

Technical Rule no. 04 MGAS

(under article 4 of the Natural-Gas Market Rules, approved by the Ministry of Economic Development with its Decree of 6 March 2013, as subsequently amended and supplemented)

Title	VAT Taxation in the Gas Market
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Reference Legislation	Article 18, para. 18.4, Natural-Gas Market Rules
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1. Foreword

Article 18, para. 18.4 of the Natural-Gas Market Rules (hereafter “Rules”) provides that the Market Participant shall - under the modalities and within the time limits established in the Technical Rules - enclose a statement indicating his/her/its VAT taxation scheme to his/her/its request for entry of the data and information referred to in Article 17, para. 17.2 g) thereof.

2. Application of VAT

The following statements shall be enclosed to the request for entry of the data and information mentioned above:

- a) if the (EU or non-EU) Market Participant intends to use the option - available to persons having established their business in Italy and having made supplies for export or like transactions - of purchasing goods and services without the application of VAT, as per article 8, para. 1 c) of Decree of the President of the Republic no. 633 of 26 October 1972 - a statement of intent issued in accordance with article 1 c) of Law-Decree no. 746 of 29 December 1983, converted into Law no. 17 of 27 February 1984.
- To continue to use the option of making purchases without the application of VAT, the Market Participant is required to renew the statement upon expiration of its period of validity. If the statement is not renewed within the time limits established in the applicable legislation, GME shall apply the standard VAT rate to the Market Participant concerned;
- b) if the Market Participant intends to submit gas demand bids for which he/she/it requests the application of the reduced VAT rate, as per no. 103), part III, Table A annexed to Decree of the President of the Republic no. 633 of 28 October 1972 - a statement issued in accordance with Decree of the President of the Republic no. 445 of 28 December 2000. In such statement, the Market Participant shall declare that:
1. the gas to be purchased is to be directly injected into the pipelines of the distribution networks in order to be subsequently delivered; or
 2. the gas to be purchased is to be used to generate electricity; or
 3. the gas to be purchased is to be used by mining & quarrying, farming and manufacturing companies, including printing & publishing and like companies;
- c) if the (EU or non-EU) Market Participant intends to submit gas demand bids into the gas market - a statement of the applicable VAT scheme under Directive 2006/112/EC;

- d) if the entity (parent company or fixed establishment) that will materially carry out the purchase and/or sale transactions in the natural-gas market is different from the entity (parent company or fixed establishment) admitted as participant to the market - a statement (as per the form enclosed hereto) where the Market Participant (as parent company or fixed establishment) notifies GME of the entity (parent company or fixed establishment) that will materially carry out the purchase and/or sale transactions in the natural-gas market.

3. Effect of the statements

The entry of the data and information contained in the statements referred to in para. 2 above shall have effect by the end of the second working day following receipt of the request by GME, in compliance with Article 18, para. 18.5 of the Rules, if the documents are correct and complete and if the requirements, if any, for updating the data and information provided by the Market Participant are satisfied.

If the Market Participant requests the application of the special VAT schemes mentioned in para. 2 a), b) and c) above at a subsequent time after submitting the market participation application and the market participation agreement, the statement shall have full effect, in respect of the transactions to be invoiced by GME, after the second working day following receipt of the same, in accordance with the combined provisions of Article 1, para. 50 of Law no. 239 of 2004 and of Article 18, para. 18.5 of the Rules.

1. Statement form as per para. 2 b) 1. hereof

SELF-CERTIFICATION (*)

(as per Decree of the President of the Republic no. 445 of 28 December 2000
- hereafter "Decree 445/00")

I, the undersigned.....born in.....on.....residing intaxpayer's code.....in my capacity of.....of the company.....having its registered office in..... taxpayer's code.....VAT number....., aware of the loss of benefits resulting from misrepresentations as per art. 75 of DPR 445/00, as well as of the criminal penalties inflicted in case of misrepresentations as per art. 76 of DPR 445/00,

HEREBY DECLARE

for the purposes and effects of art. 47 of DPR 445/00 and under my own responsibility

that the company purchases gas, methane gas and/or liquefied petroleum gases to be directly injected into the pipelines of distribution networks in order to be subsequently delivered and that the gas purchases made by the same company are subject to the 10% VAT rate as per no. 103), part III of Table A annexed to Decree of the President of the Republic 633/72.

In witness hereof
(signature)

Date

Exempt from stamp duty as per art. 37, DPR 445/00.

Privacy Statement under art. 13 of Legislative Decree no. 196 of 30 June 2003: under the applicable legislation, the above data shall be solely used for the purpose for which they have been originally provided.

(*) **This is a courtesy translation. You must submit only the Italian version of the document.**

2. Statement form as per para. 2 c) hereof

STATEMENT OF EU OR NON-EU CUSTOMER FOR VAT APPLICATION IN ITALY (*)

The company, having its registered office in
(Country)..... (Town/City).....(street and street no.), address for tax
purposes, represented by its legal representative, born in
..... on, whose address for the service is the registered office of the
company, in his/her capacity of

DECLARES ⁽¹⁾

under its own responsibility, for the purposes and effects of articles 38 and 39 of Directive
2006/112/EC concerning the determination of the place of supply of gas in view of the application
of VAT:

- that the purchases of gas are not subject to VAT in Italy, because the declaring company qualifies as a foreign reselling person within or outside the EU;*
- that the purchases of gas are subject to VAT in Italy, applied by the seller, because the gas is purchased by a reselling taxable person on behalf of a fixed establishment in Italy;*
- that the purchases of gas are subject to VAT in Italy, applied by the seller, because the gas is purchased by a non-reselling taxable person in order to be used by a fixed establishment in Italy;*
- that the purchases of gas are subject to VAT in Italy, applied by the seller, because the gas is purchased in order to be used in Italy by a non-reselling person;*
- that the purchases of gas are not subject to VAT in Italy, because the gas is purchased by a non-reselling person in order to be used, directly or through one of his/her/its fixed establishments, outside the Italian territory.*

In witness hereof,
(Signature)

Date

⁽¹⁾ check the applicable box

^(*) **This is a courtesy translation. You must submit only the Italian version of the document.**

3.VAT and Fixed Establishment Statement form as per para. 2 d) hereof

VAT AND FIXED ESTABLISHMENT STATEMENT² (*)

Gestore dei Mercati Energetici S.p.A.
Largo Tartini, 3/4
00198 – Roma

I, the undersigned _____, born in _____, on _____, taxpayer's code _____, residing in _____, address _____, legal representative of the company _____ (*NOTE: Market Participant*), having its:

- registered office in (country) _____, (town/city) _____, address _____, VAT identification number _____;
- fixed establishment in (country) _____, (town/city) _____, address _____, VAT identification number _____, as per the certificate issued by the relevant tax authorities and enclosed hereto with the related sworn and apostilled translation (if it is not in the Italian language) for fixed establishments located in non-EU countries;

HEREBY STATE

in connection with transactions in the MGAS:

- that all the transactions will be carried out directly from the main place of business;
- that all the transactions will be carried out with the technical and human resources of the fixed establishment located in (country) _____, (town/city) _____, address _____, VAT identification number _____.

I, the undersigned, also undertake to submit a new statement in case of change of the above data. I, the undersigned, will be fully responsible and liable for the accuracy and truthfulness of the submitted statements and data, holding Gestore dei Mercati Energetici S.p.A. (hereafter "GME") harmless from and against any and all responsibilities and liabilities regarding the correct application of the taxes based on the above statements. If the above-mentioned data are untruthful, I will bear all the costs in connection with differences in taxes, pecuniary sanctions, interest and any other amount that GME may be required to pay to the financial administration and/or to any other entity involved, as well as court fees, regardless of the legitimacy of the claim filed against GME by the financial administration and/or any other entity involved. I, the undersigned, undertake to pay the requested amounts within 5 (five) days at the latest.

Where any defence filed by GME with the financial administration and/or any other entity involved, in order to protect its interests and make its arguments heard, has a demonstrated positive final outcome, then the undersigned will be entitled to the refund of the amounts paid in accordance with the above paragraph, to the extent that GME has obtained, for such reason, a refund from the financial administration and/or any other entity involved. GME will be held to refund the undersigned of the amounts that he/she has paid and that have been demonstrated not to be due to the financial administration and/or to any other entity involved, provided that the undersigned has asked GME - in due course and within the time limits mandated by law - to file a claim for refund of the aforesaid amounts with the relevant bodies. GME will fulfil the aforesaid obligation to the extent that it will obtain the aforesaid refund from the financial administration and/or any other entity involved.

² Statement to be submitted on the company's letterheaded paper.

Without prejudice to the above for the purposes of the application of VAT, I, the undersigned, also state that the transactions possibly carried out by a fixed establishment will produce the same effects, in terms of rights and obligations, also with regard to the guarantees posted to cover obligations, as if they had been carried out directly from the main place of business.
I hereby enclose a copy of my identity document.

Stamp and signature

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