

**Technical Rule no. 05 ME Rev. 1**

(under article 4 of the Integrated Text of the Electricity Market Rules,  
approved by the Decree of the Minister of Productive Activities of 19 December 2003,  
as subsequently amended and supplemented)

<b>Title</b>	<b>VAT Taxation in the Electricity Market</b>
Reference Legislation	Article 17, paras. 17.8 and 17.9, Integrated Text of the Electricity Market Rules

**Published on 14 September 2009**

## Foreword

Article 17, para. 17.9 of the Integrated Text of the Electricity Market Rules (hereafter “Electricity Market Rules”) provides that, for the purpose of submitting bids/offers into the Electricity Market, each Market Participant shall request GME to enter some data and information into the Register of Market Participants, enclosing - among others - a statement concerning his/her VAT taxation scheme in accordance with the provisions of the Technical Rules.

## 1. Application of VAT

The following statements shall be enclosed to the request for insertion of data and information:

- a) if the Market Participant intends to use the option, available to persons having made supplies for export or like transactions, of purchasing goods and services without the application of VAT, as per article 8 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;
- b) if the Market Participant intends to submit electricity demand bids for which he/she requests the application of the reduced 10% VAT rate – a statement issued in accordance with Decree of the President of the Republic no. 445 of 28 December 2000. In such statement (to be submitted in the format enclosed hereto), the Market Participant shall declare that he/she qualifies as wholesale customer in accordance with article 2, para. 5 of Legislative Decree no. 79 of 16 March 1999, or that he/she owns the withdrawal points for which the electricity is allocated for the uses referred to in Table A, Part III, no. 103, annexed to Decree of the President of the Republic no. 633 of 28 October 1972;
- c) if a EU or non-EU customer intends to submit electricity demand bids into the market – a statement of the VAT scheme applicable to the above electricity purchases under Directive 2006/112/EC.

## 2. Effect of the statements

The insertion of the data and information contained in the statements referred to in para. 1 above shall have effect within the second working day following the receipt of the request by GME, in compliance with Article 17, para. 17.8 of the Electricity Market Rules.

If the Market Participant requests the application of special VAT schemes mentioned in para. 1 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 for the invoices to be issued by GME from the second working day following receipt of the same, in accordance with both Article 1, para. 38 of Law no. 239 of 2004 and of Article 17, para. 17.8 of the Electricity Market Rules.

## 2. Format of statement of wholesale customer

### SELF-CERTIFICATION (\*)

(as per Decree of the President of the Republic no. 445 of 28 December 2000

- hereinafter referred to as "Decree 445/00)

I, the undersigned.....born in.....on.....residing in .....taxpayer'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.... is a wholesale customer within the meaning of article 2, para. 5 of Legislative Decree no. 79 of 16 March 1999 and that, therefore, the electricity purchases made by the aforesaid company are subject to the 10% VAT rate, as per no. 103), Table A, part III of 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 courtesy translation. You must submit only the Italian version of the document.**

### 3. Format of statement of EU or non-EU customer

#### 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 ("domicilio fiscale") ....., represented by its legal representative  
....., born in ..... on ....., whose address for the service is the  
registered office of the company, in his capacity of .....

#### DECLARES<sup>(1)</sup>

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 electricity in view of the  
application of VAT:

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

In witness hereof,  
(Signature)

Date

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<sup>(1)</sup> check the box where applicable

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