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A COLLABORATIVE APPROACH TOWARDS THE
TAXPAYER BASED ON “WARNING LETTERS”

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By Lara Bartolozzi



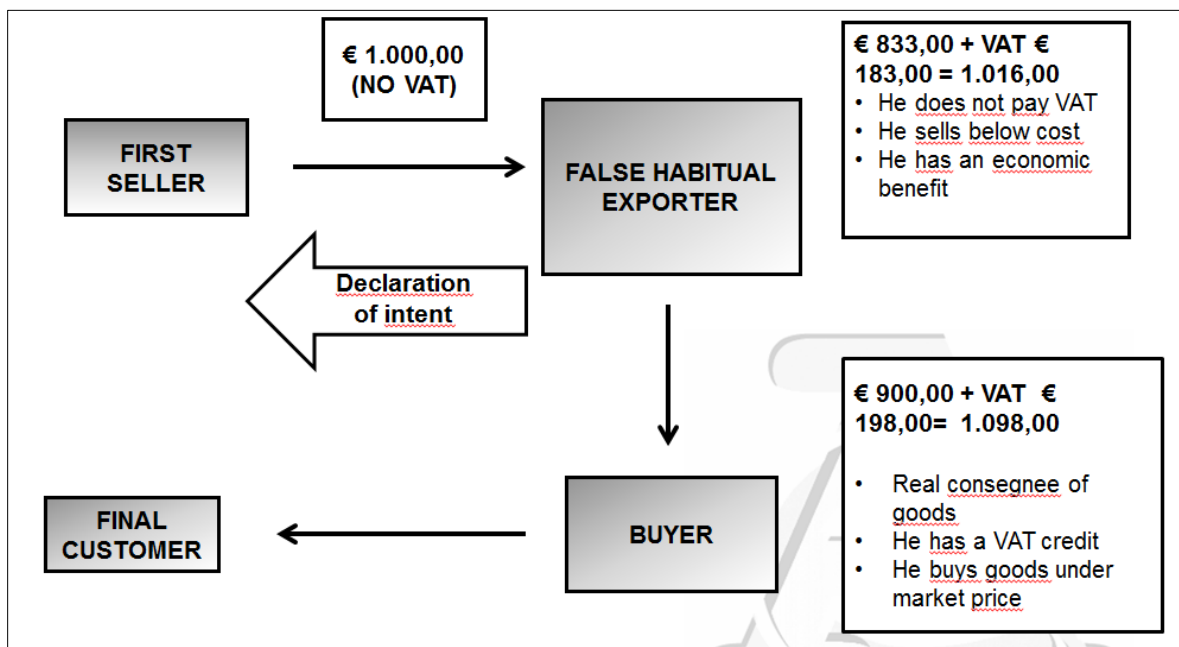
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At the beginning of 2017 the Revenue Agency through its Antifraud Office launched a new project aiming at tackling VAT frauds characterized by the use of false declarations of intent. The project was based on a new and collaborative approach towards the taxpayer, recurring to the innovative instrument of Warning Letters.

VAT frauds characterized by the use of false declarations of intent have been a great challenge for the Revenue Agency for several years. The Agency tried to prevent and to stop the fraud mechanism based on the legislative opportunity given to the so called “*habitual exporters*” to purchase goods and services without VAT, in presence of particular conditions and upon the presentation of a “declaration of intent”.

In detail a resident company, which makes zero rate supplies (exports, EU supplies, international services, etc.) for more than 10 percent of its total turnover, acquires the status of “habitual exporter”. A habitual exporter is entitled to purchase VAT-free services and goods (exceptions are applied for immovable property and for goods and services on which VAT cannot be recovered) within the limits of his plafond, that is up to the amount of the zero rate supplies made in the prior calendar year or during the preceding 12 months. According to the Legislative Decree n. 175/2014, in order to benefit from VAT-free treatment, some documental obligations and procedures must be respected. First of all the habitual exporter is required to electronically submit to the Revenue Agency a so-called “declaration of intent”, filling in a specific form. The Revenue Agency issues a receipt of presentation. The habitual exporter is also required to submit his supplier the copy of the declaration of intent and the receipt.

Based on this procedure, the fraud mechanism is structured as follows:



The first seller does not pay VAT thanks to the false declaration of intent, submitted by the false habitual exporter. The false habitual exporter, who has got all the typical features of a “Missing Trader” involved in a domestic fraud, does not pay VAT; moreover he sells goods or services below cost and he gains an economic benefit through the non-payment of VAT. Finally the buyer, real consignee of the goods/services, has got a VAT credit and he buys goods or services under the market price.

A first and preliminary analysis of the data submitted by declarations of intent in 2015 allowed to obtain an overall mapping of the phenomenon, in particular to point out the presence of no. 160 false habitual exporters, to target risky sectors of activity (i.e. the hydrocarbon one) and to estimate unpaid VAT for about 1 billion Euros of acquisitions done by false habitual exporters.

Starting from this awareness and considering the difficulties encountered in fighting this type of VAT frauds, due to the dimension of the phenomenon and to the complexity of demonstrating the involvement of the supplying companies, the Revenue Agency decided to adopt a new strategy based on a collaborative approach towards businesses which were consciously or unconsciously part in the VAT fraud. This new strategy was based on a rapid and prompt interception of high-risk traders (Missing traders/False habitual exporters) and it implied, through the instrument of “Warning Letters”, an immediate dialogue with their suppliers in order to stop the invoicing with no VAT and, consequently, to prevent VAT evasion.

This innovative approach was possible thanks to some legislative innovations which provided the Tax Administration of new and more exhaustive information about the taxpayers’ position. Specially, starting from 1st March 2017, the forms to submit declarations of intent provide more specific information and on 1st January 2017 the obligations of communicating data of the issued and received invoices and of reporting periodic VAT credit and debit were introduced. Furthermore, this pioneering project was totally in line with the main objectives ruled by the Law no 190 of 23^o December 2014 (the so called *Cambia-Verso*) introducing, also in the anti-fraud activity, a new approach towards the taxpayer, based on «communication».

However, before putting this new project into action, this was presented to the main trade associations in order to show them the benefits deriving from this innovative approach. It was underlined that this kind of approach would allow to avoid treatment discrepancies among traders belonging to the same sector, to avoid competition distortions and it would bring positive effects on businesses. A «due diligence» of the habitual exporters would be done by the Tax Administration and this would imply a higher certainty for honest suppliers in the relationship with the Tax Administration. Moreover during the first meetings with trade associations, operational guidelines on how to communicate the list of high-risk traders and on how to monitor the suppliers’ activity were shared.

Thus, focusing on the declarations of intent submitted since the 1st January of 2017 in the oil sector (one of the riskiest sectors), the Antifraud Office analyzed the submitted data and by cross-matching them with other information at its disposal (domestic VAT listings, VAT payments, VAT returns etc..), it intercepted the riskiest habitual exporters positions.

In April and May 2017 the Antifraud office started targeted audits in order to verify the position of the selected traders. In detail, until today, 32 companies have been audited and the results are that 20 companies had all the typical features of «false habitual exporters», 8 companies resulted to be regular and 4 companies still need to be qualified. No. 83 Warning Letters have been sent towards the main suppliers of the intercepted false habitual exporters, whose total plafond amounts to 320 million of Euro.

The Antifraud Office is now monitoring the first results, in particular the suppliers' behavior after sending Warning Letters. The notice of new Warning Letters is under evaluation. Moreover, according to the results, the same approach could be extended to other sectors of activity: car sector (trade of vehicles), IT sector (trade of computers and software), meat sector and intra -community frauds in general, by using the data of the invoices, submitted during 2017. The analysis, the monitoring and the selection of new high-risk companies belonging to other sectors and having submitted allegedly false declarations of intent is currently ongoing.