

## Distance Sales Facilitated by an Electronic Interface – Obligations to Provide Information

Article 13 of Legislative Decree No. 34/2019 introduces new obligations of an informative nature, but with obvious anti-evasion functions, for taxpayers liable to VAT which facilitate distance sales of goods through an electronic interface (such as a virtual market, a platform or similar means).

The main purpose of these obligations is to determine the taxable base for VAT purposes linked to sales effected through intermediaries using digital platforms.

Specifically, it is established that such taxpayers, if they facilitate distance sales of imported goods or goods within the European Union by the aforementioned means, are required to transmit the data relating to said operations.

### **Data to Be Transmitted**

The taxpayers under examination must send the following data with regard to each supplier:

- name, residence or domicile address, e-mail;
- total number of units sold in Italy;
- alternatively, for units sold in Italy, total amount of sales prices or the average selling price.

### **Terms and Methods of Sending Data**

The data must be transmitted within the month following each quarter (i.e. by 30 April, 31 July, 31 October and 31 January of the following year) and the first data submission must be made in July 2019.

The decree will be converted into law by the end of June 2019 and changes may still be made.

### **Liability of Online Platforms for VAT Payment**

It is also established that if the taxpayer liable to VAT that facilitates distance sales via online or similar platforms has failed to transmit, or has transmitted incompletely, the requested data present on the platform, such taxpayer is considered liable to the tax relating to the aforementioned sales, unless they prove that the VAT was paid by the supplier.

### **Effectiveness of the New Obligations – Effectiveness Term**

The information obligations for online platforms, as well as those relating to liability for payment of VAT on distance sales, apply from 1 May 2019 to 31 December 2020 (terms of transposition of the provisions as per Article 2 of Directive 2017/2455/EU).

### **Deferment of the Obligations under Decree Law No. 135/2018**

The application of the obligations imposed on online platforms by Article 11-bis (11-15) of Decree Law No. 135 dated 14 December 2018 (Law No. 12 dated 11 February 2019), which provides that:

- if distance sales of mobile phones, game consoles, tablet PCs and laptops, in compliance with specific conditions, are facilitated by an electronic interface, the related goods are considered received and transferred by the subject that facilitated the operation via the platform;
- platforms that facilitated the aforementioned distance sales are required to keep the relevant documentation for ten years and make it available to the tax authorities of the Member States.

Although they came into force on 13 February 2019, these provisions will be effective only from 1 January 2021.

Online platforms that in the period between 13 February 2019 and 30 April 2019 facilitated distance sales of electronic products pursuant to Article 11-bis (11-15) of Decree Law No. 135/2018 are required to transmit the data concerning the aforementioned transactions no later than July 2019.

The methods of sending data relating to these operations will be defined by the aforementioned provision of the Italian Tax Authority.