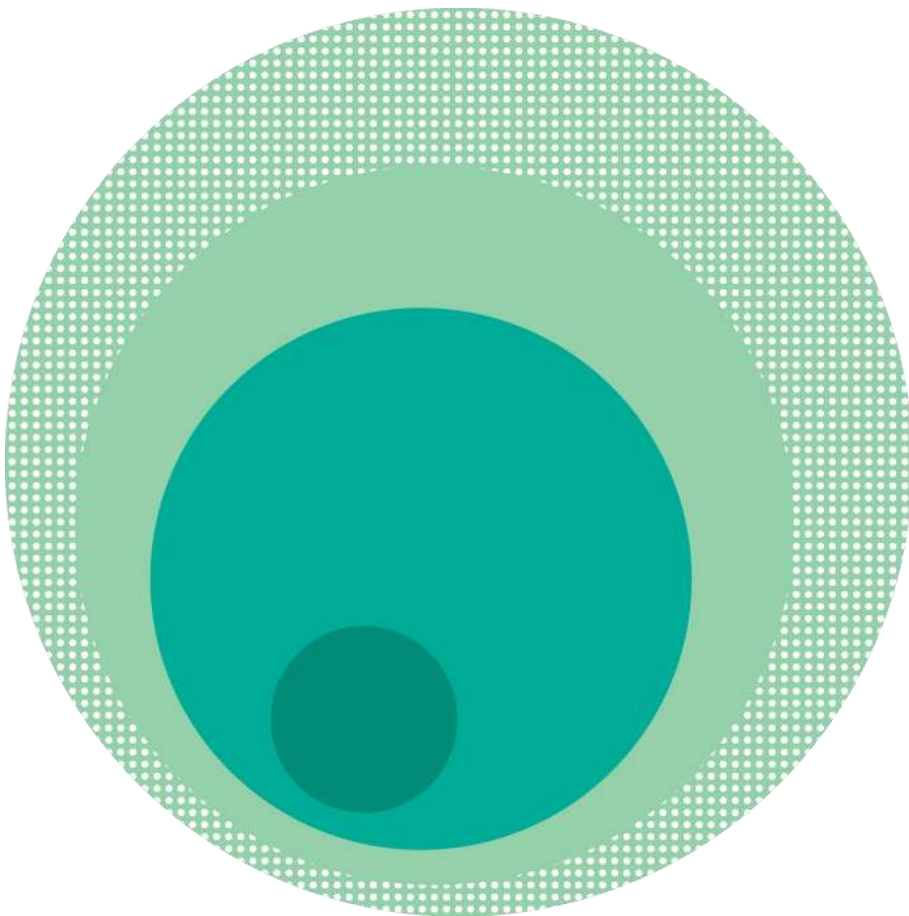


VAT and permanent establishment: the clarifications from the Tax Office

This taxnews analyses the recent response no. 33 dated February 13, 2025 issued by the Tax Office which clarifies the VAT treatment of commercial transactions carried out by a permanent establishment in Italy of a foreign company.



If the permanent establishment is actively involved in sales, it must be considered as a tax payer and apply Italian VAT. However, for purchases from Italian suppliers, if the permanent establishment plays only a marginal role, the transaction can be handled directly by the parent company with intra-community VAT. The VAT refund must be processed through the Italian VAT number of the permanent establishment, excluding the use of simplified procedures for non-resident subjects. These are the principles expressed by the Tax Office in the **response no. 33 of February 13, 2025** regarding the VAT treatment of commercial transactions carried out by a permanent establishment in Italy of a German company.

The case concerned a German company, **Alfa KG**, operating in the production and distribution of materials, having a permanent establishment in Italy, **Alfa IT**, for logistic and commercial management activities. Through the official inquiry, clarifications were requested on the following points:

- 1) whether the Italian permanent establishment **Alfa IT** could be considered to be significantly involved in the sale of goods to Italian customers (with the consequent obligation to apply VAT);
- 2) the involvement of the permanent establishment **Alfa IT** in the **purchases** of goods made by the German parent company from Italian suppliers;
- 3) whether the German company **Alfa KG** could request the refund of VAT charged by Italian suppliers, directly or through its permanent establishment.

Preliminarily, it could be important to note that, in general, for VAT purposes, for a foreign entity's Italian permanent establishment to become a tax payer (and consequently issue invoices instead of the transferee or principal, whether or not established in Italy), it is necessary that, alternatively:

- the transfer or service is **carried out** directly by the permanent establishment;
- the permanent establishment **participates** in the transfer or service performed by the foreign parent company.

In line with the above, in this specific case, the Tax Administration first assessed the activities carried out by the Italian permanent establishment **Alfa IT** on behalf of the German parent company **Alfa KG**, highlighting that:

- **Alfa IT** managed contacts with Italian customers, negotiated prices, entered orders into the company system and provided post-sale assistance;
- while not formally concluding contracts, **Alfa IT** played a decisive role in the pre-contractual and management phases, directly influencing transactions.

In this context, the activities of the permanent establishment **Alfa IT** were considered **qualifying** for VAT purposes, as it **significantly contributed** to the realization of sales. As a result, **Alfa IT** qualified as a **VAT taxable subject**, with the consequent **obligation to issue** invoices with **Italian VAT** (territorially relevant in Italy under Article 7-bis of Presidential Decree no. 633/72) for operations concluded with customers residing in Italy.

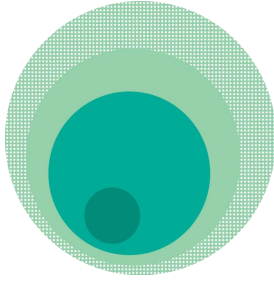
Furthermore, as regards to **purchases** made by the German parent company from Italian suppliers, it was noted that:

- the Italian permanent establishment **Alfa IT** only carried out marginal activities of logistic support and assistance (without involving activities of negotiation nor direct management of orders);
- consequently, Italian suppliers were required to issue invoices directly to the German parent company **Alfa KG** with the application of VAT, in accordance with the regulations for intra-community transactions.

The last question concerned the possibility for the German company **Alfa KG** to request a **refund of the VAT** paid to Italian suppliers. In this regard, it was clarified that if a permanent establishment carries out transactions taxable in Italy, the parent company cannot request the VAT refund through the simplified procedure provided for non-resident subjects (ex-Article 38-bis of Presidential Decree no. 633/72).

The office is available to clients for any clarification and assistance.

March 7th, 2025



*LET US HELP YOU ACHIEVE
FURTHER BUSINESS SUCCESS*

FIDERCONSULT SRL

ROME

00144 - Via Birmania, 81
Tel. +39 06 591.74.69
Fax +39 06 591.35.82

FLORENCE

50132 - Viale Giuseppe Mazzini, 10
Tel. +39 055 234.79.02

FIDENZA

43036 - Via Monsignor Ottorino
Davighi, 436
Tel. +39 02 93.21.87.03

MILAN

20121 - Via San Prospero, 4
Tel. +39 02 93.21.87.03

FiderConsult Srl (the "Firm") is a member of Urbach Hacker Young International Limited, a UK company, and forms part of the international UHY network of legally independent accounting and consulting firms. UHY is the brand name for the UHY international network. The services described herein are provided by the Firm and not by UHY or any other member firm of UHY. Neither UHY nor any member of UHY has any liability for services provided by other members."