

Pirola
Pennuto
Zei
& Associati
studio di consulenza
tributaria e legale

CUSTOMS AND EXCISE DUTIES

NEWSLETTER/APRIL-JUNE 2018

PIROLAPENNUTOZEI.IT
PIROLAPENNUTOZEI & ASSOCIATI
@STUDIO_PIROLA
PIROLA PENNUTO ZEI & ASSOCIATI

Customs

GUIDANCE

1.1	9
Note no. 49236/RU 2 May 2018 - Comprehensive Economic and Trade Agreement (CETA) between the European Union and its Member States and Canada - provisional application of the protocol on rules of origin and origin procedure	
1.2	9
Communique of 15/05/2018 - publication of AEO eBooks	
1.3	10
Communique of 15/05/2018 - publication of Commission Implementing Regulation (EU) 2018/582 amending Implementing Regulation (EU) No 1352/2013 establishing the forms provided for in Regulation (EU) No 608/2013 of the European Parliament and of the Council concerning customs enforcement of intellectual property rights	
1.4	10
Note no. 54505/RU of 22 May 2018 - art. 4 <i>bis</i> Decree Law 22 October 2016, no. 193 (obligation to issue Tax Free Invoices electronically as from 1 September 2018). Operating instructions for OTELLO 2.0 and in relation to the transition period (Tax Free Invoices issued up to 31 August in paper form) and Ruling no. 54088 of 22 May 2018 - art. 4 <i>bis</i> of Decree Law 193/2016 (Tax Free Shopping invoices issued in electronic form)	
1.5	11
Communique 21 May 2018 - Chapter 03 " <i>Fish and crustaceans, molluscs and other aquatic invertebrates</i> "	
1.6	11
Communique of 24 May 2018 – DPO decision - frequent errors	
1.7	12
Note no. 55972/RU 24 May 2018 - Preferential origin of goods - Commission Implementing Regulation (EU) 2018/604 of 18 April 2018 amending Implementing Regulation (EU) 2015/2447, and repealing Regulations (EEC) No 3510/80 and (EC) No 209/2005. Partial modification of Circular 13/D of 16 November 2017	

1.8	13
Communique 67056/RU of 12 June 2018 - <i>Questionnaire</i> in the Market Access Database addressed to companies to ascertain familiarity with the rules of origin	
1.9	13
Note no. 66333/RU of 11 June 2018 - Extension of customs clearance at sea to the automotive sector within the framework of the national operational program " <i>infrastructures and networks</i> " 2014 - 2020, prog 04 - analysis of the goods presentation component - phase 1. Experimental activation of the procedure at the ports of Salerno and Gioia Tauro, extension of the experimentation at the port of Ravenna, possible activation at other ports	
1.10	13
Note no. 67079 of 21 June 2018 - OTELLO 2.0: new facilitated access service	

Excise duties and consumption taxes

LEGISLATION

1.1	15
Order no. 106701 of 28 May 2018 - Technical rules governing digital storage and electronic transmission of data relative to daily payments for the sale of gasoline or diesel fuel intended for use as motor fuel, in implementation of art. 2(1 <i>bis</i>) Legislative Decree 5 August 2015 no. 127	

GUIDANCE

2.1	16
Note no. 50506/RU of 10 May 2018 - Variation in the National Consortium for the Management, Collection and Treatment of Used Mineral Oils, established by resolution of the Board of Directors held on 26 April 2018 and required under art. 236(7) Legislative Decree 152/2006	

2.2	16
Note no. 46136 of 15 May 2018 - Re-Te Project - Operating Instructions. Extension of training / validation courses and in the operating environment. Technical automation plan 2017 - PSS DOGS0048 - 22 Digitization of excise taxes – Digital registers - PTT 050D5R	
2.3	17
Note no. 31696 of 23 May 2018 - Common formula for the complete denaturing of alcohol (general denaturant) for the purposes of exemption from excise duty. Commission Implementing Regulation (EU) 2017/2236 of 5 December 2017 amending Regulation (EC) No. 3199/93 on the mutual recognition of procedures for the complete denaturing of alcohol for the purposes of exemption from excise duty. Updating application directions	
2.4	17
Note no. 57516 of 6 June 2018 - art. 62 Legislative Decree 504/95. Preparation of lubricants according to HS Code 3403. Tax treatment of the taxable products	
2.5	18
Note no. 64837/RU of 7 June 2018 Law 205/2017 - Digital invoices for the sale of fuel for engines used in road haulage. Legislative Decree 504/1995, art. 24-ter. Tax benefit on diesel fuel used in the freight transport sector. Prerequisites for reimbursement. Mandatory indication of the vehicle license plate in the invoice	
2.6	20
2nd <i>Quarter</i> 2018 – Diesel fuel benefits for use by road transport - software availability - Note no. 69244 of 19 June 2018	
2.7	20
Note n. 71725/RU of 27 June 2018 - Decree of the Minister of Economy and Finance of 12 April 2018 entitled " <i>Authorization for the storage of energy products in third-party deposits</i> " issued pursuant to art. 1(957) Law 27 December 2017, no. 205	

Regulatory Authority for Energy, Networks and Environment

(ARERA)

RESOLUTIONS

1.1	22
Application of sanctions and prescriptive measures for violations in the field of emergency gas services <i>Resolution of 05 April 2018 - 192/2018/S/gas</i>	
1.2	22
Redetermination of reference tariffs for gas distribution and metering services, for 2017 <i>Resolution 5 April 2018 - 209/2018/R/gas</i>	
1.3	22
Determination of the economic conditions of the supply of natural gas under the consumer protection legislation and of the variable unit price CRVOS, starting from 1 October 2018 <i>Resolution of 05 April 2018 - 219/2018/R/gas</i>	
1.4	23
Provisions on the determination of deviation fees for the period 2013-2019 <i>Resolution of 05 April 2018 - 223/2018/R/gas</i>	
1.5	24
Approval of the agreement between Gestore dei Mercati Energetici S.p.a. and Snam Rete Gas S.p.a. <i>Resolution 11 April 2018 - 247/2018/R/gas</i>	

1.6	24
Update for the month of May 2018, of the economic conditions for the supply of gas other than natural gas as a result of the variation of the raw material supply costs <i>Resolution 24 April 2018 - 273/2018/R/gas</i>	
1.7	25
Approval of revenues recognized for natural gas transportation and dispatching services, for 2019 <i>Resolution 10 May 2018 - 280/2018/R/gas</i>	
1.8	25
Execution of the sentence of the Council of State, Sec. VI, 911/18, regarding the fine imposed by the Authority on Enel Rete Gas S.p.A., now 2i Rete Gas S.p.A., with Authority Resolution VIS 33/10 <i>Resolution 17 May 2018 - 281/2018/S/gas</i>	
1.9	26
Update for the month of June 2018, of the economic conditions for the supply of gas other than natural gas as a result of the variation of the raw material supply costs <i>Resolution 24 May 2018 - 298/2018/R/gas</i>	
1.10	26
Appealing extraordinary challenge made to the President of the Republic by Sinergas S.r.l. against the Authority Resolution 12/2018/S/gas <i>Resolution 01 June 2018 - 301/2018/C/gas</i>	
1.11	26
Initiating procedure to recertify Infrastrutture Trasporto Gas S.p.a., as the natural gas transport operator due to ownership unbundling <i>Resolution 01 June 2018 - 305/2018/R/gas</i>	

1.12	27
Approval of transportation and dispatching fees for natural gas, for 2019 <i>Resolution of 01 June 2018 - 306/2018/R/gas</i>	
1.13	28
Provisions regarding procedures for the assignment of regasification capacity <i>Resolution of 01 June 2018 - 308/2018/R/gas</i>	
1.14	28
Technical controls of gas quality for the period 1 October 2018 - 30 September 2019 <i>Resolution of 14 June 2018 - 327/2018/E/gas</i>	
1.15	28
Initiating procedure to define the changes in the rules applicable to end user services in the natural gas sector <i>Resolution of 14 June 2018 - 336/2018/R/gas</i>	
1.16	29
Provisions to regulate economic items related to storage services for thermal year 2018-2019 <i>Resolution 21 June 2018 - 350/2018/R/gas</i>	
1.17	29
Definitive approval of company revenues for storage services for 2018, for the companies Stogit S.p.a and Edison Stoccaggio S.p.a. <i>Resolution of 28 June 2018 - 360/2018/R/gas</i>	
1.18	29
Update for the month of July 2018, of the economic conditions for the supply of gas other than natural gas as a result of the variation of the raw material supply costs <i>Resolution 28 June 2018 - 362/2018/R/gas</i>	

1.19	30
Updates to the economic conditions for the supply of natural gas for consumer protection relative to the third <i>quarter</i> 2018. Updates to the UG3 component. Changes to the TIVG <i>Resolution 28 June 2018 - 365/2018/R/gas</i>	
1.20	30
Approval of proposals to modify the re-gasification code prepared by the company GNL Italia S.p.A., as well as approval of the fees for flexibility services <i>Resolution of 05 July 2018 - 376/2018/R/gas</i>	

Customs GUIDANCE

1.1

Note no. 49236/RU 2 May 2018 - Comprehensive Economic and Trade Agreement (CETA) between the European Union and its Member States and Canada - provisional application of the protocol on rules of origin and origin procedure

While reiterating that the Comprehensive Economic and Trade Agreement between the EU and Canada (CETA) will enter into force definitively when it has been ratified by the parliamentary bodies of all EU Member States, with Note no. 49263/RU of 2 May 2018, the Customs Agency advised that in order to avoid interpretative difficulties as to the concrete application of its provisions, the Protocol on rules of origin and origin procedure, in all its parts (page 465 to 568 of the CETA) provisionally entered into force on 21 September 2017. Therefore the rules and procedures of origin contained in all the Sections and in all the Annexes apply in their entirety. The Agency also mentioned that the TAXUD document concerning the “*Guidelines on the rules of origin within the CETA framework*” was made public with Note no. 70072/RU of 15 June 2017. This document can be found, in Italian, on the Agency’s website following the path: *Dogane – Operatore economico – Atti amministrativi generali – Accordi*.

1.2

Communiqué of 15/05/2018 - publication of AEO eBooks

By communiqué of 15 May 2018, the Customs Agency announced that the European Commission Services has published an eBook on the Authorized Economic Operator (AEO), which is currently available only in English but is being translated into various languages, including Italian. This is the first interactive book produced by the European Commission. Its content is principally based on EU AEO Guidelines (TAXUD/B2/047/2011 - Rev. 6), supplemented by additional interactive multimedia material, making access to the guidelines even more simple. It is a useful tool and complements the existing UCC e-Learning module on the AEO. This multimedia book can be utilised by both customs administrations and economic operators, the material being personalized to the user’s profile. The AEO eBook is freely downloadable from the European Commission’s website: https://ec.europa.eu/taxation_customs/eu-training/general-overview/aEO-elearning-courses_en.

1.3

Communique of 15/05/2018 - publication of Commission Implementing Regulation (EU) 2018/582 amending Implementing Regulation (EU) No. 1352/2013 establishing the forms provided for in Regulation (EU) No. 608/2013 of the European Parliament and of the Council concerning customs enforcement of intellectual property rights

The Customs Agency announced, in a communique dated 15 May 2018, that the Commission Implementing Regulation (EU) 2018/582 of 12 April 2018 amending the Implementing Regulation (EU) no. 1352/2013 establishing the forms provided for in Regulation (EU) No. 608/2013 of the European Parliament and of the Council concerning customs enforcement of intellectual property rights by customs authorities, was published in the Official Gazette no. OJ L98 of 18/04/2018 and that it came into force on 15 May 2018. This Regulation and the related forms for the application for customs protection can be found on the Agency's website in the section *Aree tematiche – Lotta alla contraffazione* and are made available in fill-in format at the following link: <https://www.agenziadoganemonopoli.gov.it/portale/la-domanda-di-intervento-a-tutela-dei-diritti-di-proprietà-intellettuale>.

1.4

Note no. 54505/RU of 22 May 2018 - art. 4 bis Decree Law 22 October 2016, no. 193 (obligation to issue Tax Free Invoices electronically as from 1 September 2018). Operating instructions for OTELLO 2.0 and in relation to the transition period (Tax Free Invoices issued up to 31 August in paper form) and Ruling no. 54088 of 22 May 2018 - art. 4 bis of Decree Law 193/2016 (Tax Free Shopping invoices issued in electronic form)

The Customs Agency, in agreement with the Revenue Agency, by its Ruling no. 54088/RU of 22 May 2018 ordered the implementation of the updated version (2.0) of the "OTELLO" project, realized as part of the initiatives supporting EXPO 2015, in the process of digitizing tax free shopping. The new version of OTELLO has been adapted to comply with the provisions of Decree Law 193/2016, converted by Law 225/2016. Of note, art. 4 bis of the Decree Law imposes the obligation to issue Tax Free Invoices (*Fattura Tax Free* (FTF)) in electronic form as from 1 January 2018. The Customs Agency stated that in issuing Ruling 54088/RU, it was considered opportune to make the use of OTELLO 2.0 possible on a voluntary basis prior the legal obligation came into force. Therefore, it is necessary to guarantee the monitoring of FTFs issued both electronically and, up to 31st August 2018, in paper form at all exit points. With Note 54505/2018, the Customs Agency also announced that the new services of OTELLO 2.0 are available



and operational as from 23 May 2018. The instructions for the management of transactions originating from FTFs issued electronically are contained in this Note, to which reference should be made for further details.

1.5

Communiqué 21 May 2018 - Chapter 03 "Fish and crustaceans, molluscs and other aquatic invertebrates"

With a communiqué dated 21 May 2018, the Customs Agency announced that, following the issue of Decree dated 22/09/2017 (Official Gazette 266 of 14/11/2017) by the Ministry of Agriculture, Food and Forestry, it was necessary to include a note in chapter 03 of TARIC, with the following description: "*Ministerial Decree 22/09/2017 of Ministry of Agriculture, Food and Forestry (Official Gazette 266 of 14/11/2017), in implementation of Reg. (EU) 1379/2013, has updated the scientific names of fish species of commercial interest and their synonyms, including in chapter 03. (See Attachment 1 of the Ministerial Decree 22/09/2017)*" (code N019). Therefore, for the purpose of the exact identification of the code of goods in chapter 03, it is necessary to verify the correspondence between the legal text of the entry and the updated scientific name or the relative permitted synonyms by consulting Attachment 1 to the above referenced Decree. For the purposes of simplification, the Customs Agency has attached to this communiqué a table containing the main fish species, with links to the official databases identified by the Union and national laws, through which it is possible to identify the synonyms for the relevant fish species.

1.6

Communiqué of 24 May 2018 – DPO decision - frequent errors

In order to facilitate the correct presentation of applications for deferral of payment authorizations - DPO decisions, in a communiqué dated 24 May 2018, the Customs Agency listed on the Trader Portal the most common errors in the compilation of attachments 5 and 6, which prevented the creation of an account. Examples are:

- files are attached to the application in non-standard format;
- attachment no. 5 incomplete as it does not contain the "Global Guarantee" field;
- non-existent customs offices codes are indicated in attachment 5;
- repeated or non-existent EORI codes are indicated in attachment 6.

Pursuant to Article 22(2) of the Union Customs Code, within 30 days of receipt of the application the Customs Office must verify whether the conditions required to accept the application are met. If the attachments have any of the errors listed above, the application cannot be accepted as it does not contain all the elements necessary for the decision.

1.7

Note no. 55972/RU 24 May 2018 - Preferential origin of goods - Commission Implementing Regulation (EU) 2018/604 of 18 April 2018 amending Implementing Regulation (EU) 2015/2447, and repealing Regulations (EEC) No. 3510/80 and (EC) No. 209/2005. Partial modification of Circular 13/D of 16 November 2017

The Customs Agency has announced, in its Note 55972/RU of 24 May 2018, that of Commission Implementing Regulation (EU) 2018/604 of 18 April 2018 amending Implementing Regulation (EU) 2015/2447 as regards the procedural rules to facilitate the establishment in the Union of the preferential origin of good, has been published in the Official Gazette of the EU L 101 series on 20 April 2018. This Regulation repeals Regulations (EEC) No. 3510/80 and (EC) No. 209/2005 and came into force on 21 April 2018. The following points should be noted:

- A list of the various GSP origin rules that are relevant in relation to the registered exporters' system (REX) has been set out;
- New features have been introduced in the application request method: two channels are now available through the use of two separate application forms;
- "*The Commission shall provide the third country with which the Union has a preferential arrangement with the addresses of the customs authorities responsible for the verification of a document on origin completed by a registered exporter in the Union in accordance with this Article*" has been deleted;
- The effect of the provisions relating to the transitional period has ended (on 31 December 2017) pursuant to which, "*an exporter being established in the customs territory of the Union may request to be approved in accordance with Article 67 of this Regulation for the purpose of acting as a registered exporter ...*";
- With reference to preferential arrangements, "*small consignments not imported by way of trade should be exempted from the presentation of a document on origin where such exemption is allowed but not directly established in the preferential arrangement*".

1.8

Communique 67056/RU of 12 June 2018 - Questionnaire in the Market Access Database addressed to companies to ascertain familiarity with the rules of origin

The Customs Agency has announced, with communique no. 67056/RU of 12 June 2018, that the European Commission has prepared a *questionnaire* to ascertain operators' familiarity with the rules of origin in the free trade agreements (FTA) entered into by the EU with partner countries. The aim is to evaluate the level of knowledge held by businesses on the advantages of preferential treatment (duty reduced or exempt) provided in such agreements.

As from 31 July 2018 the *questionnaire* will be available in the Market Access Database at the following link: <http://madb.europa.eu/madb/indexPubli.htm>.

1.9

Note no. 66333/RU of 11 June 2018 - Extension of customs clearance at sea to the automotive sector within the framework of the national operational program "infrastructures and networks" 2014 - 2020, prog 04 - analysis of the goods presentation component - phase 1. Experimental activation of the procedure at the ports of Salerno and Gioia Tauro, extension of the experimentation at the port of Ravenna, possible activation at other ports

Operating instructions were issued by the Customs Agency, in Note no. 66333 of 11 June 2018, which replace Note no. 92100 RU of 8/8/2017. Such instructions are effective service regulations, as per the "Operating Instructions" section of the framework rules on customs clearance at sea.

Note no. 92100 RU of 8/8/2017 had experimentally activated the customs clearance at sea for the automotive sector at the port of Ravenna.

1.10

Note no. 67079 of 21 June 2018 - OTELLO 2.0: new facilitated access service

It has been announced by the Customs Agency, with Note no. 67079 of 21/6/2018, that, in order to promote the use of OTELLO 2.0, a new facilitated access service has been created, simplifying the accreditation process and conferral of any proxies. The method by which to access the digital services available on the Customs Portal have been set out in Note no. 104198 of 14/09/2017 and Note no. 54505 of 22/5/2018 contained operating instructions for the use of OTELLO 2.0. These methods are still valid, with the new



GUIDANCE

service offering a simplified process for the following categories of users: individuals in possession of level 2 SPID (Public Digital Identity System) or CNS (National Service Card) credentials who are: the transferor's legal representative in the Tax Registry; the transferor's manager on Entratel pursuant to art. 3(2) and (2 *bis*) Presidential Decree 322/1998; or the transferor's manager on the Single Authorization Form (MAU) of the Customs and Monopolies Agency.

Excise duties and consumption taxes

LEGISLATION

1.1

Order no. 106701 of 28 May 2018 - Technical rules governing digital storage and electronic transmission of data relative to daily payments for the sale of gasoline or diesel fuel intended for use as motor fuel, in implementation of art. 2(1 *bis*) Legislative Decree 5 August 2015 no. 127

Order no. 10671 of 28 May 2018, jointly adopted by the Director of the Revenue Agency and the Director of the Customs Agency, established that from 1 July 2018 it is now obligatory to communicate the daily payments for the sale of gasoline and diesel intended for use as motor fuel by highly automated distributors.

This obligation concerns only those managing highly automated petrol and diesel road distribution systems in which the refuelling takes place purely by way of prepaid self-service, which are equipped with automated procedures for remote sensing of systems data, terminals for payment by means of banknotes and electronic money (ATMs, credit cards, prepaid cards, etc.) and computer systems for the remote management of the data for the loading and unloading of fuel.

Further categories of operators obliged to communicate in this manner will be identified in subsequent orders. The deadline by which operators are to be notified of the obligation for digital storage and electronic transmission of this information is 1 January 2020.

The communication of the daily payments for the sales of petrol and diesel is carried out monthly on the last day of the month following the reference date. The spreadsheet for the presentation of the data, entitled *“Tracciato unico Cessione carburanti & Registro C/S - Single Fuel Supply Cables & Registry C / S”*, has been published in the relevant sections of the portals of the Customs Agency and the Revenue Agency.

GUIDANCE

2.1

Note no. 50506/RU of 10 May 2018 - Variation in the National Consortium for the Management, Collection and Treatment of Used Mineral Oils, established by resolution of the Board of Directors held on 26 April 2018 and required under art. 236(7) Legislative Decree 152/2006

With effect from 1 June 2018 the new value of the tax on lubricating oils, to be paid to National Consortium for the Management, Collection and Treatment of Used Mineral Oils, is fixed at Euro 120 per tonne.

2.2

Note no. 46136 of 15 May 2018 - Re-Te Project - Operating Instructions. Extension of training / validation courses and in the operating environment. Technical automation plan 2017 - PSS DOGS0048 - 22 Digitization of excise taxes – Digital registers - PTT 050D5R

On 3 November 2017, pursuant to Note no. 125159/RU, authorized warehouse operators dealing with alcohol and alcoholic beverages (excluding wine and fermented beverages other than wine and beer), designated by the trade associations, were provided with operating instructions for the use of the electronic registers, which on an optional basis replaces paper registers for such authorized warehouse operators (the "*Re.Te. Project*").

Based on the significant advantages found by those operators, with Note no. 46136 of 15 May 2018, the operating instructions were issued to all Customs Agency offices and to authorized warehouse operators carrying out activities in the alcohol and alcoholic beverages sector, with the exclusion of wine and beer. The shift from paper to fully digital registers requires gradual implementation with the progressive adoption by tax sector and type of operator. To date, orders have only been issued authorized warehouse operators in this sector.

2.3

Note no. 31696 of 23 May 2018 - Common formula for the complete denaturing of alcohol (general denaturant) for the purposes of exemption from excise duty. Commission Implementing Regulation (EU) 2017/2236 of 5 December 2017 amending Regulation (EC) No. 3199/93 on the mutual recognition of procedures for the complete denaturing of alcohol for the purposes of exemption from excise duty.

Updating application directions

Commission Implementing Regulation (EU) 2017/1112 of 22 June 2017 definitively replaced, as from 1 January 2018, the formula for general denaturant in the chemical composition used on a national level. Commission Implementing Regulation (EU) 2017/2236 replaced the annex to Regulation (EC) no. 3199/93, in the version introduced by Regulation (EU) 2017/1112, to include in the list of Member States adopting the common denaturing process (i.e. the concentration, per hectolitre of absolute ethanol, of 1.0 litres of isopropyl alcohol, 1.0 litres of methyl ethyl ketone and 1.0 grams of denatonium benzoate), Romania and Bulgaria, bringing the total number to 24.

The Customs Agency used the discretionary power given to the Member States to add the colorant C.I. Reactive Red 24 to the substances used in the formula for the denaturing process of the alcohol, ordering that colorant be used in products to be marketed in containers with a capacity of up to 2.5 litres, with the exclusion of that intended for bio fireplaces.

2.4

Note no. 57516 of 6 June 2018 - art. 62 Legislative Decree 504/95. Preparation of lubricants according to HS Code 3403. Tax treatment of the taxable products

With the Note no. 57516 of 6 June 2018, the Customs Agency clarified the correct tax treatment to apply to lubricating preparations of Community origin classified under HS Code 3403 which compositions contain, in different percentages, mixtures of mineral oil and a product included in art 62(1)(c) of TUA (Consolidated Act concerning taxes on production and consumption and related criminal and administrative penalties), with particular reference to synthetic polyolefin polymers.

The method for the payment of consumption tax has been specified in the cases falling within art. 62(3) TUA, governing lubricating oils and bitumen contained in lubricating preparations (HS Code 3403) and

in other imported products or goods of Community origin when they contain less than 70% of mineral lubricating oil and enough synthetic polyolefin polymers that the total of the two components exceed that threshold.

Such lubricating preparations containing less than 70% of mineral oil, already classified in the country of origin under HS Code 3403, maintain this classification independently of the percentage content of added synthetic polyolefin polymers. The addition of the synthetic-based product has the purpose of increasing the lubricating power of the preparation itself, but if the percentage of mineral oil contained remains below the 70% threshold, the mixing of substances does not lead to the customs classification of the goods being changed.

When the lubricating preparation is intended for mechanical lubrication, the consumption tax due is determined on the basis of the total quantity of mineral oil (less than 70%) and synthetic polyolefin polymers actually contained, resulting from the data declared. Should a quantity of taxable product be found, the operator is obliged to provide documentation to prove the percentage composition of the substances that making up the preparation of Community origin, which documents are also valid for accounting purposes.

2.5

Note no. 64837/RU of 7 June 2018 Law 205/2017 - Digital invoices for the sale of fuel for engines used in road haulage. Legislative Decree 504/1995, art. 24-ter. Tax benefit on diesel fuel used in the freight transport sector. Prerequisites for reimbursement. Mandatory indication of the vehicle license plate in the invoice

Art. 1(917) Law 205/2017 established that supplies of diesel fuel intended to be used as motor fuel for engines used in road haulage must be documented with the issue of a digital invoice as from 1 July 2018. The deadline for e-invoicing for the sale of fuel was extended to 1 January 2019 by Decree Law 79/2018. Nevertheless with Note 64837/RU of 7 June 2018, the Customs Agency has clarified some concerns voiced by sector trade associations and operators regarding the impact of digital invoicing on the formalities required to be eligible to obtain the tax benefit referred to in art. 24-ter Legislative Decree 504/1995 (TUA).

In order to obtain the tax benefit for the reduction of the excise tax rate charged on diesel fuel purchased in Italy, used as fuel by companies "*carrying out the activity of road haulage*" with vehicles whose maximum total mass equals at least 7.5 tons and with a category Euro 3 or higher exhaust emission, it is necessary to be:

- an individual or legal entity registered in the national register of road hauliers on behalf of third parties;
- an individual or legal entity with a license to practice the self-transport of goods on their own account;
- a company established in other European Union member states, meeting the requirements of the European Union regulations for the practice of road haulage.

It is also necessary to present a quarterly declaration showing the fuel consumption purchased and used in road haulage during the reference period, as well as the vehicle used to carry out this activity.

With reference to the vehicles used, the license plate of the vehicles used by the operator for carrying out the transport activity must be indicated in Section A-1 of the declaration.

In order to obtain a refund of excise duty, transport operators must request that the invoice, which the distributors are obliged to issue, include the vehicle number plate.

This Note refers to Revenue Agency Circular no. 8/E of 30 April 2018 which, in point 1.1 relating to the content of the e-invoice, provides that the license plate of the vehicle need not be included necessarily in the document in question, but that this information can nevertheless be included for the appropriate purposes. The Customs Agency now states that such appropriate purposes includes the requirement to verify the amount of the tax benefit, i.e. to verify that the taxpayer falls into the category eligible for the benefit pursuant to art. 24-*ter* of the TUA and that the benefit can be traced to the taxpayer who has the effective and exclusive right to the same.

In conclusion, the requirement that the license plate of the vehicle be included in the e-invoice continues, as the rules governing the implementation of the use of the tax benefit have not changed.

2.6

2nd Quarter 2018 – Diesel fuel benefits for use by road transport - software availability - Note no. 69244 of 19 June 2018

In Note no. 69244 of 19 June 2018, the Customs Agency provided updates in relation to requests for refunds of excise duty on diesel fuel used in road haulage, for the second *quarter* of 2018. Those entitled to this benefit are indicated in the new art. 24-*ter* Legislative Decree 504/1995 (TUA), introduced by art. 4-*ter* Law 255/2016, and the Offices responsible for processing such requests were identified in Circular of 20 June 2000, no. 125/D.

Pursuant to art. 24-*ter* TUA, this tax benefit is equivalent to Euro 214.18 per thousand litres of product, in relation to consumption between 1 April and 30 June 2018. If the refund is requested by way of compensation, it may be used from the 61st day following the filing of the declaration by including it in the payment form F24 with a tax code 6740. The refund application may be filed on paper or electronically and be made as a substitute declaration of affidavit no later than 30/07/2018. Claims arising from consumption in the first *quarter* of 2018 may be used in compensation by 31 December 2019, date on which the deadline for the submission of the refund applications of surpluses not used in compensation, to be submitted by 30 June 2020.

2.7

Note n. 71725/RU of 27 June 2018 - Decree of the Minister of Economy and Finance of 12 April 2018 entitled “Authorization for the storage of energy products in third-party deposits” issued pursuant to art. 1(957) Law 27 December 2017, no. 205

Art. 1 (945) to (956) Law 205/2017 require that those who, for the purposes of marketing energy products, use storage facilities of which they are not the registered operator, thus of third parties, or “*ancillary deposits*”, are subject to a particular licensing regime. This is the case whether or not they are tax warehouses (as per art. 23 TUA) or commercial deposits managed by registered recipients (pursuant to art. 8 TUA). This regime provides for the issuing of an authorization for all those who are not, themselves, tax warehouse operators. For authorized depositaries, on the other hand, the transmission of a specific communication is required.

Nothing changes with regard to: the identification of those required to pay excise duty; the obligations to



GUIDANCE

be met by the authorized warehouse operator and the registered recipient of energy products; the relative methods of payment of the tax; and the keeping of the warehouse accounts.

Non warehouse operators who intend to store their energy products at third party warehouses, must submit an application for the authorization in electronical format and pay Euro 258.23 as an annual license fee.

The storage of energy products at a registered tax warehouse or registered recipient is permitted only after the document by which the authorized warehouse operator or registered recipient formally consent to use by the applicant has been presented to the Customs Agency, or if communication by tax warehouse operators has been made. The authorization is valid for two years and enables the applicant use the ancillary deposit with the use of an identification code. The communication, on the other hand, is valid for one year and provides, as for the authorization, the issuing of an identification code.

This licensing scheme will be fully applicable from 30 August 2018.

Regulatory Authority for Energy, Networks and Environment (ARERA)

RESOLUTIONS

1.1

Application of sanctions and prescriptive measures for violations in the field of emergency gas services

Resolution of 05 April 2018 - 192/2018/S/gas

After having established that Metagas S.r.l. acted in violation by of art. 14(1)(a), (c) and (d), art. 26(8), and art. 27 RQDG (Regulation of tariffs for distribution services and gas metering services for the 2014-2019 regulatory period) and of arts. 5(1) and 7 of the CIG 10 Guidelines, in relation to emergency gas services, ARERA issued this Resolution requiring that prescriptive measures be imposed together with an administrative fine of € 15,000. Metagas Srl was also ordered, pursuant to art 2(20)(d), to prepare emergency response modules as per the provisions of arts. 14(1)(a) and 26(8) of the RQDG and art. 7 of the CIG Guidelines 10.

1.2

Redetermination of reference tariffs for gas distribution and metering services, for 2017

Resolution 5 April 2018 - 209/2018/R/gas

The Authority is to make a further calculation of the reference tariffs for gas distribution and metering services for 2017, having rectified the errors which emerged in the provisions of Resolution 149/2018/R/gas. The details of the recalculations are in the Tables attached to this Resolution

1.3

Determination of the economic conditions of the supply of natural gas under the consumer protection legislation and of the variable unit price CRVOS, starting from 1 October 2018

Resolution of 05 April 2018 - 219/2018/R/gas

This Resolution defines the levels of the CCR component and the CRVOS fee for the next thermal year 2018/2019. Of note, the Resolution:

- replaces, with effect from 1 October 2018, Table 9 of the TIVG as set out below:

Table n. 9 – CCR Component

Values in in €/GJ		
From 01/10/13 to 31/03/14	From 01/04/14 to 30/09/14	
0.816867	0.782609	
From 01/10/14 to 31/03/15	From 01/04/15 to 30/09/15	
0.722248	0.707268	
From 01/10/15 to 31/03/16	From 01/04/16 to 30/09/16	
0.723980	0.701264	
From 01/10/16 to 31/03/17	From 01/04/17 to 30/09/17	From 01/10/17 to 31/12/17
0.750619	0.728945	0.750619
From 01/01/18 to 31/03/18	From 01/04/18 to 30/09/18	
0.767231	0.725681	
From 01/10/18 to 31/03/19	From 01/04/19 to 30/10/19	
0.782530	0.741782	

- sets, for the period 1 October 2018 - 31 March 2019, the value of the CRVOS fee referred to in paragraph 26.1, letter k), of the RTTG to € 0.0085 / Smc.

1.4

Provisions on the determination of deviation fees for the period 2013-2019

Resolution of 05 April 2018 - 223/2018/R/gas

With this Resolution, ARERA has set rules in relation to deviation fees within the adjustment sessions, for the previous period, i.e. from the 2013 and until the entry into force of the new regulation of the gas settlement, set at 1 January 2020.

Of note, it was decided:

1. that until the new rules enter into force, action will be taken upon explicit request for adjustment of the

deviation fees by the transport user, on an annual basis, (with reference to all end user supply points of the transport network and related exit points), limited to the first adjustment session for the year in which the deviation occurred in accordance with Resolution 670/2017/R/gas;

2. to establish that the correction is to take place upon presentation by the transport user of a request indicating the relevant calendar year and the end user supply points and / or exit points of the transport network and is to relate to the revision of the deviation fees applied for the entire relevant year at those same points;
3. to allow transport companies to adjust the amounts relating to the charges for deviation fees of transport capacity deriving from the adjustments referred to in point 2 above. The methods and timing for the adjustments will be set out in subsequent provisions by the Authority;
4. to provide that, for the purposes of determining the transport tariffs for the years 2020 and 2021 respectively, the revenues deriving from the application of the deviation fees (RSCN and RSCR) for the years 2018 and 2019 are considered net of the amounts referred to in point 3 above.

1.5

Approval of the agreement between Gestore dei Mercati Energetici S.p.a. and Snam Rete Gas S.p.a. *Resolution 11 April 2018 - 247/2018/R/gas*

This resolution approves the agreement between Gestore dei Mercati Energetici and Snam Rete Gas, which regulates the methods of access to the database of essential information relating to natural gas and more generally to data relating to access by users to infrastructure services, and use of such data, which is currently subject to the information obligations in favour of the Authority as per Resolutions 137/02, 119/05 and 660/2017/R/GAS, and which are organized and managed by Snam Rete Gas. Agreement was also reached as to the methods for consulting and extracting the data and reports contained therein by GME.

1.6

Update for the month of May 2018, of the economic conditions for the supply of gas other than natural gas as a result of the variation of the raw material supply costs *Resolution 24 April 2018 - 273/2018/R/gas*

This Resolution provides an update for the month of May 2018, of the economic conditions of supply of gas, other than natural gas, as a result of the variation in the costs of raw materials.

Of note, ARERA has decided to fix, for the month of May 2018, the value of the QEPROMC element, referred to in art. 23 TIVG to 7.189733 euro/GJ, which corresponds to 0.719477 euro/m³ for LPG supplies with a reference calorific value of 0.100070 GJ/m³ (0.050240 GJ/kg).

1.7

Approval of revenues recognized for natural gas transportation and dispatching services, for 2019

Resolution 10 May 2018 - 280/2018/R/gas

This Resolution approves the tariff proposals presented by transport companies for the recognized revenues for the natural gas transportation and dispatching services, for 2019.

Of note, ARERA decided to:

- approve the proposed reference revenues for services of transportation and dispatching during 2019, pursuant to paragraph 23.1 RTTG, presented by the companies Consorzio della Media Valtellina per il Trasporto del Gas, Energie Rete Gas S.p.a., GP Infrastrutture Trasporto S.r.l., Infrastrutture Trasporto Gas S.p.a., Metanodotto Alpino S.r.l., Netenergy Service S.r.l., Retragas S.r.l., SGI S.p.a. and Snam Rete Gas S.p.a., which comply with the criteria set out in the RTTG;
- re-determine the reference revenues for 2019 transport services definitively upon approval of the reference revenues for 2020, taking into account both the final 2018 data and the value of the rate of return on the capital of the transportation services that will be determined after the parameters referred to in arts 5 and 6 TIWACC are updated for 2019;
- approve the proposed reference revenues for 2019 metering service, presented by the companies Consorzio della Media Valtellina per il Trasporto del Gas, Energie Rete Gas S.p.a., Gas Plus Trasporto S.r.l., 6 Infrastrutture Trasporto Gas S.p.a., Metanodotto Alpino S.r.l., Netenergy Service S.r.l., Retragas S.r.l., SGI S.p.a. and Snam Rete Gas S.p.a.

1.8

Execution of the sentence of the Council of State, Sec. VI, 911/18, regarding the fine imposed by the Authority on Enel Rete Gas S.p.A., now 2i Rete Gas S.p.A., with Authority Resolution VIS 33/10

Resolution 17 May 2018 - 281/2018/S/gas

In execution of the decisions of the Council of State 911/2018, ARERA ordered, with this Resolution the

recalculation of the fine originally imposed by the Authority under Resolution VIS 33/10. In particular, the administrative fine to be applied to Enel Rete Gas S.p.A., now 2i Reti Gas S.p.A, for the violation ascertained in Resolution VIS 33/10 - originally Euro 450,000, has been changed to Euro 150,000.

1.9

Update for the month of June 2018, of the economic conditions for the supply of gas other than natural gas as a result of the variation of the raw material supply costs

Resolution 24 May 2018 - 298/2018/R/gas

This Resolution provides an update for the month of June 2018, of the economic conditions of supply of gas, other than natural gas, as a result of the variation in the costs of raw materials. Of note, it has been decided to fix, for the month of June 2018, the value of the QEPROMC element, referred to in art. 23 TIVG to 7.833974 euro/GJ, which corresponds to 0.783946 euro/m³ for LPG supplies with a reference calorific value of 0.100070 GJ/m³ (0.050240 GJ/kg).

1.10

Appealing extraordinary challenge made to the President of the Republic by Sinergas S.r.l. against the Authority Resolution 12/2018/S/gas

Resolution 01 June 2018 - 301/2018/C/gas

On 14 May 2018 the Authority was notified, by Sinergas S.r.l., of the latter's extraordinary challenge made to the President of the Republic (Authority reg. no. 0015695 of 15 May 2018) against Resolution 12/2018/S/gas, and that was deemed appropriate, pursuant to art. 10 Presidential Decree 1199/71, that such above challenge be transferred and decided in court. ARERA has decided to appeal the extraordinary challenge proposed by Sinergas S.r.l., therefore, this appeal is to be decided in court.

1.11

Initiating procedure to recertify Infrastrutture Trasporto Gas S.p.a., as the natural gas transport operator due to ownership unbundling

Resolution 01 June 2018 - 305/2018/R/gas

ARERA has passed this Resolution to initiate, pursuant to paragraph 4.2(c) of Attachment A to Resolution 153/11, a recertification procedure for Infrastrutture Trasporto Gas S.p.a., as the operator of the transport

system due to ownership unbundling, pursuant to art. 9 of Directive 2009/73/EC. Responsibility for the procedure is assigned to the Director of the Authority's Infrastructures Energy and Unbundling Department, where the necessary in-depth investigations for the recertification of Infrastrutture Trasporto Gas S.p.a is to be conducted.

1.12

Approval of transportation and dispatching fees for natural gas, for 2019

Resolution of 01 June 2018 - 306/2018/R/gas

With this Resolution, ARERA approved:

- tariff proposals for the natural gas transportation and dispatching service for 2019 for the companies Consorzio della Media Valtellina per il Trasporto del Gas, Energie Rete Gas S.p.a., GP Infrastrutture Trasporto S.r.l., Infrastrutture Trasporto Gas S.p.a., Metanodotto Alpino S.r.l., Netenergy Service S.r.l., Retragas S.r.l., SGI S.p.a. and Snam Rete Gas S.p.a.;
- the compensation specific to CMT (Transitional Metered Compensation) businesses for 2019, for the companies Consorzio della Media Valtellina per il Trasporto del Gas, Energie Rete Gas S.p.a., GP Infrastrutture Trasporto S.r.l., Infrastrutture Trasporto Gas S.p.a., Metanodotto Alpino S.r.l., Netenergy Service S.r.l., Retragas S.r.l., SGI S.p.a. and Snam Rete Gas S.p.a.;
- the proposal made as per paragraph 23.4 of RTTG (Regulation of tariffs for the transport and dispatching of natural gas for the 2014-2017 regulatory period and for the transitional period 2018-2019), presented by the major transport company for 2019, concerning the entry and exit points from the national network of gas pipelines, as shown in Table 1, attached to the Resolution;
- the proposal made as per paragraph 23.4(a) RTTG, presented by the major transport company for 2019, concerning the fees related to the national and regional network of gas pipelines, as shown in Table 2, attached to this Regulation;
- the proposal made as per paragraph 23.4(c) RTTG, presented by the major transport company for 2019, concerning the value of the variable unit price CV, as shown in Table 2, attached to the Resolution;
- the proposal of the transitional CMT fee as remuneration for the metering service carried out by transport companies for 2019, as shown in Table 2, attached to this Resolution;
- the proposal of the coefficients relating to self-consumption quotas, network and gas losses not accounted for which are to be allocated to users of the service referred to in art. 16**bis** of Resolution 137/02, as shown in Table 3, attached to this Resolution;

- to determine the relevant parameters for the publication of the information referred to in art. 30(1)(b) of the TAR Code by the major company, as shown in Table 4, attached to this Resolution.

1.13

Provisions regarding procedures for the assignment of regasification capacity

Resolution of 01 June 2018 - 308/2018/R/gas

With this Resolution, ARERA approved amendments to the TIRG (Integrated text on the adoption of guarantees of free access to the liquefied natural gas regasification service). These amendments, detailed in the Resolution and in the related Attachments, affect the functional provisions for the management of the regasification capacity assignment procedures, relating to the definition and publication of the reserve price, and the monitoring of the same.

1.14

Technical controls of gas quality for the period 1 October 2018 - 30 September 2019

Resolution of 14 June 2018 - 327/2018/E/gas

With this Resolution, ARERA has decided to perform, in the period 1 October 2018 – 30 September 2019, 60 technical inspections related to gas quality (concentration of odorant, effective higher calorific value and relative pressure) *vis-à-vis* distribution companies. The company employed to carry out these inspections is Azienda Speciale Innovhub – Stazioni Sperimentali, and in particular its Combustible Department (as per art. 63(2)(b)(3) of the Code). As it is an economic operator, it is independent from the nationally regulated entities, and thus respects and guarantees the third party nature of these controls. The *Guardia di Finanza* will also collaborate in the inspections, within the framework of the Memorandum of Understanding.

1.15

Initiating procedure to define the changes in the rules applicable to end user services in the natural gas sector

Resolution of 14 June 2018 - 336/2018/R/gas

This Regulation initiates a procedure to define changes in the rules applicable to end user services in the natural gas sector, so as to increase the efficiency of those services and encourage participation in the

selection procedure, as from 1 October 2018. Responsibility for the procedure has been assigned to the Authority's Directorate for Retail Markets and Protection of Energy Consumers.

1.16

Provisions to regulate economic items related to storage services for thermal year 2018-2019

Resolution 21 June 2018 - 350/2018/R/gas

This Resolution sets out the criteria to define the provisions regarding the regulation of the economic items for storage service for the thermal year 2018-2019, aimed at ensuring that the revenue flow of the storage companies is essentially equivalent to that obtainable with the application of the tariffs, on capacity allocated through auction.

1.17

Definitive approval of company revenues for storage services for 2018, for the companies Stogit S.p.a and Edison Stoccaggio S.p.a.

Resolution of 28 June 2018 - 360/2018/R/gas

With this Resolution ARERA definitively approved the company revenues for storage services for 2018, for the companies Stogit S.p.a. and Edison S.p.a., which had already been provisionally approved by resolution of 14 December 2017, 855/2017/R/gas

1.18

Update for the month of July 2018, of the economic conditions for the supply of gas other than natural gas as a result of the variation of the raw material supply costs

Resolution 28 June 2018 - 362/2018/R/gas

This Resolution provides an update for the month of July 2018, of the economic conditions of supply of gas, other than natural gas, as a result of the variation in the costs of raw materials.

Of note, the Authority decided to fix, for the month of July 2018, the value of the QEPROMC element, referred to in art. 23 TIVG to 9.096687 euro/GJ, which corresponds to 0.910305 euro/m³ for LPG supplies with a reference calorific value of 0.100070 GJ/m³ (0.050240 GJ/kg).



1.19

Updates to the economic conditions for the supply of natural gas for consumer protection relative to the third quarter 2018. Updates to the UG3 component. Changes to the TIVG

Resolution 28 June 2018 - 365/2018/R/gas

This Resolution updates, for the *quarter* from 1 July 2018 to 30 September 2018, the economic conditions for the supply of natural gas under the consumer protection legislation, updates the UG3 component and amends the TIVG. The technical details, explained in detail the Resolution, also refer to the data indicated in the Tables attached to the Resolution.

1.20

Approval of proposals to modify the re-gasification code prepared by the company GNL Italia S.p.A., as well as approval of the fees for flexibility services

Resolution of 05 July 2018 - 376/2018/R/gas

This Resolution approves the proposal to update the re-gasification code presented by GNL Italia which implements the provisions of the TIRG, introducing, *inter alia*, market mechanisms based on auction procedures for the provision of re-gasification capacity to users, as well as provisions on flexibility services. The details of the changes made are indicated in Attachments A and B to the Resolution.

CUSTOMS NEWSLETTER | APRIL - JUNE 2018

LEGISLATION, MINISTERIAL GUIDANCE AND CASE LAW AT 30 JUNE 2018.

THIS NEWSLETTER IS INTENDED AS A SUMMARY OF KEY TAX DEVELOPMENTS AND HIGHLIGHTS MATTERS OF GENERAL INTEREST, AND THEREFORE SHOULD NOT BE USED AS A BASIS FOR DECISION-MAKING.

FOR FURTHER DETAILS AND INFORMATION, PLEASE CONTACT YOUR RELATED PARTNER OR SEND AN EMAIL TO UFFICIOSTUDI@STUDIOPIROLA.COM