname or company name, corporate activity, legal form, place of residence or tax residence (if different) of the taxable person;
- (ii) VAT identification number, tax code and other identification numbers (if any) attributed to the taxable person by other States of exemption for VAT purposes;
- (iii) State(s) of exemption, where the taxable person intends to adopt the exemption scheme;
- (iv) total value of the sales of goods and of services in the two calendar years preceding the notification on the Italian territory and in each of the other Member States, including member states other than the Member States of exemption;
- (v) total value of the sales of goods and services in the period of the current calendar year preceding the notification on the Italian territory and in each of the other Member States, including member states other than the Member States of exemption;
- (vi) further information set forth under the measure issued by the Director of the Italian tax authority.

The information under iv) and v) above is submitted separately for each sector of activity to Member States of exemption that set forth different thresholds based on sectors of activity.

The taxable person notifies the Italian tax authority beforehand specifying its VAT number with the EX suffix, the amended information previously provided (if any), including the intention to avail itself of the exemption scheme in

one or more Member States other than those previously specified and the decision to terminate the exemption scheme in one or more Member States previously specified.

### VAT TERRITORIALITY RULES

According to the general rule contained in article 7-quinquies of the Italian DPR 633/1972 **the provision of services relating to cultural, artistic, sporting, scientific, educational, recreational and similar activities, including fairs and expositions, the services by the organizers of such activities, as well as the of the respective ancillary services, to customers which are not taxable persons** are deemed performed on the Italian territory, **if the same activities are materially carried out there**. The same territorial criterion applies also for the provision of services for access to cultural, artistic, sporting, scientific, educational, recreational and similar events as well as to the respective ancillary services.

However, **further to the amendments introduced under the Italian legislative decree 180/2024, where the above services are streamed or otherwise made available virtually**, the services are deemed performed on the Italian territory if the customer is domiciled on the Italian territory or is resident there and has no domicile abroad.

**Furthermore, as to the performance of services for access to cultural, artistic, sporting, scientific, educational, recreational and similar events, including fairs and expositions, as well as the provision of the respective ancillary services to customers which are taxable persons, the general rule sets forth** that they are deemed performed on the Italian territory, if the events themselves take place there.

However, further to the amendments introduced under the Italian legislative decree 180/2024, the provision is not applicable to the admission to events, if such events **are virtual events. In such case, therefore, the general rule of territoriality applies again**.

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### LAW-DECREE 131/2024 (SALVA INFRAZIONI)

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Article 16-ter of the Italian law-decree 131/2024 sets forth

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## NEWSLETTER NO. 18 - 2024

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27 December 2024 Page 4/4

that the rule providing for the exclusion from VAT of loans or secondment of personnel (article 8 (35) of the Italian law 67/1988) is repealed. Therefore, loans and secondment of personnel must be subjected to VAT, according to the ordinary rules.

The provision hereunder applies to **loans and secondment of personnel signed or renewed as of 1 January 2025**; indeed, behaviours adopted by taxpayers before such date remain unchanged thereof, in accordance with the ECJ judgement dated 11 March 2020 on C-94/19 or based on article 8 (35) of the Italian law no. 67/1988, if no final tax assessments have occurred yet.

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Yours sincerely

HAGER & PARTNERS