



VAT Treatment of Expense Recharges Incurred by an Italian Company to Its European Parent Company

Descrizione

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With **Ruling No. 6/E of February 11, 1998**, the **Tax Administration** reaffirmed that, from a **civil law perspective**, the relationship between the active party and the passive party in the recharging of costs should be classified as a **mandate without representation**. However, for **VAT purposes**, the operation falls within the scope of **Article 3, third paragraph, of Presidential Decree No. 633/72**, which states that the services rendered or received by **agents without representation (SIT)** are **considered services even in the relationship between the principal and the agent**

What is the correct VAT treatment for this service (i.e., how should the invoice be issued)?

In theory, the **cost recharge** could be treated in **two different ways**:

1. **As a general service**, autonomously subject to VAT and unrelated to the nature of the individual services received.
2. **As a specific service**, maintaining the same nature as the services originally received.

If we adopt **Option (1)**, the situation would be relatively simple:

We would issue an invoice for **“general cost recharge incurred in relation to the seconded employee”** (or a similar description), **out of scope for VAT under Article 7-ter of Presidential Decree 633/1972**, with the statement **“reverse charge”** included on the invoice.

However, the Tax Administration has a different view.

According to the aforementioned **Ruling No. 6/E of February 11, 1998**:

It is considered that this provision not only qualifies the transaction carried out by the agent without representation as a service but also achieves the broader purpose of establishing a VAT framework based on a “fictio iuris” (legal fiction). This legal fiction **fully aligns the services rendered or received by the agent with those rendered by the agent to the principal**. The alignment also extends to the **nature of the services**, meaning that the services rendered by the agent to the principal cannot be considered a simple **intermediary role** but must have **the same nature as the original services received or provided by the agent** on behalf of the principal.

By reaffirming that the **cost recharge constitutes a service**, the ruling clarifies that the **recharged cost retains the same intrinsic nature as the service originally received by the agent (SIT) and subsequently recharged to the principal (SEU)**.

Implications

This ruling has significant implications, as it **requires us to analyze each individual service received**, determine its correct VAT treatment, and then **apply the corresponding VAT treatment to the recharge**.

- **General Rule:** Generic services follow the **VAT territoriality rule**, meaning they are **subject to VAT in the country of the recipient (SEU)**.
 - In this case, the services should be **re-invoiced as an out-of-scope VAT transaction under Article 7-ter of Presidential Decree 633/1972**, with the mention “reverse charge” on the invoice.

However, **subsequent articles of Presidential Decree 633/72 introduce exceptions** for specific types of transactions:

VAT Treatment of Different Types of Costs in the Recharge

Real Estate Rental

- **VAT territoriality rule:** Rental of real estate follows the **territoriality principle of the location of the property (Article 7-quater, paragraph 1, letter a, DPR 633/72)**.
- Since the **property is in Italy**, the service is **subject to Italian VAT** (generally exempt under **Article 10, DPR 633/72**).
- **Recharge to the German parent company:** It could be considered **out of scope for VAT under Article 7-ter** (if classified as a generic service provided to an EU taxpayer).

Long-Term Car Rental (Article 7-sexies, DPR 633/72)

- **VAT territoriality:** Determined by the location of the recipient.
- **In this case, the recharge is subject to the reverse charge mechanism.**

Travel Expenses (fuel, tolls, train, flight, taxi, etc.)

- **Same VAT treatment:** Reverse charge applies.

Restaurant Expenses

- **Meals are classified as services tied to the place of performance** (Article 7-quater, letter c, DPR 633/72).
- **If the meal is consumed in Italy:** The service is **subject to Italian VAT**.
- **Recharge to the parent company:** The recharge **does not change VAT territoriality**, so it remains **subject to Italian VAT** (reverse charge does not apply).

Hotel Expenses

- **Hotel services are subject to VAT where they are provided** (Article 7-quater, letter a, DPR 633/72).
 - **If the stay is in Italy:** The service is **subject to Italian VAT**.
 - **Recharge to the parent company:** The cost **remains subject to Italian VAT**.
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Final Consideration: Salary/Wage Recharges

With **Tax Ruling No. 38 published on February 18, 2025**, the **Italian Tax Authority** confirmed the new **VAT framework for personnel secondment**.

- **Article 16-ter of Decree Law 131/2024** establishes that **secondment of personnel is considered a service subject to VAT when there is a direct link between the service provided and the consideration received**.
- This law **abolishes Article 8, paragraph 35 of Law 67/88**, which **previously excluded personnel secondment from VAT** when the reimbursement only covered actual costs without a "mark-up."
- **The new rule applies only to secondment agreements signed or renewed from January 1, 2025.**

If further clarification is required, a detailed case-by-case assessment is recommended.

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