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SPECIAL ISSUE



## NEW DEADLINES FOR VAT DEDUCTION AND THE REGISTRATION OF PURCHASE INVOICES

As previously indicated in Memo n. 11/2017, the 2017 corrective measure (D.L. 24 April 2017 n. 50, converted with amendments into L. 21 June 2017 n. 96) introduced some significant changes with regard to the deadlines within which taxpayers are required to exercise the right to deduct VAT relating to the purchase of goods and services and registering purchase invoices and customs bills of entry in the VAT register detailed in art. 25 of D.P.R. n 633/72.

These changes have a major impact on the behaviour of taxpayers who will be forced, especially at the end of the year, to make sure they have received the above mentioned documents, so that they can be promptly registered and enable them to deduct the VAT they have paid to their own suppliers.

The change in the law is admissible on the basis of EU Directive (art. 179 of Directive 2006/112) that enables member states to require that taxable persons exercise the right to VAT deductions in the same period (year) in which the right arose.

Let us look in more detail at the changes that were introduced, the implications these changes will have and some issues that remain as yet unresolved.

### SHORT TIMEFRAME FOR THE DEDUCTION OF VAT ON PURCHASES

It should be noted that, unlike in the past, the deduction **can be made no later than in the VAT return for the year in which the right to the deduction arose** and at the conditions existing when this right came about.



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With the new wording of article 19, paragraph 1, the timeframe within which the VAT deduction must be made is reduced significantly since, prior to this amendment, the deduction could be made up to and including the VAT return for the second year after that on which the right arose.

This means that VAT on **purchases made in 2017** can be deducted **by 30 April 2018** ( which is the deadline for the presentation of the VAT return for the year 2017).

**Taxpayers who do not comply with his deadline will lose the right to deduct VAT they paid (as confirmed on the invoice they received from their supplier).**

The new deadline for deducting VAT inevitably requires taxpayers to act quickly at the end of the year to ensure that all purchase invoices are sent to them in time for these to be registered in the purchases and VAT deduction register by the deadline for the VAT return for the year in which the transaction took place. Essentially, for purchase documents dated December 2017, the amount of time available for getting these from suppliers and registering them in the appropriate registers is reduced to about 4 months.

Here is an **example** to clarify the situation.

Let's assume that in 2016 a purchase invoice issued by a supplier in the same tax period has not been registered. On the basis of the regulations that were in force in 2016, VAT on purchase invoices in 2016 could be deducted by 30 April 2019, which corresponded to the deadline for presenting the VAT return for the second year (i.e. 2018) after the reference year. With the amendment introduced by D.L. n. 50/2017, **for purchase invoices dated 2017** (e.g. those issued in December 2017) the right to deduct VAT on purchases can be exercised **no later than the deadline for the VAT return for 2017**, i.e. 30 April 2018.

Therefore taxable persons who do not exercise the right to make deductions in the periodic settlements, or in the VAT return for the year in which the right to make the deduction arose, shall lose the right to deduct this VAT on their purchases.

With a transitional rule, that was introduced with the converting law D.L. n. 50/2917, the right to deduct VAT on invoices issued before 2017 was regulated.



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With law 21 June 2017 n. 96 converting D.L. 50/2017, it was established that **the new deadline applies to invoices and customs bills issued from 1 January 2017 onwards.**

This means that VAT on purchase invoices issued up to and including 31 December 2016 can be deducted on the basis of the old rules, no later than with the return relating to the second year after that one in a which the right arose.

In particular, the VAT deduction must be made:

- for **invoices issued in 2015**: by 30 April 2018;
- for **invoices issued in 2016**: by 30 April 2019 (with the sole exception of purchase invoices relating to transactions carried out in December 2016 for which which a “deferred” invoice was issued by 15 January 2017, in accordance with art. 21, paragraph 4, lett. a) of DPR n. 633/72, where the VAT must be deducted by 30 April 2018).

## **NEW DEADLINE FOR THE REGISTRATION OF PURCHASE INVOICES AND CUSTOMS BILLS**

The 2017 corrective measure also amended article 25, paragraph 1, of D.P.R. n. 633/72 which governs the obligation to register invoices and customs bills in the relevant purchases register. Indeed, on the basis of the new wording, article 25 establishes that registration of invoices and customs bills in the purchases register must be made prior to the periodic settlement in which the right to the deduct the respective tax is exercised **and in any case before the deadline for the presentation of the annual return relating to the year in which the invoice was received and for the same year.**

Let's now look at some examples that highlights the conduct companies should adopt:

- invoice issued in 2017 and received and registered in 2017: the registration and deduction year coincide so there are no problems (the registration is correct and the right to make the deduction can be exercised in 2017);





- invoice issued in 2017, received in 2017 and registered in February 2018: the invoice must be registered dated February 2018 (the registration is made on time since it occurred within the deadline for the presentation for the return for the year in which the invoice was received, i.e. 2017) but the deduction of VAT must be exercised in the annual declaration for 2017.

This means that taxpayers will have to adjust their accounting software programs to ensure that invoices are added to VAT that is deductible for the year 2017, even if they were registered in 2018 and to be included in the VAT return for that year.

Please also note that the amendment of the deadline within which the right to a deduction must be exercised will also have an effect on the deadlines for the deduction of VAT on credit notes.

## THE OPERATIONAL IMPLICATIONS FOR COMPANIES IN TERMS OF VAT DEDUCTIONS

The new provisions on the deduction of VAT from purchase invoices represent a major extra burden for companies: the implication for 2017 transactions for which the right to receive VAT deductions is not exercised by 30 April 2018 will effectively be the **forfeiture of the right to claim back the tax**.

In general, the registration of purchase invoices is made only after purchasers or customers verify the correctness of the invoices they received, which can be a fairly challenging procedure when we are dealing with more complex transactions and larger companies.

We therefore recommend that you ask suppliers to promptly send purchase invoices (particularly towards the end of year), to avoid losing the right to make VAT deductions.

Moreover, we recommend that you check your administrative documentation **and internal procedures** and inform the relevant company departments about the new regulations, in



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order to reduce the time required for checking supplier invoices, internal monitoring and authorisation processes and the transfer of documents to admin departments for bookkeeping purposes.

In addition, pending explanatory notes on the new regulations by the Revenue Agency, it is worthwhile checking with your company's IT department the potential technical amendments for registering in VAT ledgers, by 30 April 2018, purchase invoices dated 2017 that were received at the start of 2018. You should ensure that these are inserted as a VAT credit in the 2017 annual return, without including this same VAT item in the purchases for the year 2018 in order to avoid a double VAT deduction.

Please do not hesitate to contact **Clarkson Hyde** should you require more information on the above, or want to schedule a specific meeting on the subject in your offices. We can also provide administrative/accounting support services to help you to avoid negative impacts from the new regulations and forfeiting your right to deduct VAT as a result of the new regulations.

Kind regards.

**Prepared by the Italian Tax Department**

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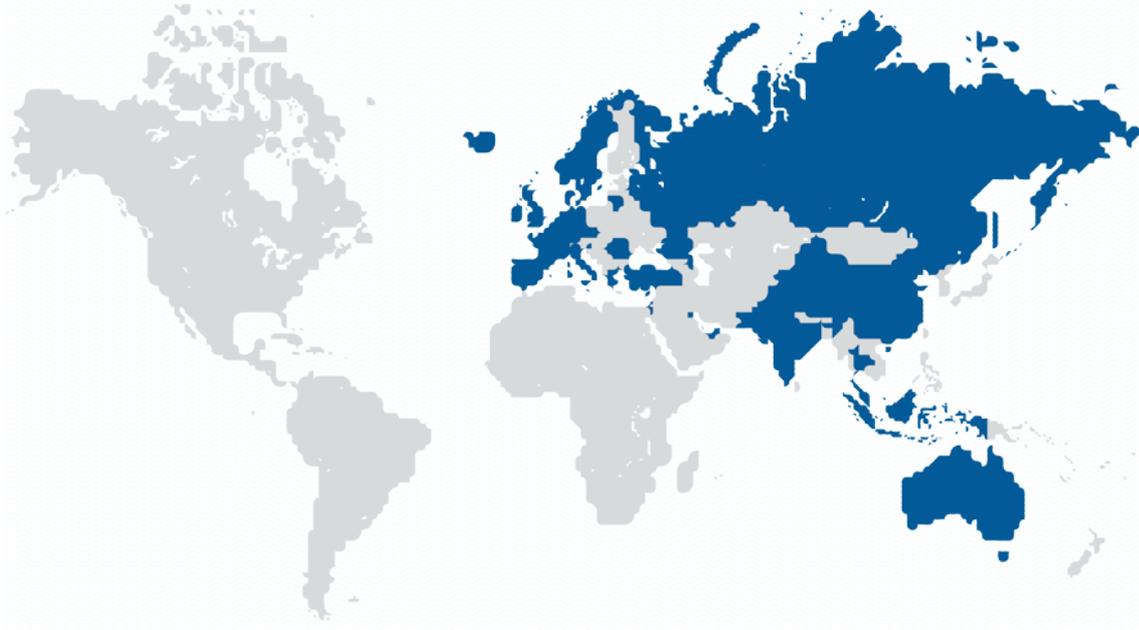


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