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DISCIPLINE OF FEE VOUCHERS: CHANGES TO THE AMENDMENTS TO THE VAT DECREE

The new rules incorporate European legislation with the aim of ensuring uniform and certain treatment with regard to issuing, transferring and redeeming.

The Council of Ministers approved, in final examination, the legislative decree that incorporates into our tax system the European provisions on the treatment of fee vouchers as per **Directive (EU) 2016/1065**, which amended the VAT Directive (2006/112/EC).

The European legislator has therefore chosen to outline a specific regulation of the vouchers with the aim of ensuring uniform and certain treatment as regards issue, transfer and redemption.

The delegation to the transposition is contained in the 2016-2017 European delegation law (article 1, paragraphs 1 and 2, and Annex A, **law 163/2017** – refer to “**European delegation law: the text published in the Gazette**”).

CONTENT OF THE DECREE

The Legislative Decree, in incorporating the European standards, amends the VAT discipline dictated by Presidential Decree 633/1972, which includes the new articles 6- *bis*, 6- *ter* and 6- *quater*, and the new paragraph 5-*bis*, article 13.

Below is a brief description of the essential aspects of the provision.

DEFINITION OF FEE VOUCHER

First of all, it is established that a fee voucher must be understood as an instrument that contains the obligation to be accepted as fee or partial fee for the provision of goods or services and which indicates, on the instrument itself or in the related documentation, the goods to be sold or the services to be provided or the identities of potential sellers or providers, including the general conditions of use relating thereto.

The vouchers can be issued either in physical form or in electronic form.

SINGLE-USE VOUCHERS

The vouchers can be **single-use** or **multi-use**. The distinction is based on the availability of the information necessary for taxation at the time of issue or at the time of redemption when the final use is returned to the choice of the consumer.

More specifically, a voucher is single-use when, at the time of issue, the VAT discipline applicable to the sale of goods or provision of services to which it entitles is known.

With regard to the VAT discipline applicable to the circulation of the voucher and the service to which it entitles, it is expected that each transfer of the single-use fee voucher, including issue, prior to the transaction, is to be considered in the same manner as sale of goods or provision of services. In this case, in fact, all the elements required for the documentation of the transaction (nature, quality and quantity of goods and services) are already known.

It follows that, since the issue of the single-use voucher (and any transfer thereof) has already been subjected to taxation, the subsequent sale of the goods or provision of services is not relevant for VAT.

Lastly, in the hypothesis in which the party that has issued the single-use fee voucher is different from the party that provides the good or service, it is established that the

seller or provider has carried out the transaction with respect to the party that issued the voucher.

MULTI-USE VOUCHERS

Instead, a voucher is multi-use when, at the time of issue, the VAT discipline applicable to the sale of goods or provision of services to which it entitles is not known.

Consequently, since the minimum information necessary for the taxation of the voucher is not known at the time of issue, it is not possible to determine with certainty the VAT treatment of the corresponding sale of goods or provision of services and, therefore, the tax will become payable only when the goods are sold or services rendered.

It is envisaged that any transfer of the multi-use voucher, prior to its acceptance as fee or partial fee of the sale of goods or provision of services to which it entitles, does not constitute execution of said sale or provision.

If the transfer of a multi-use fee voucher occurs between parties other than those between which the sale of goods or the provision of services takes place, the distribution services and the like are autonomously relevant for VAT purposes.

TAX BASE OF TRANSACTIONS RELATED TO VOUCHERS

As regards the tax base applicable to single-use vouchers, there are no specific provisions. In this case, in fact, of relevance is the fee due for the voucher itself.

Instead, with reference to multi-use vouchers, the criteria for determining the tax base of the related transactions are expressly indicated, as these are only identified at the time of redemption. In this regard, it is established that the tax base of the transaction subject to tax consists of the fee due for the

multi-use fee voucher or, in the absence of information on the fee, of the monetary value of the multi-use fee voucher net of VAT due on the goods sold or services rendered.

If the multi-use voucher is used only partially, the tax base is equal to the corresponding part of the fee or monetary value of the voucher.

Lastly, it is envisaged that for distribution services and the like of a multi-use fee voucher, the taxable base, inclusive of VAT, in the event that the transfer takes place between parties other than those between which the sale of the goods or the provision of services takes place, and if no specific fee is established, it consists of the difference between the monetary value of the voucher and the amount due for the transfer of the voucher.

EFFECTIVE DATE

The new provisions apply to fee vouchers issued after 31 December 2018.

Clarkson Hyde - Studio Associato - remains available for any further clarifications.

By the Italian Tax Department

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