



Commercialisti
Consulenti del Lavoro
Avvocati



VAT IN ITALY

BATINICOLOMBO SAOTTINI



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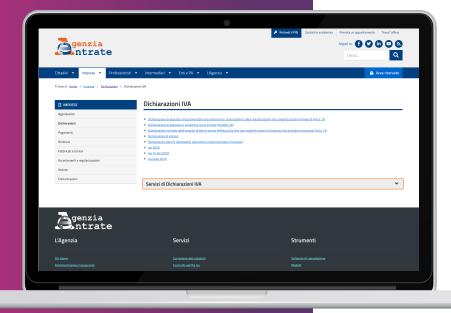


VAT – Value Added Tax – or **IVA** – Imposta sul Valore Aggiunto in Italian language, is a consumption tax that applies to the supply of goods and services made in Italy by entrepreneurs, professionals or artists and on importations made by anyone.

In some cases, also Intra-Community purchases are subject to VAT.

In Italy the standard **VAT rate is 22%** and reduced rates are applicable for several supplies of goods and services, such as 4% for certain foods, drinks and agricultural products or 10% for electric power supplies for certain uses and some drugs. Specific supplies of goods and services expressly listed in the Presidential Decree n. 633/72 are exempted from VAT, i.e. education, insurance services, specific financial services, supply and leasing of particular immovable property.





VAT REGISTRATION



VAT registration is mandatory in Italy for persons engaging in the following activities:

- ✓ business or agricultural activity
- ✓ artistic or professional activity on a regular basis.

Registration implies the acquisition of a VAT number; this is a 11-digit code that has to be displayed on every invoice or other commercial document issued or received in the course of business.

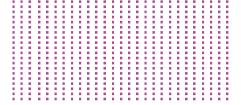
Non-resident individuals

Non-resident individuals intending to start a business, art or profession must comply with their VAT obligations in Italy if they also perform activities for final consumers or non-commercial entities that are not VAT-registered. At the same time, they will be able to exercise the rights arising from the registration, such as the right to deduct VAT on purchases and to claim refunds.

Foreign operators are not required to register for VAT in Italy if their customers in Italy are exclusively other VAT entities established in Italy.

In example, registration is not needed if an entity wich is not established in Italy sells goods to other traders only and not to final consumers. In this case, all VAT obligations will be borne by the Italian operator.





How to register for VAT

Non-resident entities that need to register for VAT in Italy can choose one of the following options:

- ✓ appoint a tax representative established in Italy and with an Italian VAT number
- ✓ register directly for VAT in Italy, i.e. obtain an Italian VAT number.

The second option is only available to entities established in other EU countries or in a third country with which mutual information exchanges agreements are in place.

Either case, the foreign operator remains a non-resident entity for VAT purposes.

Any non-resident entity may set up a permanent establishment in Italy. The PE has to register for VAT as a resident entity.



How to register for VAT

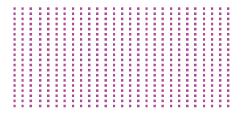
To obtain a VAT identification number it is necessary to file and submit a "Starting, change of information or cessation of activity form" (hereinafter, the "Starting form"). The Italian Revenue Agency (Agenzia delle Entrate) will then assign a VAT number within few hours from application.

Information to be provided in the declaration includes:

- ✓ identification details of the applicant, being it an individual or an legal entity
- ✓ the code of the type of activity to be pursued that has be taken from the table of economic activity codes: Ateco
 2007 Classification of economic activities
- ✓ the place(s) of business.

The exact form to be used and the submission procedure vary according to the type of entity (see following slides).





How to register for VAT - Resident entities

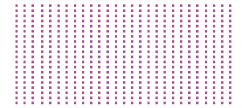
Individuals carrying out a business (sole traders) has to use Form AA9/12, while companies have to submit Form AA7/10.

In order to submit their application, all applicants (excluded professionals) have to registered also with the Companies Register or with the Economic and Administrative Data Repertory (Rea). VAT application forms have to be submitted only with digital format through the "Comunicazione Unica d'Impresa" (Single business reporting platform). The single reporting procedure fulfils, via a single declaration, all procedures for starting a business required by the various competent authorities (Revenue Agency, Chambers of Commerce, INPS – Social Security Agency, INAIL – Workers' Compensation Authority).

Individuals who pursue an art or profession must use Form AA9/12 (which is also valid for sole traders) and can submit it:

- ✓ online, through Fisconline or Entratel online services
- ✓ at any office of the Revenue Agency, directly or through a delegated person, submitting the form in duplicate or
- ✓ By post, by registered letter to any office of the Revenue Agency, attaching a copy of their Passport or ID.





Non-resident entities WITH a permanent establishment in Italy

Non-resident entities having a permanent establishment in Italy must submit their declaration of commencement of activity using the same forms and the same submission methods as resident entities.

Non-resident entities WITHOUT a permanent establishment in Italy Entities established in another EU Member State

If the non-resident entities do not have a permanent establishment in Italy but has a business in another EU Member State, they can register directly for VAT in Italy.

Before doing any transaction relevant for tax purposes in Italy they have to submit **Form ANR/3** to the Revenue Agency at Agenzia delle Entrate - Centro Operativo di Pescara -. The form can be submitted in one of the following ways:

- ✓ by hand to the office, directly or via a delegated person
- ✓ by post, by means of registered letter, attaching a copy of Passport or ID of the applicant and a certification of the entity's status as subject to VAT in the home state. The declaration submission date is the date of dispatch.



All non-resident entities (established in a non-EU country or in another EU Member State)

All non-resident entities – whether established in a non-EU country or in another EU Member State – may appoint a tax representative for VAT purposes.

The appointment of the tax representative must be recorded in an authentic instrument, registered private instrument or letter filed in the register held by the Revenue Agency's office having jurisdiction over the representative's tax domicile. In this case, the declaration of commencement of activity has to be submitted with:

- ✓ Form AA9/12 for sole traders or self-employed persons;
- ✓ Form AA7/10 for entities other than natural persons.

The rules for completing and submitting the forms are the same as for resident entities. This option is an alternative to direct VAT registration.





How to change VAT details

If any of the details provided in the declaration of commencement of activity happen to change during the life of the business, it is mandatory to fill in a new commencement of activity form and submit it to any Revenue Agency office within 30 days from the date of the change in the activity, in the same manner as for the first declaration of commencement.

Non-resident entities have to notify such changes using Form ANR/3, the same they used for VAT registration, submitting it to the Operating Centre in Pescara.

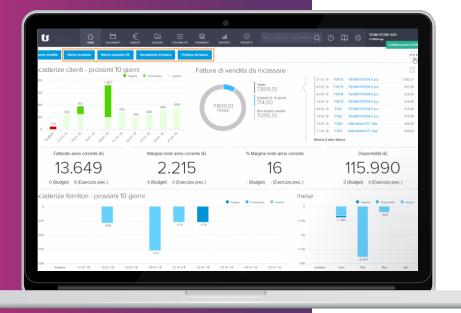
Cancelling VAT registration

To cancel VAT registration, you have to file a new declaration of commencement of activity form in the part related to cancellation and submit it to any Revenue Agency office within 30 days from the date business activities ceased, in the same manner as for the declaration of commencement.

Transferring a VAT number to another business

An Italian VAT number cannot be transferred from one business to another.





VAT RULES & RATES



Calculating turnover subject to VAT

Value Added Tax is charged on supplies of goods or services exchanged within the territory of Italy in the exercise of a business, trade or profession and on imports done by any person. In general, businesses charge VAT to their customers and pay it then to the tax authorities. At the same time they can deduct from the VAT due the VAT they have paid to their suppliers on purchases.

VAT due is paid on a monthly or quarterly basis.

The VAT turnover of a business, art or profession is defined as 'turnover' and consists of the sum of the taxable amounts of the supplies of goods and services that the entity makes, records or is required to record in a calendar year. Turnover comprises mainly transactions subject to VAT, non-taxable transactions and exempted transactions.

In general, VAT is due only on taxable transactions and is applied at different proportional rates depending on the type of transaction.



VAT record-keeping

The mandatory VAT records are:

- ✓ record of invoices issued
- ✓ record of purchases

Entities using a journal book (enterprises) or the chronological journal (professionals) may choose not to keep VAT records if they enter the same information in other records.

In the record of invoices issued, the entity processes all issued invoices. For each invoice, the following details have to be recorded:

- ✓ sequential invoice number
- ✓ date of issue
- ✓ customer's data
- \checkmark taxable amount and VAT amount, separately at the applicable rate

Other records are mandatory, such as a record for self-billing invoices for purchases from non-resident entities.



Electronic invoicing

From January 1st 2019, transactions between entities resident or established in Italy are subject to electronic invoicing. Traders subject to VAT operating under the simplified accounting system who only issue invoices and use the data provided by the Revenue Agency are exempted from the obligation to keep VAT records.

From January 1st 2020, entities having 'retail sale and similar activities' that not required to issue invoices (such as shops, craft activities, hotel and restaurant services) have to report their daily receipts by storing and transmitting relevant data electronically to the Revenue Agency.

Purchase invoices have to be processed in Input VAT Record, as well as invoices from suppliers established in other EU countries.

Processing accounting documents in Input VAT record is mandatory to claim deduction of input VAT.



VAT rates

The standard VAT rate in Italy is 22%.

Reduced rates are applicable to specific goods and services:

- √ 4%, is applied to some foods, beverages and agricultural products;
- √ 5%, is applied to other foods;
- ✓ 10%, is applied to the supply of electricity and gas for household use, medicines, building renovation and specified goods and services.

The full list of goods and services to which reduced rates apply is set out in Table A, Part II, Part II-bis and Part III of the Presidential Decree No 633/1972.



VAT exemptions

In general, transactions that do not meet all of the following three requirements are **excluded** from the application of VAT:

- ✓ requirement concerning the entity: the entity performing the transaction have to habitually carry out a business or agricultural activity, art or profession and the transaction relates to the economic activity
- ✓ requirement concerning the transaction: the transaction has to consist of a supply of goods or services
- ✓ territorial requirement: the transaction has to be relevant for tax purposes in Italy.

If one or more of the above requirements is not met, the general rule is that the transaction is excluded from VAT, therefore the operator will not charge VAT to the customer and hence will not pay said VAT to tax authorities.



VAT-exempted goods or services

Transactions that fall within the scope of VAT are normally subject to VAT. However, there are also transactions subject to VAT and VAT-exempt transactions. In both cases, all VAT obligations (invoicing, registration, reporting) still apply, but no VAT is charged to the customer.

Exempt transactions

Exempt transactions, on the other hand, are supplies of goods and services expressly identified by law. For example, they include healthcare, educational and cultural services and certain real estate transactions. The complete list of exempt supplies of goods and services can be found in Article 10 of Presidential Decree No 633/1972.



Non-taxable transactions

Non-taxable transactions are supplies of goods and services to foreign entities. They include in particular:

- ✓ exports
- ✓ transactions treated as exports
- ✓ international services or services connected with international trade
- ✓ supplies to non-EU travellers
- ✓ transactions with San Marino and Vatican City
- ✓ transactions carried out in the framework of relationships governed by international treaties and agreements
- ✓ intra-Community supplies.



Exemptions for small businesses: flat-rate regimen

Individuals resident in Italy who start a business, art or profession -and expect to have a gross income not exceeding EUR 65.000,00 per year, can opt for a flat-rate scheme. This is a simplified scheme that offers exemption from most VAT obligations, including charging VAT to customers and its subsequent payment to tax authorities.

The flat-rate scheme can be chosen by businesses/professionals that in the previous year

- ✓ had an annual gross income not exceeding EUR 65.000,00;
- ✓ incurred total gross expenses not exceeding EUR 20.000,00 for voucher-based work, employment and payments to collaborators, including 'project' workers; the above cost ceiling includes all payments in the form of profits from investment to associates whose contribution consists solely of work and payments for services provided by the entrepreneur or their family members.

Individuals resident in another EU State or in a state belonging to the European Economic Area that ensures an adequate exchange of information, can opt for the flat-rate scheme if they derive at least 75% of their total income from Italy.



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PAYING VAT



Periodic VAT returns and payments

VAT becomes payable every month or, in some cases, every quarter using the F24 form, to be filed in and submitted electronically.

As a general rule taxpayers are required to submit monthly VAT returns.

By the 16th day of each month, taxpayers calculate the difference between their output VAT – VAT on sales – and input VAT – VAT on purchases – recorded in the previous month. The balance of VAT due is paid via an online form named "F24".

Taxpayers with an annual turnover lower than EUR 400.000,00 for supplies of services or EUR 700.000,00 for other activities (goods), or belonging to certain categories, can choose to submit quarterly VAT returns.

Those entities shall file the VAT return and pay VAT due for the first three quarters of a calendar year by the 16th day of the second month following each quarter; the VAT return for the fourth and last quarter must be submitted by March 16th of the following year.

With quarterly payments, 1% interest is added on top of VAT due.



Advance VAT payment

Additionally, by December 27th of each year, all taxpayers have to make an advance payment or prepayment:

- ✓ on VAT due for the month of December, if they file monthly VAT returns or
- ✓ on VAT due for the fourth quarter of the year, if they file quarterly VAT returns.

The advance payment may be calculated using a historical, analytical or forecasting method. Some categories of taxpayers are exempted from the advance payment requirement.

VAT payment on account has to be processed using F24 form.

Taxpayers can deduct from VAT advance payment any tax credits or contribution available to them (off-set).

For quarterly taxpayers, VAT prepayment is not subject to 1% interest, differently from their regular quarterly VAT payments.



Other reporting requirements: filing the periodical VAT returns

Taxpayers subject to VAT have to submit the accounting data summarising their periodical VAT returns (under Article 21-bis of Law decree No 78/2010).

This requirement is not applicable to taxpayers who are not required to submit the annual VAT return or make periodic VAT payments, provided that the exemption conditions continue to be met throughout the year.

The completed Report on periodic VAT returns (Comunicazione delle liquidazioni periodiche IVA - LIPE) has to be submitted every quarter. It is a requirement which is fulfilled electronically, either by the taxpayer directly or through an authorised agent (Certified Accountant), by the last day of the second month following the relevant quarter.





VAT RETURNS



Annual VAT Return

Each year, taxpayers doing a business, art or profession have to submit an annual VAT return covering all transactions recorded in the previous year.

The annual return determines the taxpayer's position in terms of the difference between input VAT and output VAT for the entire calendar year, and any VAT refunds due to the taxpayer. Any periodic payment is also taken into account, as well as any tax credit resulting from the previous year's annual return and not being claimed back or used to offset other taxes.

If the annual VAT return shows that the taxpayer owes VAT, the amount due has be paid by the legal deadline.

If the taxpayer is owed a refund, it can be claimed either through:

- ✓ offsetting against taxes and other contributions due, if the requirements are met
- ✓ offsetting against the periodic VAT payments of the following year,
- ✓ through a refund if legal requirements are met.



Who is required to submit the annual VAT return?

The annual VAT return has to be submitted by:

- ✓ holders of VAT numbers, even if they did not made taxable transactions in the taxable period;
- ✓ non-resident taxpayers registered for VAT directly or with the appointment of a tax representative;
- ✓ permanent establishments of non-resident entities, being taxpayers subject to VAT.

Entities not required to submit a VAT return

Certain categories of taxpayers, regardless if holding a VAT number or not, are exempted from submitting the annual VAT return. This includes, in example, taxpayers covered by special schemes, such as those that opted for the flat-rate or 'minimi' (small taxpayer) scheme.

The annual VAT return is due for filing between February 1st and April 30th of the following year, using the appropriate forms and reporting software provided by the Revenue Agency. It has to be submitted electronically, through Fisconline/Entratel services, directly by the taxpayer or through authorised intermediaries (Certified Accountants).



VAT for groups of companies

The Vat grouping rules simplify the application of Vat rules for company groups and reduce fiscal burdens, considering the group as a single Vat taxable person.

Who is eligible

The option is reserved to companies closely bound by the following financial, economic and organizational links:

- ✓ they have to be subject to a common control, through a direct or indirect participation granting 50% or more of voting rights; this requirement is satisfied even if the common controlling party is based in a foreign Country with which an exchange of information instrument is in force with Italy (financial link)
- ✓ they must perform the same core business and economic activities, or, alternatively, the activities must be
 complementary, ancillary and auxiliary with respect to the other group members (economic link)
- ✓ a coordination between the decision making bodies of the involved entities has to exist (organizational link).

Companies can fill in the form (IT) from January 1st to September 30th of every year in order to apply VAT grouping rules starting from the following year.

Once the option for this regime is made, all entities fulfilling the requirements must adhere to the group (All-in/All-out) and the option last at least 3 years.

SUMMARY

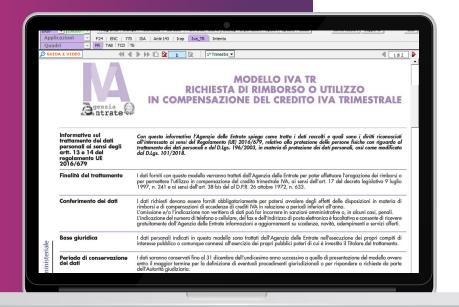
VAT for groups of companies

Benefits

As a consequence of the application of this regimen, the VAT group will be considered as a single VAT taxable entity. Therefore:

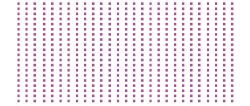
- ✓ transactions carried out between the companies of the group will not be subject to VAT
- ✓ transactions carried out between a group member and a third party will be treated as being made by the group as an entity.





VAT RECLAIMS





Who can claim for VAT refunds

VAT refund applications can be submitted by the following parties:

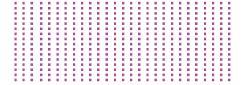
- ✓ resident entities
- ✓ non-resident entities with a fixed establishment in Italy or that have appointed a tax representative or registered for VAT directly.

Input VAT paid on any goods or services may be refunded, provided the right to deduct the same. This means that the business needs to have taxable transactions. No deduction can be made on input VAT paid to make tax-exempted supplies.

A flat-rate VAT deduction applies to certain supplies for mixed private and business use.

When taxable entities carry out both taxable and exempted transactions, they may deduct VAT paid on purchases in proportion to the ratio of taxable transactions to the sum of taxable and exempted transactions, pursuant to Article 19-bis of Presidential Decree No 633 of 1972 (pro-rata deduction).





How to claim for VAT refunds - Resident Entities

Taxpayers may claim VAT refunds:

- ✓ in their annual VAT return or
- ✓ by submitting a quarterly claim (VAT TR form) for each of the three quarters of the year.

The annual VAT return and the quarterly refund application may be submitted directly by the taxpayer or through an authorised intermediary, without providing any additional documents. The refund may be assigned to a third party.

For non-resident entities that have appointed a tax representative, the VAT refund can be claimed by the representative. The refund can be paid to the tax representative.

Information to be included in the refund application

The refund application shall include the same information as the VAT return or the quarterly refund application (Form TR), including the taxpayer's identification details, the balance of the VAT return and the grounds for the refund application.

To be able to claim a refund, the VAT credit has be over EUR 2.582,28; the refund claimed has to exceed EUR 10,33.



Deadline for claiming a refund

The annual VAT return, in which the annual VAT refund can be claimed, has to be submitted between February 1st and April 30th of each year.

Quarterly applications can be submitted as follows:

- ✓ from 1 to 30 April for the 1st quarter (January-March)
- ✓ from 1 to 31 July for the 2nd quarter (April/June period)
- ✓ from 1 to 31 October for the 3rd quarter (July/September period).

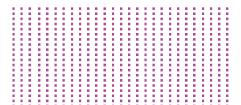
Normally, the refund is paid within three months from the application. Beyond this time limit, the applicant is entitled to interest of 2% per year.

In one year, taxpayers can submit three claims for quarterly VAT refunds and one claim for annual VAT refund.

After receiving the refund application, the Revenue Agency usually ask for documents supporting the origin of the VAT credit generated.

Communications with the taxpayer are mainly by email or certified email (PEC).





Appeal against refusal

Taxpayers may appeal a decision to suspend or deny refund within 60 days from being notified of the decision.

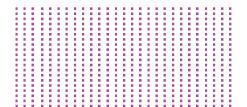
The appeal has to be submitted to the tax court (Commissione Tributaria) with jurisdiction on the taxpayer's tax domicile.

Taxpayers may also lodge an appeal in the absence of an express refusal, 90 days after submitting the refund application

(implied refusal).

Disputes concerning amounts of up to EUR 20.000,00 are handled by means of a mediation procedure with the Revenue Agency.





How to claim for VAT refunds - NON Resident Entities

Non-resident entities established in another EU country can claim the refund of VAT paid in Italy on imports and purchases of goods and services if:

- ✓ they do not have a permanent establishment in Italy
- ✓ they are taxpayers in their country of establishment
- ✓ they have not made any transaction within the territory of Italy or have only carried out reverse charge transactions, non-taxable transport and transport-related services or transactions relating to telecommunications, broadcasting or electronic services managed through the Mini-one-stop-shop (Moss) portal.

Entities established in another EU country and meeting the requirements can apply for the refund of the input VAT paid on the import of goods and the purchase of goods and services in Italy if:

- ✓ the tax is deductible under Italian legislation; and
- ✓ they make transactions giving rise to the right to deduct VAT in their country of establishment. In case of partly deductible transactions, the refund will be made at the same rate as the deductible proportion applied by the country of establishment.





How to claim for VAT refunds - NON Resident Entities

Non-resident entities established in another EU Member State have to submit their refund application through the tax authorities of their state of establishment.

Refund applications can be submitted:

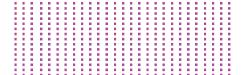
- ✓ quarterly (January-March; April-June; July-September; October-December) for a minimum amount of EUR 400,00; or
- ✓ annually, if the total amount in one or more quarters is less than EUR 400,00, for a minimum amount of EUR 50,00.

If the VAT credit is related to a period during less than one calendar quarter, the tax payer has to use the annual refund application procedure.

The quarterly or annual refund application can be submitted in Italian, English or French, stating the amounts in Euro currency. The application has to be submitted electronically to the tax authorities of the taxpayer's state of establishment, which will forward the application to the Revenue Agency's Operational Centre in Pescara.

When the Revenue Agency accepts a refund application, the non-resident entity is notified of the date the application was granted.





Can the applicant submit the VAT refund application through a third party?

The non-resident entity can appoint an agent, which needs to be resident in Italy, to file electronically the refund application to the tax authorities of the entity's country of establishment.

The intermediaries established in Italy have to meet the Italian legal requirements. The representative shall retain a special power of attorney and show it to the Operational Centre of Pescara in case of audit (Decision No 110/E of 28 November 2016). No additional documents need to be submitted.

The taxpayer may appoint a third party to collect on his behalf the refund due pursuant to Article 38-bis 2 of Presidential Decree No 633 of 1972, by means of a specific authorisation to collect payments (Decision No 110/E of 28 November 2016).



Deadline for claiming a refund

The quarterly refund application can be submitted from the first day of the month following the reference quarter until September 30th of the following year.

The annual refund application can be submitted from January 1st to September 30th of the year following the reference year.

The assessment of the application has to be completed within 4 months from its receipt. This term is extended to up to 8 months if the Revenue Agency requests additional information.

Payments will be made within 10 working days after the deadline for notifying the applicant of approval of his request.

If the refund is paid more than 10 working days after approval of the application, interest payments of 2% per year will apply.

The limit on the number of refund applications that can be submitted in a year is five refund applications per year.

The EU Member State granting the refund may request, together with the application, a copy of invoices or import documents, for taxable amounts of EUR 1.000,00 or higher (EUR 250,00 for fuel purchase).

All communications with tax authority, including requests for additional information, are made by email. Refund refusals are also sent by mail.





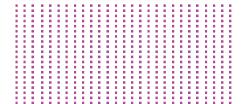
Refunds for non-resident entities established in a NON-EU Country

Entities not resident in Italy, but with a Permanent Establishment in Italy or registered for VAT purposes either directly or through a tax representative, can exercise their VAT rights in the same way as residents: therefore, they can either offset their VAT credit or claim a refund.

To claim a refund, VAT-registered non-resident entities have to submit their refund applications to the Operational Centre of the Revenue Agency in Pescara, while non-residents that have appointed a tax representative can send the applications to the Revenue Agency's local office of their agent's tax domicile.

Non-residents that are not registered for VAT in Italy may claim VAT refunds using specific procedures which differ depending on whether they are established in another EU Member State or in a third country.





Refunds for non-resident entities established in a NON-EU Country

Entities established in a non-EU country may apply for VAT refund on purchases made in Italy in the course of their business if they appoint a VAT representative in Italy. The appointment of the tax representative must be recorded in an authentic instrument, registered private instrument or letter filed in the register held by the Revenue Agency's office having jurisdiction over the representative's tax domicile, or in a declaration of beginning or change of activity.

However, entities established in a non-EU country which has a reciprocity agreement with Italy (currently, Israel, Norway and Switzerland) may apply for a VAT refund without appointing a tax representative in Italy. The same option applies to those entities that, while established in another non-EU country, have joined the Mini one-stop shop (Moss) scheme, even if they have supplied telecommunications, broadcasting and electronic services to final customers within the territory of Italy. All these entities follow a special application procedure for VAT refunds.

Non-resident entities established in a non-EU country under conditions of reciprocity may claim VAT refunds on purchases and imports of movable property and services relating to the exercise of their business, art or profession, provided such VAT is deductible under the Italian VAT legislation.

The right to VAT refund only applies if the activity performed by the applicant in his country of establishment is subject to VAT. In the case of totally or partially exempt activities, the applicant will be entitled to partial refund of input VAT, equal to the deduction percentage.

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