



taxpayers Division

Rome, 02/10/2020

OBJECT: Electronic storage and electronic transmission of data fees - Article 2, paragraph 6-ter, of Legislative Decree n. 127 of 2015 - First six months of application of the new regulations

There have been requests for clarification on the application of paragraph 6-¹ter Article 2 of Legislative Decree of 5 August 2015, n. 127, with specific reference to the following regulatory provisions: "[...] *In the first half of validity of the obligation referred to in paragraph 1 [electronic storage and transmission telematics fees, Ed], commencing from 1 July 2019 for subjects with a turnover of more than € 400,000 and from 1 January 2020 for others subjects, the sanctions provided for in paragraph 6 shall not apply in the case of transmission telematics to the daily fees for information within one month to the transaction, without prejudice to the terms of liquidation of value added tax* ».

The doubts concerning the application of the sanctions set out by the previous paragraph 6² if, during the first six months of validity of compulsory electronic storage and electronic transmission of fees, in fact different forms of documentation of the fees have been taken.

More in detail, these are the cases in which the taxpayer with volume of more than 400,000 euro has issued invoices instead of business

¹ As amended by Article 12-*d* of the Decree-Law of 30 April 2019, n. 34 (cd. Growth Decree), introduced in the conversion by the Law of 28 June 2019, n. 58.

² That the sanctions provided for in Articles 6, paragraph 3, and 12, paragraph 2, of Legislative Decree 18 December 1997, n.

storage and transmission of fees or pending to acquire telematic recorder (RT)³ for carrying out this requirement, has issued receipts or tax receipts according to the previous legislation.

The circular no. 15 / E of 29 June 2019, providing guidance on the point, he already stated that paragraph 6- *ter* under examination provides response to potential difficulties when first applying the obligation of storing and transmission of data of daily fees by allowing taxpayers interested, still without a RT, to transmit data relating to fees daily within the fullest extent permitted by the above paragraph 6- *ter*, ie by month following the transaction.

The next order of the Director of prot revenue. n. 236086 of 4 July 2019 it identified the mode of electronic data transmission and data to be sent in such a case, without prejudice, as also stated in the circular n. 15 / E of 2019,⁴ that the obligation to daily storage fees, this absence of RT, must still be met through the cash registers already in use or through tax receipts.

In summary, the taxpayers required to storage and transmission telematics daily fees and free of RT in the first six months of validity and compulsory until the RT availability:

- a) certify the fees by receipts and tax receipts;
- b) send the relevant data by the last day of the month following that of performing the operation according to the indications contained in the abovementioned Directorial order of July 4, 2019;
- c) dismiss any case correctly and promptly taxes.

³ Located on the decision of the Director of prot revenue. n. 182 017 of 28 October 2016 as the technology suitable instrument to guarantee the stability and security of data and, therefore, the proper fulfillment (cfr. Article 2, paragraph 3, of Legislative Decree. N. 127 of 2015).

⁴ Where it is mentioned that " *In such cases these persons will temporarily fulfill the obligation of daily storage fees via cash registers already in use or through tax receipts (referred to in Article 12, paragraph 1 of Law 30 December 1991, n. 413 and decree of the President of the Republic December 21, 1996, n. 696). This power is allowed up to the time of the electronic recorder on and, in any case, no later than the end of the semester called in the above paragraph 6 *ter* ».*

There can be instead required electronic storage and transmission telematics daily fees where, in place of or receipts tax receipts, transactions have been documented by issuing bills *former Article 21 or 21- BIS Decree of the President of the Republic on October 26 1972 n. 633 (VAT Decree)*. It should be remembered, in fact, as moreover also inferable **Article 1 of the Ministerial Decree of 7 December 2016** ⁵ that:

- the new rules are not repealed or modified those related to invoicing, with procedures and deadlines These remain valid and applicable; ⁶
- **the issuance of an invoice, in the hypothesis of operations *former Article 22 of VAT decree* is not only possible but, in general, is mandatory in the face the customer's request.** ⁷

Equally, no obligation storage / transmission is provided for those that carry out activities exempted by the decree of the Minister of Economy and Finance May 10, 2019, as last amended by Order of the same Minister of December 24, 2019.

As part of the overall activities aimed at supporting implementation naturally, the writer sent to taxpayers with a turnover of more than 400,000 euro, potentially held from 1 July 2019 for electronic filing the fees but which was not carried out a communication that indicated the anomaly. Such taxpayers can provide the particulars of the case

⁵ According to which " *The persons carrying out the operations in art. 22 of Presidential Decree of 26 October 1972, n. 633, required for certification of payments [...] and that are not exempted by the same [...] documenting the supply of goods and services effected by a commercial document, unless the invoice or simplified invoice referred to in Articles 21 and 21 bis of Presidential Decree is not issued the Republic n. 633 of 1972* ».

It should be noted that the dm called implements Article 2, paragraph 5, of Legislative Decree. N. 127 of 2015, according to which ¹ *The electronic storage and electronic transmission referred to in paragraphs 1 and 2 replace the obligation to carry out procedures for tax certification of the considerations in Article 12, paragraph 1, of the Law of 30 December 1991 n. 413, and Decree of the President of the Republic December 21, 1996, n. 696. remains, however, the obligation to issue the invoice upon customer request. By decree of the Minister of Economy and Finance, in consultation with the Minister of Economic Development of documentation types can be identified suitable to represent, even for commercial purposes, operations* ».

⁶ See., In particular, Article 21 of the VAT Decree and Article 1 of Legislative Decree. N. 127 of 2015.

⁷ Vd., To that effect, also Article 2, paragraph 5, of Legislative Decree. N. 127 of 2015.

as indicated in the letter received ⁸ and remedy any violations, with the methods and benefits governed by Article 13 (*repentance*) of the legislative decree 18 December 1997 n. 472. ⁹

It should be noted that where the only noticeable omission is the failure transmission of data relating to transactions in the first half ¹⁰ of validity of the obligation in Article 2, paragraph 1 of the Decree. n. 127, violation, in the light of what has already been indicated in the circular n. 15 / E of 2019 and what provisions of Article 10 of Law 27 July 2000, n. 212 regarding errors taxpayer, can be adjusted without sanctions are due administrative, through the execution or fulfillment omitted proceeding with the data transmission no later than the deadline of 30 April 2020 for the submission of the VAT return on the 2019 tax period. ¹¹

Ultimately, it is believed that the sanctions referred to in Article 2, paragraph 6, of Legislative Decree. n. 127 of 2015 should be applied only in case of electronic transmission of fees related to the second half of 2019 ¹² subsequent to April 30, 2020 or omitted after that date. ¹³

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⁸ As well as writing on the website (www.agenziaentrate.gov.it/portale/), in which it was pointed out, with reference to letters *compliance* for failure to forward the considerations, which ' *The Inland Revenue has sent friendly letters to the retail trade and similar activities is not forwarded the certificate fees and stored with the electronic recorder or through the appropriate web procedure "Invoices portal*

is "Fees.
Operators can use the service CIVIS channel to provide the Agency with questions and comments. Such clarifications or reports are not necessary for those who, although working in the retail trade and similar activities, has decided to certify their transactions with the invoice.. "

⁹ It is understood that is not necessary to provide clarification or proceed with repentance in the absence of errors or omissions, also with regard to the contents of this letter.

¹⁰ 1 July / December 31, 2019 for entities with a turnover of more than EUR 400,000.

¹¹ According to paragraph 1 of Article 8 of the Decree of the President of the Republic July 22, 1998, n. 322, the declaration on the tax on value added tax due for the previous calendar year must be submitted ' *between 1 February and 30 April* ».

¹² Obviously where it occurs the obligation according to the provisions referred to in this resolution.

¹³ Notwithstanding, when they were considered necessary, the right to voluntary disclosure of the cited Article 13 of the

Legislative Decree. n. 472 of 1997.

The regional directorates shall ensure that the principles set out and instructions provided with this resolution are regularly observed by Provincial Directorates and the Offices employees.

THE HEAD OF DIVISION

(Digitally signed)