



Memorandum No. 5/2018

Perugia, 19 September 2018

To our  
**Clients**  
Their registered offices

Re: VAT – Italy – e-invoicing and electronic invoicing.

Dear Clients,

In regards to January 1, 2019, when the requirement for electronic invoicing will become operational unless extensions and/or changes are made, all parties subject to VAT are required to prepare internal procedures suitable to promptly and accurately comply with the new legislation.

In fact, the final approval of the 2018 Budget Law introduced **the obligation to issue electronic invoices starting January 1, 2019**, for all operations subject to VAT in Italy.

The new obligations concern both the sales and services to taxable subjects, known as **B2B (business to business)** transactions and when the supplies and services are provided to final consumers, known as **B2C (business to consumer)** transactions, without prejudice to the exemptions from invoicing provided for by Article 22 of Presidential Decree 633/72 and the consequent powers to issue a till or full receipt.

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**SIMONE BUCAIONI**  
CHARTERED ACCOUNTANT – STATUTORY AUDITOR



Order of Chartered Accountants and Accounting Experts of Perugia No. 615A  
Register of Statutory Auditors No. 99327 Ministerial Decree 05/11/99 Official Gazette No. 91 dated 16/11/1999  
06122 PERUGIA - Via Bartolo, 10/16 – Tel. 075 5722661 - Fax 075 5717996 – e-mail: [simone.bucaioni@odcecperugia.it](mailto:simone.bucaioni@odcecperugia.it)  
[www.studiobucaioni.it](http://www.studiobucaioni.it)

## **B2B electronic invoicing**

The obligation of electronic invoicing through the Exchange System (ES) applied to all parties subject to VAT, requires that these parties, in the first place, **equip themselves with an invoicing software (recommended choice) and to select the sending channel, which may either be the Exchange System (ES) or PEC (Certified E-mail)**; if the PEC channel is selected, prior accreditation is not required for the Revenue Agency's Exchange System (ES). This obligation is not applied to the so-called "minor taxpayers" who fall under the old "minimum" tax regime (Article 27, paragraphs 1 and 2 of Legal Decree 98/2011) and those who fall under the flat-rate scheme (Article 1, paragraphs from 54 to 89 of Law 190/2014).

In fact, it is recommended that companies equip themselves with software tools to interface with the System to issue and receive electronic invoices, and to send and receive the documents by directly interfacing with the Exchange System (ES) to manage the various messages (for example acceptance notifications, effective terms notifications, refusal notifications, etc.). Our Digital Firm, at [www.studiobucaioni.it](http://www.studiobucaioni.it), will allow all our customers, either independently or with assistance, to use our computer systems for the issuance, receipt, and management of electronic invoices in compliance with the law.

## **B2C electronic invoicing**

The extension of electronic invoicing to transactions with private consumers (resident or domiciled in Italy) is provided for by the combined provisions of Article 1, paragraph 3 of Legislative Decree 127/2015 in the version reformulated by the 2018 Budget Law (Law 205/2017), which regulates the methods for delivering invoices to private entities in defined detailed, as well as the Revenue Agency's provision 89757 dated April 30, 2018.

In such cases, the electronic invoice is issued to subjects who are not required to activate the Exchange System (ES), or to adopt a Certified E-mail (PEC) address for the receipt of the invoice; as a consequence, the latter must be filled out by indicating the conventional code "0000000" in the section reserved to the receipt code (used for the address). Moreover, when issuing electronic invoices to the private consumer, the section concerning personal data must contain only the tax code.

The completed invoice sent to the Exchange System (ES) is made available to the transferee or client in a reserved area of the Revenue Agency's website and will be deemed received on the same date on which it is made available; however, the issuer must inform the recipient that the invoice is available in the reserved area and, at the same time, issue to that consumer an electronic or analogue copy of

the invoice. Typically, a PDF format, sent via email, or a hard copy will be delivered; it may also be sufficient to make the invoice available in the reserved area of a website or "app" (application).

The procedure described above must also be taken into consideration by the taxable persons established in Italy who carry out retail trade activities pursuant to Article 22 of Presidential Decree 633/72, for invoices issued at the request of the customer; however, the same subjects may continue to document the retail operations by means of a till or full receipt, without prejudice to the provisions for exemption from the tax certification obligation (Article 2 of Presidential Decree 696/96). This specification also applies to the supply of fuel to private consumers, which is not subject either to the obligation of invoicing or the obligation to issue a till or full receipt (Article 2 paragraph 1 letter B) of Presidential Decree 696/96).

Accordingly, the requirement of electronic invoicing for petrol and diesel sales, to be introduced starting January 1, 2019, has been prepared solely for the operations carried out against VAT taxpayers. For the sale of fuel to private customers, only the obligation to transmit the fees will be applied, which will, however, be introduced gradually depending on the automation level of the fuel distributors (Revenue Agency's Provision dated 28/05/2018).

For the majority of retail merchants, the electronic sending of the fees remains an optional solution, provided for by Article 2 of Legislative Decree 127/2015, which are given specific concessions (such as the exemption from the tax certification and fee registration obligations). This option must be assessed taking into account that, starting from 2019, due to the changed regulatory framework, with the option for the sending of fees it will be possible to access also the additional concessions referred to in Articles 3 and 4 of Legislative Decree 127/2015, such as the reduction of the time limit for investigations or the exemption from the keeping VAT registers.

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**VAT registration** - The coexistence of analogue and electronic payable invoices entails the need to adopt separate sections in VAT registers (Paragraph 5.3 Memorandum 36E/2006).

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**Mandatory filing of electronic invoices** - Electronic invoices issued compulsorily, must be filed using electronic methods (Article 39 of Presidential Decree 633/1972).

1) The first method is that indicated in the Revenue Agency's provision 89757 dated 30/04/2018, according to which buyers and clients may also electronically file the invoices received from the Exchange System (ES) by using the free service made available by the Agency. The company must adhere to the service agreement published in the reserved area of the Revenue Agency's website. Access should be allowed to the individual taxpayer or through an intermediary qualified for the electronic sending of tax returns (Article 3 of Presidential Decree 322/1998) or to any other subject (e.g., software company or bank). The proxy must be provided using the model approved with the provision 13/06/2018, which can be sent both electronically and manually to the Revenue Agency.

2) Alternatively, the second filing method is indicated in memorandum 13 dated 2/07/2018 (answer 3.2). In this case, people liable to VAT may also file computer copies of the electronic invoices in one of the formats set out in Prime Ministerial Decree 3/12/2013 (PDF, JPG, TXT) considered suitable for filing purposes. Essentially, subjects with an alternative filing system who adopt it for their own invoices can use it for electronic invoices after having converted them into a readable format, such as PDF, together with all tax documents.

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**Non-mandatory filing of electronic invoices** - Since purchasers are not required to receive electronic invoices, electronic invoices other than those received from the subjects obliged to issue them (for example, those received for the supply of fuel from petrol pumps), the latter are not required to file invoices electronically. It should be noted that Article 21 of Presidential Decree 633/1972 does not prevent the seller/provider from issuing its invoices in electronic format through the Exchange System (ES), however, in case of the recipient's rejection, the transferor must send the invoice in paper or digital format (PDF). In this case, the recipients are free to file the paper invoice or file it with an alternative system according to the rules provided for by the law in force.

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**Free filing service REVENUE OFFICE - SOGEI [Information and Communication Technology company of the Ministry of Economy and Finance]** - access the "invoices and payments" section in the reserved area of the Agency's website and click on the "access to filing and presentation services" icon, after accepting the proposed service conditions. The option can be performed directly by the taxpayer or by the specifically delegated authorised intermediary. By signing the service agreement with the Revenue Agency, the filing of sale and purchase invoices is guaranteed for 15 years (the invoices will

be deleted after this term, unless the taxpayer does not ask for an extension of the filing period for causes of proven need, such as, for example, in the event of litigation). In the special reserved area, it is possible to verify the completion of the invoice filing process. The deadline for filing the invoices issued and received is three months from the deadline for filing the relevant tax return (for invoices issued and received in 2017, the deadline expires on January 31, 2019. For invoices issued and received in 2018, the deadline expires on December 30, 2019 (three months after the deadline for submitting the tax return for 2018, if the ordinary deadline of September 30 is not further extended).

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**Format to be used for the filing of the invoices** – In memorandum 13/2018 (paragraph 3.2), the Revenue Agency clarified that each operator can file electronic invoices in one of the formats considered suitable for storage (for example, "PDF" format). However, only the filing of the original copy in XML format protects from the possible "repudiation" of the invoice. In fact, computer copies have the same probative value as the original from which it derives if conformity with the original, in all its components, is attested by a public official (e.g., notary) or if compliance is not expressly disclaimed (Article 23-bis of Legislative Decree 82/2005).

Our firm is available for any further clarification or information needed as well as for any assistance required.

Simone Bucaioni

