

**Changes in VAT
regulations**

**Requests for
authorisation
to perform
intra-Community
transactions**

**[Order of the Director
of the Revenue Agency
dated
29 December 2010]**

Newsletter

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Requests for authorisation to perform intra-Community transactions [Order of the Director of the Revenue Agency dated 29 December 2010]

Decree Law no. 78 of 2010, effective since 31 May 2010, introduced changes to art. 35 of Presidential Decree 633/72, providing for the obligation for operators to state their intention to perform intra-Community transactions (intra-Community sales and purchases of goods) in the notice of commencement of business for VAT purposes.

This effectively constitutes a request for authorisation that may be rejected by the Office in the 30 days following receipt of the notice of commencement of business.

The Order of the Director of the Revenue Agency of 29 November 2010 provided some indications on:

- procedure for stating an intention to perform intra-Community transactions;
- procedure for rejection and revocation of authorisation;
- exclusion of subjects authorised to perform intra-Community transactions from the electronic archive (Vies);
- procedure for contesting a rejection or revocation of authorisation.

Subjects requesting a VAT number

When applying for a VAT number, subjects intending to perform intra-Community transactions must fill in the "Operazioni intracomunitarie" (intra-Community transactions) field in "I" form of the notice of commencement of business (form AA7/10 and AA9/10).

Within 30 days of receipt of this notice and having carried out the appropriate checks, the Revenue Agency may:

- reject the request on the basis of the evaluation; or
- include the subject in the electronic archive of subjects authorised to perform intra-Community transactions (authorisation based on the principle of "tacit approval").

In the subsequent six months, the Agency will carry out more in-depth checks on subjects included in the electronic archive of subjects authorised to perform intra-Community transactions, after which it may issue a revocation that may be challenged before the competent tax courts.

Non-resident subjects applying for direct identification in Italy for VAT purposes must file a specific request (or revocation) with the Operations Centre of Pescara, since the ANR/3 form does not provide the possibility of indicating an intention to perform intra-Community transactions.

Suspension of the right to perform intra-Community transactions pending authorisation

In the period pending authorisation, permission to perform intra-Community sales and purchases is suspended until the 30th day after the date the notice is filed.

Therefore:

- in the 30 days following the filing of the notice, the subject may only perform internal transactions, but is not permitted to perform intra-Community sales or purchases;
- from the 31st day, provided the request has not been rejected, the subject is authorised to perform intra-Community transactions.

Subjects already in possession of a VAT number

Subjects who filed a notice of commencement of business between 31 May 2010 and 28 February 2011

Subjects who requested a VAT number after 31 May 2010 are excluded from the electronic archive of subjects authorised to perform intra-Community transactions if:

- they did not state their intention to perform intra-Community transactions in the notice of commencement of business; or
- they did not perform intra-Community transactions in the second semester of 2010 and comply with the obligation to file summary lists of transactions.

If the above subjects intend to be included in the list of intra-Community operators they must file a specific request with the appropriate Revenue Agency office. This request is subject to the same 30-day rules on authorisation, rejection and suspension described above.

The Order appears to suggest that subjects who did not state their intention to perform intra-Community transactions in the notice of commencement of business, but performed such transactions in the second semester of 2010 and duly indicated them in the EU listings, would be included in the electronic archive of intra-Community operators.

Subjects who filed a notice of commencement of business before 31 May 2010

Subjects who requested a VAT number before 31 May 2010 are excluded from the computer file of subjects authorised to perform intra-Community transactions if:

- they did not file the EU purchases and sales listings in 2009 and 2010 (subjects should not be excluded even if transactions were performed in only one of the two years); or

- despite filing the EU listings in 2009 and 2010, they did not comply with the VAT declaration obligations for 2009 (i.e. they did not file the annual VAT return for 2009).

If the above subjects intend to be included in the list of intra-Community operators they must file a specific request with the competent Revenue Agency office. This request is subject to the same 30-day rules on authorisation, rejection and suspension described above.

The Order appears to suggest that subjects with a VAT number who performed sales and purchases of goods and services in 2009 and 2010 with subjects resident in

other member states and who correctly complied with declaration obligations, continue to be included on the lists and are not required to make any declaration.

These operators will also be subject to periodic checks carried out by the Revenue Agency on subjects authorised to perform intra-Community transactions and registered on the electronic archive of intra-Community operators.

The Director's Order establishes a deadline (28 February 2011) within which the Revenue Agency must exclude the appropriate Community operators from the electronic archive.

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