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Circular No. 03/2023

Bolzano, 6 January 2023

Subject: Budget Law 2023 – Value added tax and excise duties

Set out below are the main changes in the field of value added tax and of excise duties contained in the Budget Law for 2023. As in the previous circulars, the legal references relate to the paragraphs of Art. 1 of Law No. 197/2022.

1. Value added tax

1.1 First of all, a number of VAT rates have once again been amended:

Supplies of gas (para. 13)

The reduced VAT rate of 5% on supplies of natural gas had already been extended until the end of 2022 by Law Decree 115/2022. This same relief is now extended to consumption in the months of January, February and March 2023. The determining factor is not the invoice date but the date of supply.
Under various special provisions, the reduction of the VAT rate to 5% applied until the end of the year also to gas intended for road transport of passengers and goods. For 2023 a corresponding provision is so far lacking and, in view of the fact that the reliefs on production taxes have not been extended, it may also be doubted whether

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the reduced VAT rate will be extended at all.

Supplies of gas and energy performance contracts (para. 14)

The reduced VAT rate of 5% also applies to supplies of thermal energy under so-called energy performance contracts, to the extent that such energy has been produced from natural gas. Here too the relief applies for the time being also to actual or estimated consumption in the 1st quarter of 2023.

Supplies from district heating plants (para. 14)

For the first time, the reduced VAT rate of 5% is provided in the 1st quarter of 2023 also for supplies of district heating. For these supplies, to the extent they were not covered by energy contracts, the relief could not be claimed to date – despite strong protests from many of the consumers affected.
<u>Caution, however: the relief may not yet be applied, since its actual implementation requires the enactment of a dedicated implementing provision by 28 February 2023.</u>

Wood pellets (para. 73)

From 1 January 2023 supplies of wood pellets are subject to the reduced VAT rate of 10%, limited for the time being to 31.12.2023. Until now these pellets were expressly excluded from the reduced VAT rate under no. 98 of Table A, Part III, of the VAT Act (unlike, for example, wood chips).

VAT rate on feminine hygiene products (para. 72)

The VAT rate for the various feminine hygiene products is now generally reduced to 5%, and the rule introduced by the last Finance Act, which had introduced the reduced VAT rate of 10% for a number of products, thus ceases to apply.

VAT rate on baby food

The reduced VAT rate of 5% is also introduced for baby food, nappies and children's car seats.

Flat-rate compensation percentages in agriculture

One omitted extension in this year's Budget Law has gone largely unnoticed: the increase in the flat-rate compensation percentages for beef and pork, introduced on a temporary basis in 2015 and then extended year after year, expired at the end of the year, and accordingly from 2023 a compensation percentage of 7% instead of 9.5% again applies to cattle and of 7.3% to pigs, with corresponding cost increases for purchasers.

<u>1.2 Other changes in the field of value added tax</u>

Quarterly VAT settlement

As already communicated in our Circular No. 1/2023, the thresholds for simplified accounting have been raised to 500,000 euros for service providers and to 800,000 euros for other businesses. These thresholds are also decisive for the monthly or quarterly settlement of value added tax: if they were exceeded in 2022, VAT must be settled on a monthly basis in 2023.

Higher penalties for tax avoidance and reverse charge (para. 152)

Where invoices are found for non-existent supplies of goods and services which are subject to the reverse charge procedure, and where it is furthermore established that the recipient of the invoice was aware of the tax evasion or avoidance, the input VAT deduction is disallowed and the administrative penalty is raised from the previous 10% to 90% of the VAT. This implements a ruling of the Supreme Court of Cassation (No. 2272/2022).

Opening of VAT positions (148 - 150)

In order to reduce tax evasion, the opening of new VAT positions is to be made more difficult. The agencies are instructed to carry out checks in advance and, in extreme cases, to require the lodging of a bank guarantee of at least 50,000 euros for a period of 3 years.

Suspicious tax numbers will be verified and, in the event of a failure to appear or a failure to submit the documents requested, a flat-rate administrative penalty of 3,000 euros will be imposed. The VAT position is closed, and a reopening – including by indirect means, for example as the representative of a company – is then to be possible only against the provision of a guarantee of at least 50,000 euros. This closure must not, however, be confused with the closure already provided for in the past of VAT positions inactive for three years; for those closures no administrative penalty is provided for in future either.

Electronic invoicing and the flat-rate scheme

Entrepreneurs and self-employed professionals who account under the flat-rate scheme have been required to issue electronic invoices since 1 July 2022, to the extent that they exceeded the turnover threshold of 25,000 euros in 2021. In a FAQ dated 22 December 2022 the Italian Revenue Agency has now clarified that taxpayers who exceeded the threshold of 25,000 euros for the first time in 2022 are not obliged to issue electronic invoices already from 1 January 2023, but only from 2024.

Anyone selling goods located in Italy to final consumers (B2C) via an internet

Online trade (para. 151)

platform is subject to specific reporting obligations. However, the details of the goods concerned and of the information to be reported still have to be laid down by dedicated implementing decrees, and the new reporting obligation will only take effect once those decrees enter into force.

Company canteens and cash registers

A further note on a change that has not been made: the decree, outstanding for years, on the introduction of cash registers also for in-house company canteens – where any employee contributions to costs are settled through the payslip with VAT of 4% and are subject to value added tax – is still outstanding. The consequence: for these purposes no cash register still has to be kept.

Electronic invoices in the healthcare sector

By contrast, Art. 3 of the so-called Deferrals Decree extended the prohibition on issuing electronic invoices for healthcare services rendered to natural persons by a further year, until 31 December 2023.

Cash registers

Finally, by a dedicated decree (No. 480030) of 28 December 2022 the Italian Revenue Agency extended the deadline for adapting cash registers for the electronic transmission of daily takings until 31 December 2024.

2. <u>Excise duties</u>

Excise duty on mineral oils

The reductions in the excise duty on petrol, diesel, LPG and natural gas which have been in place for around a year expired at the end of the year and have not been extended; accordingly, the previous standard rates again apply here.

Tobacco products

The taxes on tobacco products will be raised in stages in the years 2023 to 2025.

We remain at your disposal for any further information.

Yours sincerely
Josef Vieider