

No VAT REFUND IN CASE OF FRAUD

Italian Tax Authorities Ruling No. 50 of 3 October 2025 (amended on 7 October 2025)

- ✓ Italian Tax Authorities (“ITA”), with the above-mentioned ruling, provided clarifications concerning the VAT refund, pursuant to Article 30-ter of the Presidential Decree 633/1972, in the event of undue VAT being applied to a supply of goods/services definitively ascertained by ITA (e.g., a service contract reclassified as a labor supply contract).
- ✓ In particular, ITA clarified that the VAT refund pursuant to Article 30-ter is not possible in cases where, in a context of fraud, following checks carried out by ITA, the contractual relationship between the parties is reclassified and, as a result, the right to deduct VAT relating to the services pertaining to the contract allegedly considered to be a contract for services is excluded due to the invalidity of the legal title from which they arise. In such circumstances, in fact, there is no service provided by the contractor that is taxable for VAT purposes.
- ✓ As highlighted by ITA in previous clarifications (see, for example, the ruling no. 66 of 11 March 2024), the provision in exam, in accordance with the principle of VAT neutrality, allows the transferor/service provider to obtain a refund of the tax initially paid to the tax authorities. However, pursuant to the aforementioned paragraph 2, this refund is subject to the return of the VAT to the transferee/customer of the tax unduly charged on the invoice, which the latter must have returned to the tax authorities following a final assessment. However, paragraph 3 specifies that the refund of the tax provided for in paragraph 2 is excluded where the relevant payment was made in a context of tax fraud.
- ✓ In this regard, it should be noted that the resolution in exam was amended after its initial publication to specify that the exclusion from VAT refund applies exclusively in cases where the contractual relationship is reclassified in the context of tax fraud.

