

Tax rules and shooting in Italy

A detailed look at the most frequently asked tax questions which may arise while shooting in Italy

This document provides a summary of the most frequently asked questions; please contact us if you have any additional questions or need more in-depth information.

What sales and imports are subject to value-added tax in Italy?

Sales of goods and services generated as a result of pursuing a professional or business activity on Italian territory as well as imports from abroad are generally subject to Italian value-added tax or IVA (imposta sul valore aggiunto). The legal basis for the application of value-added tax is the pursuit of a professional or business activity.

Work performed on an occasional basis is not subject to value-added tax. Work is only subject to value-added tax if the person in question performs it on an ongoing commercial basis.

What value-added tax rates are applied in Italy?

The standard rate of value-added tax in Italy is currently 22%. Certain groups of goods and services are subject to a reduced tax rate of 4% (e.g. staple foods, magazines, books) or 10% (e.g. food, medicine, passenger transport services, hotel and restaurant services). The law also provides for tax-exempt services (e.g. monetary transactions, credit transactions, rent, medical and educational services) and services which are outside the scope of value-added tax.

What value-added tax rules apply when a production company from another EU country films in Italy and purchases goods and services in Italy for the purpose of its filming activities?

In the European Union, the general rule is that value-added tax for intra-Community supplies is accounted for in the customer's country of origin (place of residence).

a) Purchase of goods

The provisions governing the intra-Community sale of goods apply. When a business person from another EU country ("EU customer"), i.e. a person whose place of residence is in the EU (e.g. a German film producer), purchases goods in Italy, their Italian supplier will issue them an invoice which does not charge them any value-added tax (pursuant to art. 41, DL (Decree Law) 331 of 30 August 1993 – intra-Community acquisition). The invoice includes the statement non imponibile, i.e. "not subject to taxation". The foreign business person receiving the Italian invoice is required to account for the value-added tax in accordance with the value-added tax arrangements in their country of origin.

b) Purchase of services

The provisions governing the intra-Community supply of services apply. When a foreign company (“EU customer”) purchases general services in Italy, its Italian supplier will issue it an invoice which does not charge it any value-added tax and includes the statement *fattura non soggetta a IVA* (“invoice is not subject to value-added tax”) pursuant to art. 7-ter, DPR (Presidential Decree) 633/1972. The invoice also includes the statement “reverse charge”. This means that the customer is obliged to account for the value-added tax in their country of origin.

c) Goods and services for which Italian value-added tax is charged even when they are purchased as intra-Community supplies

There are numerous instances when a foreign company purchasing goods and services in Italy may receive an invoice charging them Italian value-added tax. Examples cited in value-added tax legislation include the following (art. 7-quater, 7-septies DPR 633/1972):

- Invoices from hotels, restaurants and catering companies
- Travel and transport services
- Vehicle rental (only partially deductible)
- Property and property maintenance services
- Rent and lease fees
- Educational and sport-related services
- Services relating to trade fairs and exhibitions

In these cases, the Italian value-added tax is paid by the foreign customer.

Can production companies from other EU countries reclaim the value-added tax they have paid?

A production company from another EU country which is a passive recipient of goods or services in Italy, does not have an Italian value-added tax registration number and has not appointed a tax representative may file a request to reclaim the value-added tax they have paid (art. 38-bis2 and 38-ter DPR 633/1972). One of the prerequisites for this is that the value-added tax paid is deductible under Italian law. The request must be made by no later than 30 September of the following year. Companies must submit their reclaim request to the tax authority in their country of origin; the tax authority will then transfer it electronically to the Italian tax office (Agenzia delle Entrate). Experience shows that the length of time taken for repayment to be made depends on the specific countries between which the request is processed.

What value-added tax arrangements apply to companies working with an Italian partner, e.g. a production-services company?

Film producers from the EU wishing to work in Italy may decide to make use of the services provided by an Italian-based company. This involves the producer concluding a contract with a production-services company (*produttore esecutivo* – “executive producer”) with a registered office in Italy. The executive producer ensures that all the statutory regulations applicable on Italian territory are observed and enters all the expenses

and invoices relating to the production into its books in accordance with commercial and tax law. In such cases, the Italian partner company will also reclaim value-added tax.

What alternative options are there for foreign production companies to cooperate with an Italian production-services company or to purchase goods and services directly?

The principle of freedom of movement applies in the European Economic Area and gives every EU citizen the right to settle, work and register for tax purposes in another EU country. Citizens who exercise these rights must observe the laws of the country in question. EU citizens can do the following in another EU country:

- a) register, e.g. apply for an Italian tax registration number (*codice fiscale*);
- b) appoint a tax representative;
- c) establish a company.

Appointed tax representatives must fulfil the value-added tax obligations on behalf of their foreign EU clients (issuing invoices, posting, paying value-added tax, preparing and filing tax returns). When appointing a tax representative, it is important to follow the required administrative procedure (issuing a mandate, registering with the tax office). Both the tax representative and foreign client are responsible for ensuring that all the statutory obligations applicable in Italy are observed. This liability causes many companies and individuals to refrain from appointing a tax representative.

What is Intrastat and when does an Intrastat declaration have to be submitted?

Companies based in the EU are required to submit summary declarations known as Intrastat declarations for goods and services traded within the EU if they exceed certain thresholds. Depending on the volume of sales, these declarations must be submitted to the tax office in an electronic form either periodically, monthly or quarterly. Intrastat declarations allow the tax authorities in EU member states to make checks and are used by the EU for statistical purposes.

When working with an Italian production-services company, foreign producers are not required to submit Intrastat declarations for individual purchases.

What is the difference between a sales receipt (*scontrino*) and an invoice (*fattura*)?

An invoice is a document which proves and confirms that a purchase of goods or services has been made. Depending on the recipient, an invoice is required to include certain pieces of information. If the invoice is being issued to a business (company, freelancer etc.), it must include the name of the company or the name under which the recipient trades, the address of the buyer and seller and their value-added tax registration numbers (*partita IVA*); for non-business buyers (private individuals), it must contain the name and tax number (*codice fiscale*). The following information must be provided in both cases: sequential invoice number, invoice date, description of the goods and services purchased (quantity, quality, price), total net amount to which tax is being added (*imponibile*), the tax rate (*aliquota*) and the amount of tax being charged (*imposta*).

In comparison to an invoice, a sales receipt (*scontrino fiscale*) is an “anonymous” document; in other words, the recipient is not usually named on a sales receipt. Tax paid directly can therefore only be deducted to a limited extent. The amount of value-added tax charged is also not shown on a sales receipt and can therefore not be deducted.

Are there any circumstances where a foreign production company is required to set up an Italian business establishment in order to film in Italy?

Firstly, it is important to note that there is no single definition of a “business establishment” which unequivocally covers all aspects of income tax, value-added tax and employment law.

Article 162 of the Italian Income Tax Act defines a business establishment as a permanent place of business (*stabile organizzazione*), where a foreign company carries out a commercial activity wholly or partially on Italian territory. According to the law, branches, agencies, offices, production facilities, workshops and building sites all count as permanent places of business. This definition of a permanent place of business (under tax law) applies to entities originating from countries which have concluded a double taxation agreement with Italy.

Italian legislation is ambiguous when it comes to shooting activities. Producers are therefore recommended to seek the advice of a tax consultant for assistance on a case-by-case basis. Companies with a business establishment in Italy are required to keep accounts for all the transactions relevant to Italy and to store these accounts in Italy.

Companies with a business establishment in Italy as defined under tax law must file an income tax return. The taxation rules are the same as those for limited companies.