



*Rome, February 21, 2020*

***SUBJECT: clarifications regarding electronic storage and transmission  
electronically to the Agency of data revenue from fees  
daily***

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## Premise

As part of a progressive digitization of tax compliance, with a series of regulatory interventions succeeded between 2018 and 2019<sup>1</sup> the legislature brought to substantial completion L' *process* of replacement, through dematerialization, the obligation to tax certification fees<sup>2</sup>

It started on a voluntary basis from 1 January 2017<sup>3</sup>.

In this regard, this circular, they provide clarification on the various aspects, which also take into account the contributions and critical reports received from operators and commentators.

## 1 Switchboard

The regulatory changes of recent years make it appropriate, first, a brief account about the way in which shall certify the consideration from the operators of retail operations and similar activities<sup>4</sup>.

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<sup>1</sup> See, in particular, the Decree-Law of 23 October 2018, n. 119, converted with amendments by Law 17 December 2018, n. 136, the Decree-Law of 30 April 2019, n. 34, converted with amendments by Law 28 June 2019, n. 58 and, most recently, the Decree-Law of 26 October 2019, n. 124, converted, with modifications, from the law 19 December 2019, n. 157 and the decree of the Minister of Finance December 24, 2019.

<sup>2</sup> As required by 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.

<sup>3</sup> By Article 2, paragraph 1 of Legislative Decree August 5, 2015, n. 127.

<sup>4</sup> Article 22 of Presidential Decree of 26 October 1972, n. 633 (VAT Decree)

*Commerce to the minute and similar activities :* " **The issuance of the invoice is not mandatory, it is not required by the customer not later than the time of the transaction:**

1) for the supply of goods carried out by authorized retailers in premises open to the public, in internal stores, by means of automatic distribution equipment, for correspondence, to domicile or in form ambulante;

2) for hotel services and food and beverages made public exercises, in company canteens or by vending equipment;

3) for the transport of persons and vehicles and luggage;

4) for services rendered in firms in places open to the public, in itinerant form or in the home of customers;

5) for performance of custody and administration of securities and other services rendered by companies or banks or financial and trust companies;

In this regard, as already mentioned in previous occasions<sup>5</sup>, the rule of reference is the article 2 of Legislative Decree. n. 127 of 2015, which contains within it internal:

- to) a rule of a general nature with the application criteria (paragraphs 1, 3-5 and 6- *ter* first and second period);
- b) a specific rule for gasoline supplies or diesel fuel intended to be used as motor fuel (paragraph 1- *BIS*);
- c) the anticipation of the general rule for those who carry out supplies of goods and services using special instruments such as vending machines (paragraph 2);
- d) the penalties (paragraphs 6 and 6- *ter* last period);
- is) special rules for persons required to send data to the card system health (paragraph 6- *quater*);
- f) the identification of a contribution, in the form of a tax credit, with the concession criteria and use, for the purchase or adaptation tools through which to effect the storage and transmission in accordance with the general rule (paragraph 6- *d*).

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*6) for the exempt transactions indicated in nos. 1) to 5) and nn. 7), 8), 9), 16) and 22) of art. 10; 6-bis) for the task of organizing excursions, city tours, tourist tours and similar events, carried out by travel and tourism agencies;*

*6-b) for the supply of telecommunications services, broadcasting services and electronic services provided to clients who are acting outside business, art or profession; 6-c) for the management of the service performance of votive lights in cemeteries. The preceding paragraph may be declared applicable, by the Minister of Finance, to other categories of taxpayers that provide services to the public character of uniformity, frequency and amount limited which make particularly onerous compliance with the obligation of billing and of related compliance.*

*Entrepreneurs who buy goods subject to its activity by retailers to which an invoice is allowed are obliged to request it. The purchases of fuel for vehicles made at the roadside service by taxable for added value must be documented with electronic invoice ».*

<sup>5</sup> See., Eg, the answers posted on the corporate website of the writer, the "Responses to the requests

of ruling is advice legal " at Internet <https://www.agenziaentrate.gov.it/wps/content/Nsilib/Nsi/Normativa+e+Prassi/Risposte+agli+interpelli/?page=legislation> And, most recently, the circular n. 15 / E of 29 June 2019.

## 1.1 General rule and exceptions

According to the mentioned article 2, paragraph 1 of the Decree. N. 127 of 2015, " *TO*  
*As from 1 January 2020, the persons carrying out the operations in*  
*Article 22 of the Presidential Decree of 26 October 1972, n.*  
*633, electronically store and transmit electronically to the Agency*  
*Revenue data on daily fees. The storage*  
*electronics and related data of the fees shall replace any*  
*registration requirements referred to in Article 24, first paragraph, of the aforementioned*  
*Decree n. 633 of 1972. The provisions of previous periods apply*  
*with effect from 1 July 2019 to individuals with a turnover of more than*  
*€ 400,000. For the 2019 tax period, the options remain valid for*  
*electronic storage and electronic transmission of data of fees*  
*exercised by 31 December 2018. By a decree of the Minister*  
*Finance, may be made for specific exemptions from the obligations referred*  
*to in this paragraph because of the type of activity exercised ».*

Therefore, provided that those who, at 31 December 2018, had already  
**chosen - on a voluntary basis, exercising its option <sup>6</sup> - to store**  
electronically and to electronically transmit the data of its fees  
daily were able to continue to do so throughout 2019, the other parties,  
if they had not also proceeded to voluntary choice, they were required  
with a different time scan linked to their turnover, namely:

- from 1 July 2019 when the same exceed EUR 400,000;
- from 1 January 2020 in all other cases.

In reference to this amount, the resolution n. 47 / E of 8 May 2019 has already  
clarified that, in the absence of a precise indication regulations, must be  
reference to Article 20 of the VAT Decree. The turnover to be taken into

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<sup>6</sup> According to information contained in the decision of the Director of prot revenue. n. 182 017 of 28 October 2016.

consideration is, therefore, that the total of the taxable person - and not that related to one or more of the various activities carried out by the same - made during the period the previous tax (in this case, 2018).

This is where the taxpayer carries simultaneously the trading activities  
**Retail and assimilated <sup>7</sup> and others are subject to billing; and when it has taken, by choice or obligation, separate accounts for the different activities <sup>8</sup>.**

The calculation on an annual basis, in reference to the previous tax year, entails, as already highlighted in the resolution n. 47 / E of 2019, that the activities launched during 2019, the same year, automatically excluded obligation.

At the general rule - electronic storage and transmission of electronic data  
Day fees - with the exception, for now, on the one hand driving schools  
(Which, until 30 June 2020 may, whilst theoretically required to apply the  
general rule, certify its fees with acknowledgment / receipt <sup>9</sup>),  
the other cases identified with the Ministerial Decree indicated in the last sentence of Article 2, paragraph 1 of the Decree. n. 127.

**The decree <sup>10</sup> specified that the obligation to storage and transmission " 1. *In phase first application, [...] not apply to:***

*to) the transaction not subject to the obligation of the certification fees*

*under Article 2 of the decree of the President of the Republic 21*

*December 1996, n. 696;*

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<sup>7</sup> As required by Article 22 of the VAT Decree.

<sup>8</sup> Former Article 36 of the VAT Decree.

<sup>9</sup> See. Article 32, paragraph 4, of Decree 26 October 2019, n. 124 ' *In Article 2 of the decree of the President of the Republic December 21, 1996, n. 696, the letter q) is repealed. For any instruction aimed at the achievement of the license, driving schools, held at the electronic storage and electronic communication of the daily fees data pursuant to Article 2, paragraph 1 of Legislative Decree August 5, 2015, n. 127, may, until 30 June 2020, documenting the payments by the issuance of a receipt referred to in Article 8 of Law 10 May 1976, n. 249, or the receipt of Law 26 January 1983, n. 18, with the observance of the relevant disciplines. ».*

<sup>10</sup> Issued by the Minister of Economy and Finance dated 10 May 2019 and amended by subsequent decree of the Minister of 24 December 2019, published in the Official Gazette of the Italian Republic, General Series, no. 305 of December 31, 2019.

- b) the collective public transport of persons and vehicles and  
Luggage in tow, with any means exercised, for which tickets  
of transport, including those issued by automatic ticket,  
acquit the tax certification function;*
- c) b-bis) to the management of the service performance of votive lamps in  
cemeteries;*
- d) related operations and connected to those referred to in points a), b) and b-  
bis) and to transactions referred to in Article 22 of the Decree of  
President of 26 October 1972, n. 633, carried in via  
marginal compared to those referred to in points a), b) and b-bis) or compared to  
those subject to the obligations under Article 21 of the  
Presidential Decree of 26 October 1972, n. 633. are  
considered to be carried out in a marginal way the operations whose revenues or  
compensation shall not exceed one per cent of turnover  
the previous year;*
- is) the operations carried out on board a ship, an airplane or a train  
during an international transport »<sup>11</sup>.*

It follows that:

**the. operations included in the list of Article 2 of the presidential decree No. 696 of  
1996<sup>12</sup>, already excluded from certification through receipt or**

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<sup>11</sup> See. Article 1, paragraph 1.

<sup>12</sup> Article 2 of the presidential decree No. 696 of 1996 " 1. are not subject to the certification referred to in Article 1 the following:

- a) the supply of tobacco and other goods exclusively marketed by the Administration Autonomous Administration of State  
Monopolies;*
- b) the supply of goods recorded in public registers, fuel and lubricants for motor vehicles to customers who purchase the conduct of  
a business, art and profession;*
- c) the supply of agricultural products made by agricultural producers covered by the special scheme in Article 34, first paragraph, of  
Presidential Decree of 26 October 1972, n.  
633, and subsequent modifications;*
- d) the supply of goods obtained from the document referred to in Article 21, paragraph 4, third sentence, letter a) of the Presidential  
Decree of 26 October 1972, n. 633, when integrated amount of revenues;*
- e) the supply of newspapers, periodicals, additional media, books, excluding those antiques;*

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f) the performance of services by notaries for which are expected to fees, charges or other measures in compensation fixed pursuant to Decree of the Minister of Justice of 30 December 1980 and the protests of bills and checks;

g) the supply and services provided by vending machines, coin-operated or coin; services rendered by party apparatuses or entertainment installed in public premises or places open to the public, or in clubs or associations of any kind;

i) food and beverages made in company canteens, intercompany, schools and universities as well as soup kitchens operated directly by public authorities and support agencies and charities;

h) transactions regarding sports pools and betting only subject to tax pursuant to Legislative Decree of 23 December 1998, n. 504, and those regarding sports pools reserved to the State, including the collection of their play;

l) the ferry services provided with rowing boats, the services provided by the gondoliers of Venice lagoon, the transport services provided by animal-drawn vehicles, the transport services provided by taxi service, the services provided with boats to motor subjects that perform activities of river ferry people and vehicles between two banks within the same municipality or between neighboring communities;

m) the performance of custody and administration of securities and other services provided by companies or banks from financing or trust company and securities firms;

n) supplies and services exempted under Article 22, first paragraph, item 6 of the Decree of the President of 26 October 1972, n. 633;

o) the inherent performance and linked to the collective public transport of people and vehicles and luggage in tow in the first paragraph of Article 12 of Law 30 December 1991, n. 413, carried out by the party operating the transport activity;

p) the supply of car rimessa with driver, made by individuals, non-profit, carry out their activities exclusively to the disabled;

q) [repealed, ed.];

r) the services provided, in barracks, hospitals or other places established by barbers, hairdressers, beauticians, tailors and shoemakers based on agreements signed with public administrations;

s) the services rendered by Fumisti, as well as those made, in itinerant form, from cobbler, umbrella, grinders;

t) the services rendered by menders and stitchers without employees or employees;

u) the footwear repair services performed by persons who do not avail themselves of collaborators and employees;

v) the services rendered by menders and repair of chairs without employees and collaborators;

z) wool carding performance and rebuilding of mattresses and related yields in the home of customers by mattress makers with no employees and collaborators;

aa) the bicycle repair services rendered by persons who do not avail themselves of collaborators and employees;

bb) the supply by itinerant balloon sellers, small objects for children, ice cream, sweets, roasted chestnuts, olives, seeds and the like, not fitted with motorized equipment, and in any case by persons who exercise without equipment, trade in goods of modest value, with the exception of those operating in local markets;

cc) the food and beverages made in itinerant form in the stadiums, railway stations and the like, in cinemas, theaters and other public places and at events in general; dd) the supply of postcards and souvenirs from street vendors, free of motorized structures; and e) the administration of food and beverages, incidental to the service of bed in the sleeping carriages, made by staff to the same carriages;

ff) the services provided by travel agencies and tourism related booking services in the name and on behalf of the client;

gg) the supply of parking vehicles in areas covered or uncovered, or when determining the payment of the consideration is made by equipment operating at coins, tokens, passes, tickets or by means of electrical magnetic cards or similar instruments, regardless of the possible presence of staff;

hh) supplies and services undertaken by amateur sports associations that use the discipline of Law 16 December 1991 n. 398, as well as associations without



tax receipt, without exception (think, in particular, to the supply of fuel for motor vehicles which, as described in the next paragraph dedicated to the subject, although mentioned in Article 2, paragraph 1, of presidential decree No. 696 of 1996, are still subject to storage and sending in the cases provided for in Article 2, paragraph 1- *BIS*, of Legislative Decree. n. 127

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*profit and the pro-loco associations, covered by Article 9-bis of the Law of 6 February 1992. 66;*

*ii) performance having for object access in railway stations; ll) having as their object the performance of luggage storage services;*  
*mm) performance having as object the use of hygiene and public health services; nn) housing services provided in public dormitories;*  
*oo) the supply of goods carried out by persons who carry out sales for correspondence, limited to these supplies;*

*pp) the supply of agricultural products made by natural persons referred to in Article 2 of the law of 9 February 1963 n. 59, if falling under the exemption scheme from the obligations referred to in Article 34, fourth paragraph, of the Decree of the President of 26 October 1972, n. 633;*

*qq) supplies and services undertaken by the regions, provinces, municipalities and their associations, mountain communities, institutions of assistance and charity, by the social security institutions, local health units, public institutions referred to in Article 41 of the law of 23 December 1978, n. 833, as well as by the entities obliged to holding public accounting, with the exception of those carried out by pharmacies operated by municipalities; rr) [repealed, ed.];*

*ss) performance relative to national and international telegraph service rendered by Ente placed; tt) the attractions and entertainments given in Section I limited to small and medium-sized attractions and section III of the list of activities referred to in Article 4 of the law 18 March 1968 n. 337, excluding attractions installed in permanent amusement parks in Article 8 of Presidential Decree of 21 April 1994, n. 394, should realize an annual turnover of more than fifty million lire;*

*tt-bis) the services provided by the companies referred to in Article 23, paragraph 2, of Legislative Decree 22 July 1999, n. 261, through the network of post offices and philatelic, access points and other mail processing centers which has public access as well as that made available to the customer's home by the delivery staff.*

*2. There shall also be subject to the documentation required by Article 12, first paragraph, of the law of 30 December 1991, n. 413, in relation to the prescribed requirements, the categories of taxpayers and transactions in accordance with Article 22, second paragraph, of the Decree of the President of 26 October 1972, n. 633, they are exempt from the obligation to issue the invoice on the basis of the following decrees of the Minister of Finance:*

- a) Decree of March 4, 1976: Italian Association of the Red Cross;*
- b) Decree of April 13, 1978: telecommunications;*
- c) Decree of 20 July 1979, concessionaires of highways;*
- d) Decree of December 2, 1980: Municipal and syndicated debt collectors;*
- e) Order of 16 December 1980: supply of water, gas, electricity and maintenance of sewer systems, for which the fees are levied by tax assessments roles;*
- f) Order of 16 December 1980: administration of water, gas, electricity, steam and district heating;*
- g) Decree 22 December 1980: Company exercising ferry service for commercial and private vehicles between national ports;*
- h) Decree of 26 July 1985: authorities and credit and financing company;*
- i) Decree of 19 September 1990: the use of infrastructure in ports, lorry, airports and railway border ports ».*

2015), are excluded from the electronic storage and subsequent electronic transmission of fees, which can still be done on the basis voluntary (cfr. the following paragraph 3, Article 2 of the Ministerial Decree);

ii. exclusion, sending on a voluntary basis, concerns, in addition to performance

**of votive lamps in the cemetery service management** <sup>13</sup> also

collective public transport of persons and vehicles and luggage in tow,

which certification it is carried out through the issuance of tickets <sup>14</sup>

as well as the operations carried out on board a ship, an aircraft or a

train in the course of international transport (or whose place of

departure and the place of arrival are situated in the territory of two states

different). This being understood that, by express provision, the rule

General remains valid in cases in which the transport takes place by means

different (think *coach*);

iii. the linked operations and connected to those of Article 2 of DPR 696

1996 - and, therefore, bound to them in relation to each other, presenting

common elements is the subject both parties - as well as those over

marginal to them, or which are of such margins in reference to

operations which are necessarily to be invoiced *former* Article 21 of the VAT Decree,

They are also excluded from the storage and delivery obligations

telematic <sup>15</sup>.

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<sup>13</sup> For which still exists, in accordance with Article 12- *BIS*, paragraph 2 of the Decree Law 34 of 2019, the obligation to issue the receipt

/ tax invoice.

<sup>14</sup> On the issue of travel documents, recalling the observations made in response to questioning n. 394 of 7 October 2019, it should be noted that its resale, under the assumption that the tax is paid on inputs by the operator of transport under Article 74 of the VAT Decree service is not subject to new and independent certification for VAT (see, also, the principle of law n. 22 of August 1, 2019). This indication is valid, in general and without exception, for all operations falling nell'alveo of the VAT system, so-called "single-phase", referred to in the aforementioned article 74 of Presidential Decree n. 633 of 1972. There, in fact, there is only one taxpayer payer identified by the standard - that is, the first transferor - while further sales are excluded from the scope of VAT (see., In terms of fees *former*

Article 2 of Legislative Decree n. 127 of the 2015 Resolution. 44 / E of 5 April 2017).

<sup>15</sup> Notwithstanding, to replace, those of issuance of the receipt referred to in Article 8 of Law 10 May 1976, n. 249, or the receipt of Law

26 January 1983, n. 18.

It should be noted, however, that while the first (linked and related operations) are always excluded, regardless of the volume of business of the person who puts in be, the second (marginal operations) are such only if they remain within the limits one per cent of the total volume of business generated from the same subject, taking into account that the period with respect to which operate the comparison the previous year.

**Example:**

This discipline can be used without limitation in the following cases. Assume that X has engaged the subject, in 2018, the following assets in separate accounts:

**THE. Activity 1, referred to in subparagraph a) of Ministerial Decree 10 May 2019, with volume business amounted to EUR 200,000;**

**II. Activity 2, former Article 22 of the VAT Decree, connected to the previous one, turnover amounted to EUR 50,000;**

**III. Activity 3, former Article 22 of the VAT Decree, with turnover amounting to 145,000 Euros;**

**IV. Activity 4, former Article 22 of the VAT Decree, with turnover amounting to 5,000 euro;**

**V. Activities 5, former Article 22 of the VAT Decree, with turnover amounting to 2,000 euro.**

Faced with a turnover in 2018 of EUR 402,000 in total, the subject in question, for 2019, will:

**THE.** no obligation to electronic storage and electronic transmission of fees for activities 1;

**II.** no obligation to electronic storage and electronic transmission of the consideration for the activity 2;

**III.** July 1, 2019, required storage and dispatch for the activity 3;

**IV.** July 1, 2019, required storage and dispatch for activities 4 (regardless of the volume of business that it will generate in 2019);

**V.** no obligation to storing and sending for activity 5 (assuming its marginality and regardless of the volume of business that it will generate in 2019).

The requirement to storage and electronic transmission of data of the fees,  
Likewise, there is also for the operators who apply the flat-rate scheme where  
Article 1, paragraphs 54 to 89 of the Law of 23 December 2014, n. 190, except that  
the activity is not among those exempted.

## 1.2 commercial document

As mentioned above, next to the electronic storage and sending  
telematic of fees <sup>16</sup> the legislature has referred to a decree of  
Minister of Economy and Finance, in agreement with that of the development  
Economic, the identification of " *documentation types suitable for  
represent, even for commercial purposes, operations* » <sup>17</sup>.

The decree in question, issued on December 7, 2016, in providing that ' *THE  
persons who carry out operations in art. 22 [...] required to  
certification of the considerations [...] and which are not exempt from the same [...]  
documenting the supply of goods and services supplied by a  
commercial document, unless it is invoiced or invoice  
simplified set out in Articles 21 and 21 bis of the Decree of the President  
Republic n. 633 of 1972* » <sup>18</sup> it has also identified the minimal requirements, including  
the indication ' *of services rendered* » <sup>19</sup> ( not, be it noted, of "services rendered") and  
dell ' " *amount of the total consideration and that paid* » <sup>20</sup>,  
specifying that it must contain " *Also the tax code or number of*

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<sup>16</sup> Obligations which together " *replace the rules on the discharge of 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"*(Cfr. Article 2, paragraph 5, of Legislative Decree. N. 127 of  
2015), ie receipts and tax receipt.

<sup>17</sup> So more and Article 2, paragraph 5, of Legislative Decree. N. 127 of 2015.

<sup>18</sup> Thus Article 1.

<sup>19</sup> In this regard it should be noted that the description of the service rendered or goods sold, required element on the commercial  
document may be concise but sufficient to identify the service or good. By way of example, in the case of food it is enough to report the  
description "first, second, sweet" or "full meal."

<sup>20</sup> See. Article 2.

*game's VAT* (A commercial document valid for tax purposes)

if it has requested " *not later than the time of performing operation* » <sup>21</sup>.

The obligation to issue commercial paper ' *using the tools technological in art. 2, paragraph 3, of Legislative Decree n. 127 of 2015* » <sup>22</sup> is the delegation to their identification through a special decision of the Director Revenue Agency <sup>23</sup>. They led to prot measure. n. 182,017 of October 28, 2016 <sup>24</sup> that defined the "commercial document layout."

Given that the generation and emission of the commercial document is a automatic consequence of storing the operation data, the various regulations mentioned correlate the emission of the same execution operation, not to be understood, however, how to carry out the same purposes VAT, that is, with specific reference to the provision of services, their payment.

It follows, in other words, that the electronic storage, and the consequent issuance of commercial paper, is made at the time of payment of the consideration, total or partial, or at the time the goods were delivered or the completion of the services if those events occur before payment. It remains stationary in relation to the type of operation performed, the tax is chargeable on the value determined in accordance with Article 6 of the VAT Decree.

For example, in the case of supply of goods without having been made on payment, it will be necessary to store the operation and issue a document commercial with the evidence of the consideration not be charged; when payment of the balance will not need to create a new document

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<sup>21</sup> See Article 4 of the dm.

<sup>22</sup> Thus Article 1, paragraph 2, of the dm December 7, 2016.

<sup>23</sup> Contained in Article 2, paragraph 4, of the Decree. N. 127 of 2015.

<sup>24</sup> Edited by subsequent prot. n. 99297 of 18 April 2019 prot. n. 1432217 of December 20, 2019.

commercial - having already perfected the moment of taxation for VAT purposes - and the operator will be able to provide evidence of payment with a simple payment receipt or directly on the commercial document already issued.

In the event that the provision of services is completed without payment of consideration, it is necessary to store the operation and issue a document commercial with the evidence of the consideration not be charged; when Payment will need to generate a new commercial document - perfected only by paying the tax now for VAT - Recalling the identificativi elements of the previous one.

This provided the seller / lender does not issue an invoice (ordinary or simplified) "immediate", ie by the twelfth day following the supply takes for VAT <sup>25</sup>.

You can still issue a commercial document, bearing the "no charged ", act at a later cd invoice" deferred " *former* Article 21, paragraph 4, letter a) of the same decree VAT <sup>26</sup>.

Trying to exemplify, without limitation among the numerous situations that may occur, the persons performing the activities referred to in Article 22 of the VAT Decree can document:

to) the supply of goods and provision of services performed (and carried out

VAT), alternatively, with:

- **storage and subsequent transmission of fees *former* Article 2**  
paragraph 1 of Legislative Decree. n. 127 of 2015, with the simultaneous emission of commercial document;

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<sup>25</sup> See. Article 21, paragraph 4, of the first period, the VAT Decree.

<sup>26</sup> See, in this respect also Article 5 of the dm December 7, 2016.

- **immediate invoice" former Article 21, paragraph 4 of the VAT Decree, with release** copy to the customer in the case referred to in Article 1, paragraph 3, of Legislative Decree. n. 127 of 2015;
- **invoice "deferred" former Article 21, paragraph 4, letter a) of the VAT decree** (le by 15th of the month following the execution thereof), provided that the transactions are identified by appropriate documentation (eg the same commercial document, the transport documents, etc.);

b) the services performed, but not made for the purposes of VAT,

alternately with:

- commercial document bearing the "not received", which will be followed additional commercial documents, with storage and transmission of Data at the time of the transactions for VAT  
(Typically the aforementioned payment);
- **immediate invoice" former Article 21, paragraph 4 of the VAT Decree, to be issued** within twelve days from the execution of the supplies for VAT purposes  
(Typically the payment);
- **invoice "deferred" former Article 21, paragraph 4, letter a) of the VAT decree** issued by the 15th day of the month following the effective carrying out of the purposes of VAT performance (typically quoted payment).

It noted that, under Article 6, paragraph 4 of the VAT Decree, "*Self prior to the occurrence of the events indicated in the preceding paragraphs or regardless of whether they issue an invoice, or is paid in whole or in part consideration, the operation is deemed to be made, limited amount invoiced or paid, the date of invoice or date of payment*", needs to addition, for services performed, but not made for the purposes of VAT, that the possible earlier issue of "immediate bill" makes no necessary that the commercial document.

On the assumption that the storage and electronic transmission of data fees, and the issue of commercial paper, " *replace the mode of compulsory tax certificate* "through receipt and receipt, and that those documents are not subject to stamp, it is consistent to believe that even the commercial document used " *represent, even for commercial purposes, operations* "Benefits of same exemption.

### 1.3 Sale of fuel

Documentation of fuel supplies which, with respect to persons holders of VAT, is via electronic invoice, presents a discipline assignees are more complex when consumers.

It should be remembered, in fact, that in the field are now simultaneous application:

to) Article 22, paragraph 3, last sentence of the VAT decree <sup>27</sup>;

b) Article 2, paragraph 1 of the Decree of the President of the Republic 21 December 1996, n. 696 <sup>28</sup>;

c) Article 2, paragraph 1- *BIS*, of Legislative Decree. n. 127 of 2015 <sup>29</sup>;

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<sup>27</sup> Because of that, the obligation to issue the invoice (e) there is only " *The purchases of fuel for vehicles made at the roadside service by fully taxable added value* ».

<sup>28</sup> According to which " *are not subject to the certification referred to in Article 1 [ie till receipt / tax receipt for "Considerations for the sales of goods and services referred to in Articles 2 and 3 of Presidential Decree of 26 October 1972, n. 633, as amended, for which may not require a printed invoice, if not at the customer's request, but there is an obligation the tax certificate provided for in Article 12, paragraph 1, of the law of 30 December*

*1991, n. 413* "Substituted obligation, according to the times mentioned above, the electronic storage and the electronic transmission provided for in Article 2 of Legislative Decree. N. 127 of 2015, ed.] *the following: [...]*

*b) the supply of goods recorded in public registers, fuel and lubricants for motor vehicles to customers who purchase the conduct of a business, art and profession* ».

<sup>29</sup> According to which " *As from 1 July 2018, the electronic storage and electronic transmission of data of the fees referred to in paragraph 1 [ie electronic storage and electronic transmission of data to the Agency of revenue related to the daily fees, ed.] are mandatory with reference to the gas supply or diesel fuel intended to be used as motor fuel* ».



d) the decision of the Director of prot revenue. n. 106701

of May 28, 2018 <sup>30</sup>, that, in implementing Article 2, paragraph 1- *BIS*,

of Legislative Decree. n. 127 has:

the. fixed, for the storage and transmission of data, the following

starting dates:

- July 1, 2018, for "*the gas supply of and diesel fuel intended for use as motor fuels made by VAT taxpayers who run plants road distribution of gasoline and diesel fuel at high automation, where the supply takes place only in Prepaid self service mode equipped with automated systems tele detection of plant data, terminals for payment by banknote acceptor and coin electronic (debit cards, credit cards, prepaid, etc.) and computer systems for remote management of data and load of the amount of fuel exhaust*"(See paragraph 2.1);
- 1 January 2020 "*with reference to the installations which, in 2018, have a total of dispensed gasoline and diesel fuel, intended to It is used as motor fuel, for an amount more than 3 million liters. " Notwithstanding that the "end of allow for a gradual start, taxable entities run the above systems perform data transmission the fees for the months of January, February and March 2020 by 30 April 2020;*"(As paragraph 2.2);
- 1 July 2020 '*with reference to the installations which, in 2018, have a total of dispensed gasoline and diesel fuel, intended to*

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<sup>30</sup> Modified by decision of 30 December 2019.

*It is used as motor fuel, for an amount more than 1.5 million liters;"(Cfr. Paragraph 2.3);*

- 1 January 2021 in all other cases (see paragraph 2.4);

- ii. *stated that ' For persons who carry out the periodic payment VAT on a quarterly basis, the transmission of information referred to in 1.1 [namely those concerning ' fees daily sales resulting from gasoline and diesel fuel intended for be used as motor fuel", Ed.] could be carried out by the last day of the month following the quarter reference "(See paragraph 4.2);*

is) the already mentioned Ministerial Decree of 10 May 2019, which,

identify the possibility of exemption from generalized electronic and electronic transmission of data storage daily amounts, determined that " *1. Remain subject to the provisions in art. 2, paragraphs 1 and 2-bis of Legislative Decree n. 127 of 2015, relating to the electronic storage and transmission of telematics of payments data, respectively, of the gas sale or disposal of diesel fuel intended to be used as motor fuels and supplies of goods or services supplied through distributors automatic.*

*2. In the first phase of application, the operators of distribution systems of fuel are exempt from the electronic storage and electronic communication of the daily fees data relating to art. 2, paragraph 1 of Legislative Decree n. 127 of 2015, for the operations of art. 22 of the Decree of the President of the Republic n. 633 1972 different from the gas supply or diesel fuel intended to be used as motor fuels, whose revenues or fees are not exceeding one percent of the previous year's turnover, which continue to be documented by the issuance of the receipt*

*taxation in art. 8 of the Law of 10 May 1976 n. 249, namely the receipt of Law 26 January 1983, n. 18, with observance of the relevant disciplines.*

*3. The fuel distribution facilities operators can still stored electronically and transmit electronically the data of daily amounts of the transactions referred to in paragraph 2 »<sup>31</sup>.*

The synthesis that is drawn by these provisions is one for which, until now, the Gasoline and diesel sales intended for use as fuel for engines shall be documented by invoice if made in favor of taxpayers tax.

Instead, for those with end consumers, provided that electronic storage and electronic transmission of data of the fees may always take place on a voluntary basis:

**to) the operators of highly automated distribution systems have**

the obligation of certifying the considerations relating to the supply of gasoline or diesel via electronic storage and sending electronic on time and ways established by the aforementioned decision of 28 May 2018;

**b) merchants other installations, as from 1 January 2020, fall**

obligation with a different timing because of the volume of such types of fuel dispensed at the individual plant in the course of 2018, provided that from 1 January 2021 the requirement will have general application;

**c) if the assignment to object other type of fuel for**

automotive, the certification requirement - to be applied according to the rules General Article 2, paragraph 1 of the Decree. n. 127 of 2015 - is less because Article 1 of the Ministerial Decree May 10, 2019, which excludes those rules in cases Article 2, paragraph 1 of the presidential decree No. 696 of 1996;

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<sup>31</sup> See Article 2 of the decree.

d) the instruction given sub c) (application of the general rules and related

exceptions) also covers tasks other than fuel sales

for vehicles with two specifications, namely that:

- if it is effected by the same entities that provide fuel, worth the requirement of Article 2, paragraph 1 of the Decree. n. 127 of 2015, but Also the exception of Article 1 of the Ministerial Decree 10 May 2019 several times callback, as integrated by the next article 2 of the same decree, so that storage and transmission of fees will be necessary only if the related revenues or fees are exceeding one percent of the volume of the previous business year;
- if the operations are carried out by means of vending machines (Article 2, paragraph 2, of Legislative Decree. n. 127 of 2015), sending is always required.

## **2 Fees not collected**

It has already been reported in the previous paragraph the obligation to store data operation and, consequently, issue the commercial document referred to dm to 7 December 2016 in all cases in which an asset is sold or a performance is rendered, regardless of when VAT tax and, therefore, even where there is no sum levied.

Typically fall in this case the substitute canteen services provided to upon presentation of a so-called "good meal" (or " *ticket restaurant*"), instrument ultimately governed by the Ministerial Decree of 7 June 2017, n. 122 <sup>32</sup>

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<sup>32</sup> Article 2, letter c) of the Ordinance defines the meal as good as " *the identification document, also in electronic form, having the characteristics described in Article 4, which confers on the holder, under Article 2002 of the Civil Code, the right to obtain substitute canteen service for an amount equal to face value of the voucher and the point of acceptance, the means to prove the successful performance against issuing companies* ».

and endowed with its own characteristic, as compared to the good-payment referred to in Directive (EU)

2016/1065 of the Council of 27 June 2016 <sup>33</sup>.

**As previously indicated <sup>34</sup> the newly recalled discipline implies that the**

administration of food and beverages (of services), made to the customer

meal ticket holder by virtue of its presentation, it is then paid

by the issuing company the good and at that time (reimbursement of the voucher), save

Front issuing invoice documenting the operation, will occur

**the chargeability <sup>35</sup>.**

In such an eventuality, not unlike what happens for tax receipts

**in cases in which the same may still be issued <sup>36</sup>, completed**

benefit to the customer, upon receipt of the meal voucher legitimizing

the same as the lender:

- stores the fee in whole or in part not collected;
- issues the commercial document.

At the storage is followed by the subsequent submission of the data, according to the

directions and specifications referred to in the cited decision of the Director

the Inland Revenue prot. n. 182 017 of 28 October 2016 that, until 30

in June 2020, provide for the transmission of an amount of the considerations

also including the amounts of returns, cancellations, the fees do not

**levied connected to *ticket restaurant* etc .. As a result of the modification of**

technical specifications approved by resolution no. 1432217 20 December

2019, with effect from 1 July 2020 the data transmitted daily fees

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<sup>33</sup> The explanatory memorandum to the legislative decree 29 November 2018, n. 141 [ "Implementation of Directive (EU) 2016/1065 of the Council of 27 June 2016 amending Directive 2006/112 / EC as regards the treatment of vouchers consideration"], pointed out that regulatory intervention in the report should may not apply because " *food stamps, such as good-disposable consideration, continue to be subject to the tax rules provided for the performance of substitute services of canteens* ».

<sup>34</sup> See, ultimately, the answers no. 394 of October 7, 2019 and no. 419 of October 23, 2019 published on the corporate website of the

writer.

<sup>35</sup> See. Article 6 of the VAT Decree.

<sup>36</sup> See Circular 10 June 1983, n. 60, point C).

Inland Revenue will report more detailed information elements aimed at enhancing the peculiarity of the case studies mentioned above.

Thus, for transactions carried out until 30 June 2020, the Agency revenue, in control tests, evaluate the fact that any misalignments between data transmitted and periodic payments made may be due to the cases listed above.

It should be added, in the multiplicity of situations that may occur, which **same as stated previously issued on the topic<sup>37</sup> among which** those on the need for:

**t) for the procedures of return and cancellation, that they will provide the elements that**

They serve to relate the return of the goods or to cancel the operation documents proving the original purchase, and in particular the code identifier of the document certifying the original transaction, if the produces the customer at the time of the return. It should be noted, in fact, that the customer well could produce other items that can confirm the operator the successful purchase, as in the case of the POS receipt or voids in make: in such cases, the operator will be able to bring in the document commercial made of the extremes of the POS receipt or a code generic (eg. ND);

**b) the Tax Administration, during control, always placed**

able to reconstruct the story of each individual operation economic and that the same are perfect correspondence in the amount of fees transmitted and carried out in the recordings.

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<sup>37</sup> See. In particular the principle of law n. 21 of 1 August 2019 published on the corporate website of the writer.

### 3 Ventilation of fees

Article 24, paragraph 3 of the VAT Decree provides that *' For certain categories of retailers, who make promiscuously selling goods subject to different tax rates, the Finance Minister may allow, establishing the procedures to be observed, that the registration of the consideration of taxable transaction is made without distinction and that the allocation rates the amount of the fees for the application of different rates It is made in proportion of purchases ».*

The rule, which allows the so-called "of payments ventilation," found implementation by Ministerial Decree 24 February 1973, which, for some categories of subjects identified by the same (including, for example, merchants Retail businesses selling food or clothing products) has legitimated, in the cases of undocumented sales invoice, the ability to *" cater to record the considerations, prescribed by art. 24 of the Decree the President of 26 October 1972 n. 633, no distinction rates and apportioning the amount, for the application of the different rates, in proportion of purchases »*<sup>38</sup>, according to the procedure described Article 3 of the same decree.

On this point, made it clear that the advent of the new rules on storage electronic and submission of fees has not repealed the provisions previously given and that, consequently, the ventilation of the fees is still legitimate, it should be noted that this procedure is expressly contemplated by the technical specifications for the operation of registers telematic<sup>39</sup>.

In refer to these documents for full details of the case, it should be recalled that the commercial document issued to the buyer, instead of the point

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<sup>38</sup> See. Article 2 DM.

<sup>39</sup> Attached to the decision of the Director of prot revenue. n. 182 017 of 28 October 2016.

VAT indication relating to the goods it sold, as provided for in *layout* of the document itself, the "VI" value, "Ventilation can be inserted VAT".

#### **4 Tax credit**

In order to facilitate, in the years 2019 and 2020, the purchase or adaptation of technological tools fit for the electronic storage and **electronic transmission of fees, Article 2, paragraph 6- d, of the** Legislative Decree. n. 127 of 2015 has provided in favor of the persons referred to in Article 22 of VAT decree, the grant of assistance as a percentage of the expenditure supported by delegating to an order of the Director of revenue the identification of related methods of implementation.

When returning to this measure <sup>40</sup> to the operational details of the case, wanting here summarize the key features of the contribution in question, it must be observed that the same, inter alia:

- to) granted as a tax credit of the same amount, it is in relation to only expenses incurred in the years 2019 and 2020 for the purchase or adaptation **the tools <sup>41</sup> used for the electronic storage and** electronic communication of the daily fees. In absence of specific limitations:
- purchase / adaptation concerns both new models, both used provided comply with current rules;
  - **considered the *ratio* the arrangement and in order not to create** unjustified unequal treatment, the contribution it also those that use new tools or adapted supporting

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<sup>40</sup> Prot. N. 49842 of 28 February 2019.

<sup>41</sup> Cash registers, cash registers that under Law 26 January 1983, n. 18 and Article 12, paragraph 1, of the law 30 December 1991 n. 413, as well as telematics recorders.



related expense in the period, but only in becoming owners  
a subsequent and eventual phase (typical case, the use in *leasing*). There  
same *ratio*, rules out, however, that the tax credit can  
enjoy those who purchase the tools are not for direct use, but,  
for example, for subsequent transfer for various reasons (always in  
reference to *leasing*, therefore it remain excluded from the contribution  
transferor, called " *lessor*"Which does not use the equipment for  
store and send the fees related to business activities, but  
only for the next lease);

b) It is equal, for each instrument, to 50 per cent of spending (including  
VAT to the extent that the tax has not been subject to deduction  
the purchaser <sup>42)</sup> supported - with traceable instruments (bank transfer,  
debit and credit cards, etc.) referred to by the Director  
the Inland Revenue prot. n. 73203 of April 4, 2018 - up to a  
up to 250 euro in case of purchase and 50 € in case of  
adaptation;

c) It can only be used for compensation under Article 17 of the Decree  
Legislative July 9, 1997, n. 241 <sup>43</sup>. They are therefore not possible nor  
sale or refund;

d) It is usable from the first periodic payment tax  
value added subsequent to the month in which the invoice is registered  
the purchase or adaptation of the tools, or, if the subject  
Passive is exempt *ex lege* from this requirement, the next month  
purchase / adaptation and its payment<sup>44</sup>. Thus, for example,

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<sup>42</sup> It has, therefore, that the purchase of a RT of the cost of EUR 400 plus VAT - even, considered ordinary rate of 22 percent, to 488  
euro - the tax credit is 244 euro for merchants, for example, that operate in the flat-rate scheme.

<sup>43</sup> With the exception of the limits of Article 1, paragraph 53, of Law December 24, 2007, n. 244 and Article 34 of the Law of 23  
December 2000, n. 388, as increased in Article 9, paragraph 2 of the Decree-Law of April 8, 2013, n. 35, converted with amendments  
by Law June 6, 2013, n. 64.

<sup>44</sup> Please note that in case of payment by installments, subject to compliance with the additional requirements specified in the text, the expense is  
considered incurred because of the amount actually paid. Thus, for example, compared

quarterly taxpayers which VAT is paid on the fourth quarter by March 16 the following year, in case of registration and payment of purchase invoice in December 2019, may use the credit in compensation as early as March 16, 2020.

With the resolution no. 33 / E of 1 March 2019, the tax code has been set "6899", to be indicated in the payment authorization (F24) to use the credit in compensation. In this regard, please note that the F24 model must be presented exclusively by means of telematic services made available by the Revenue.

## 5 Sanctions

*As indicated in Article 2, paragraph 6, of Legislative Decree. N. 127 of 2015 " For the persons who carry the electronic storage and transmission telematica pursuant to paragraph 1 and to the entities referred to in paragraph 2 shall apply, in case of failure to store or omission of the transmission, or in the case of storage or transmission with incomplete data or not true, the penalties provided for in articles 6, paragraph 3, and 12, paragraph 2, of legislative decree 18 December 1997, n. 471 ».*

It is, respectively, of the penalty equal to one hundred percent of the tax corresponding to the amount **not documented** <sup>45</sup>, **with a minimum of 500 euro** <sup>46</sup> and, **in the cases of four distinct violations on different** days within a five year period the suspension for three days to a month of the license or authorization to carry out the same activity or exercise, suspension which becomes one to six months if the amount

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a purchase invoice recorded in January 2020 to € 500 (inclusive of VAT), with payment in five monthly installments of EUR 100 as of January 20, 2020, taxpayers who dismiss the tax on a monthly basis in February liquidation 2020 can use a credit equal to 50 euro (50% of 100 euro). The same applies for the following months in the face of further installments, until it reaches the limit established by legislation.

<sup>45</sup> Article 6, paragraph 3, of Legislative Decree. N. 471 of 1997.

<sup>46</sup> See paragraph 4 of the same article 6.

Total of being contested fees exceed the sum of 50,000 Euros <sup>47</sup>.

With respect, except for those already noted in Circular. 15 / E of 2019 and Resolution. 6 / E of 10 February 2020 on the first half of obligation validity, it should be noted as a storage and transmission constitute a single fulfillment of the exact purpose of the transaction documentation and related fees <sup>48</sup>, thus resulting sanctionable all those behaviors that have prevented the correct, complete exercise of the same in its necessary joints (storage and transmission, in fact) <sup>49</sup>.

It follows, for example, that the person who has carried out a proper storage which does not follow the transmission It is sanctioned (albeit in different *quantum*) like the one who, after an unfaithful storage, has regularly sent its data.

It should also be highlighted that the penalty, wanting to hit the omitted or wrong / unfaithful fulfillment, misses multiple application in reference to each phase of the same.

In other words, in cases where the transferor / lender takes an illegitimate behavior both in reference to storage, both at the next transmission of the data, however, it shall apply a single sanction *former* Articles 6, paragraph 3 and 12, paragraph 2, of Legislative Decree. n. 471 of 1997.

It must also to specify that the infringement of omission, according to the criteria just mentioned, also perfects with the failure to meet deadlines for storing and / or sending data, terms which must be considered essential. Therefore, late performance, albeit spontaneous, also configures

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<sup>47</sup> Article 12, paragraph 2, of Legislative Decree. N. 471.

<sup>48</sup> See. Article 2, paragraph 5, of Legislative Decree. N. 127 of 2015.

<sup>49</sup> What has just been said is also true in reference to the case in which the normal performance is prevented by extraordinary events (such as a device out of service). In such a case, to be considered as exceptional, storage will be replaced by alternative procedures ( *ie* " *annotation of data of the fees of individual daily operations on a special register to be kept also in computer mode* "), But the data transmission is still essential in order not to incur penalties (see, as to whether described and related requirements the measure of the Director of prot revenue. No. 182 017 of October 28, 2016 and the technical specifications, "version

9.0 in December 2019 ", Section 2.8).

the offense in question, notwithstanding the possibility of amendment under Article 13 of law 18 December 1997 n. 472. The substantial continuity between previous forms of documentation (invoice and tax receipt) and storing / sending of payments data which replace, but not repeal, push, however, to believe that:

a) for the calculation of the violations specified in Article 12, paragraph 2, of Legislative Decree no.

n. 471 of 1997, must be taken cumulatively into account those carried out during the entire duration of the various provisions. As a result, even a single violation with respect to the obligations imposed by Article 2, paragraph 1 of the Decree. N. 127 of 2015 found in 2020, but that will be followed to other 3-2018 (for example, the failure of receipts issued in the same number of days), it will bring with him the additional sanction of suspension of the license or authorization to carry out or exercise of the same activity in the terms referred to above;

b) they are still applicable, although with reference to the only equipment acts upon issue of receipts, among others:

- The provisions affecting the failure installation of cash registers <sup>50</sup>;
- its sanctions <sup>51</sup>;
- the omitted annotations in cases of failure or irregular operation of the aforementioned gauges, namely the failure to timely request for intervention for their maintenance <sup>52</sup>;
- the provisions that affect tampering or alteration of the same apparatus and of their printed <sup>53</sup>.

## **6 Answers to frequently asked questions ( "FAQ" )**

It is reported that more purely technical and operational problems on the order concerning the electronic storage and the electronic transmission of data

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<sup>50</sup> Article 11, paragraph 5, of Legislative Decree. N. 471 of 1997.

<sup>51</sup> Article 12, paragraph 3, of Legislative Decree. N. 471.

<sup>52</sup> Article 6, paragraph 3, second and third period of the Legislative Decree. N. 471.

<sup>53</sup> Article 2, paragraph 8, of the Law of 26 January 1983 n. 18.

related to the daily fees by next March will

available on the place institutional of the writer

( <https://www.agenziaentrate.gov.it/portale/web/guest/scontrino-elettronico> ), service

"FAQ - Answers to frequently asked questions" to which we refer for all details

case and the eventual integration of the information contained in this seat.

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The Regional Directorates will ensure that the instructions and principles

utterances with the present circular are punctually observed by

Provincial Directorates and the Offices employees.

THE DIRECTOR

Ernesto Maria Ruffini ( *digitally  
signed* )