

## VAT territoriality of distance sales: new threshold

One of the main changes that, starting from July 1, will affect VAT entities operating in the e-commerce sector will be the abolition of the current reference thresholds for determining the VAT territoriality of distance sales.

As a result of the amendments to the so-called "VAT e-commerce package", in fact, a single threshold of 10,000 euros has been set, above which the sales in question are deemed to take place in the country of destination of the goods.

Below the threshold, on the other hand, such sales are subject to the same VAT treatment as "domestic" supplies, unless the taxable person opts for application of the tax of the country of destination.

The rules for verifying that the threshold of 10,000 euros is exceeded are set out in the new art. 59-quater of Directive 2006/112/EC, according to which this amount must take into account:

- distance sales of goods;
- the provision of TTE (Telecommunications, Broadcasting and Electronic) services to private individuals in Member States other than that in which the supplier is established.

Pursuant to art. 14 paragraph 4 of the directive, "intra-Community distance sales of goods" are the "supply of goods dispatched or transported by the supplier or on his behalf, even when the supplier intervenes indirectly in the transport or dispatch" from a Member State other than that of arrival at the customer's destination, on condition that:

- the purchaser is a taxable person or a non-taxable entity whose intra-Community acquisitions are not subject to VAT pursuant to art. 3 par. 1 of the directive, or any other non-taxable person;

- the goods supplied are not new means of transport or goods supplied after assembly or installation with or without testing by or on behalf of the supplier.

According to Directive 2017/2455/EU, intra-EU distance sales and TTE supplies are VAT-relevant in the state of "origin" (place of departure of the goods or place of establishment of the supplier) if the total value, net of VAT of these transactions does not exceed, in the current and previous year, the amount of 10.000€.

This amount takes into account, as a unit:

- of the intra-Community distance sales carried out by the taxable person in all Member States;
- TTE services rendered to private individuals in all Member States other than the one where the supplier is established.

On the other hand, services other than TTE services should not be taken into account.

Note, however, that the threshold does not apply, among other things, to supplies of goods made by a supplier who is established in more than one Member State.

If the 10.000€ amount is exceeded during the course of the year, transactions are considered relevant in the State of consumption from the date on which the threshold is exceeded, while those made from the beginning of the year until the date on which the threshold is exceeded are considered relevant in the State of "origin".

What happens instead in the case of sales "above the threshold" and in the case of an option for taxation in the country of destination?

The taxable person will have to identify himself, in each country of destination of the goods, in order to carry out the relative VAT obligations, unless he decides, as an option, to make use of the special One Stop Shop (OSS) system.

The tax will thus be paid and declared on a quarterly basis only in the Member State of identification, through the use of the so-called single portal, and then distributed among the various Member States of consumption.

Those who make use of the OSS, furthermore, benefit from the exemption from the invoicing obligation and, should they choose to issue an invoice on an optional basis,



the invoicing rules of the Member State in which they are registered to the scheme will be applied.

Therefore, pursuant to art. 21 of Presidential Decree 633/72, VAT taxable persons registered with the OSS in Italy will be able to issue an invoice for intra-EU distance sales.

Finally, in the event of an option for the special OSS regime, the EU regime, the tax must always be paid through the one-stop shop not only for distance sales, but also for B2C services carried out in Member States other than those of the supplier.

We remain at your disposal for any additional information you may need.

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