

The tax regime of gifts - Income taxes, IRAP and VAT

1 INTRODUCTION

The granting of gifts by companies and operators of the arts and professions is a usual fact, especially on the occasion of holidays and anniversaries.

The main aspects of the tax regime of these supplies in the context of income tax, IRAP and VAT are summarised below.

2 INCOME TAXES AND IRAP

The costs incurred for the distribution of gifts may take on different income depending on whether the asset is transferred:

- to customers;
- employees and fiscally assimilated subjects (e.g. coordinated and continuous collaborators).

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From 2025, entertainment expenses and those for gifts to customers are deductible, both for income tax and IRAP purposes, if made by bank or postal transfer or through other traceable payment systems. These are, for example, payments made through:

- debit, credit and prepaid cards;
- bank checks and cashier's checks;
- *app* come Satispay e Paypal.

2.1 GIFTS TO CUSTOMERS

In general, the expenses incurred for gifts distributed to customers are deductible:

- if the payment is made with the aforementioned traceable payment instruments;
- entirely, if the unit value of the free goods intended for the same subject does not exceed 50.00 euros;
- in the year in which the expense is incurred in compliance with the percentage limits provided for by art. 108 par. 2 of the TUIR, if the unit value of the gift exceeds 50.00 euros or services or titles representing the same are given as a gift (e.g. cards to enter the cinema, *carnet* for a wellness center), as they are included among the so-called "entertainment expenses".

The latter are deductible in an equal amount:

- 1.5% of revenues and other income up to €10 million;
- 0.6% of revenues and other income for the part exceeding €10 million and up to €50 million;
- 0.4% of revenues and other income for the part exceeding 50 million euros.

That said, in order to determine the "unit value" of the gift delivered, reference must be made to:

- to the gift as a whole (e.g. Christmas basket), and not to the individual goods that compose it;
- to the market value of the asset.

Self-produced goods

For goods self-produced by the company (goods whose design, production and marketing is the business activity of which are produced by the company or which are commissioned from workers and foreigners and purchased by the company for subsequent resale):

- in order to identify the entertainment expenses to be subject to the limited deductibility regime, the market value of the gift is relevant;
- Once the expenditure has been classified as a representation expense (if, therefore, the market value is greater than 50.00 euros), for the purposes of calculating the deductibility limit, the production cost actually incurred by the company is instead contributed, regardless of whether or not it is less than 50.00 euros.

For example, in the event that the self-produced gift has a market value of 80.00 euros and a production cost of 40.00 euros:

- the gift constitutes a representation expense to be subject to verification of the deductibility limit (market value higher than the limit of 50.00 euros);
- For the purposes of calculating the *deductibility ceiling*, *the amount of € 40.00 is relevant, i.e. the actual production cost*.

In the event that the normal value of the self-produced gift is less than or equal to 50.00 euros, the cost actually incurred for production benefits from the full deduction. Therefore, for example, if the self-produced gift has a market value of €40.00 and a production cost of €30.00, the gift is fully deductible for €30.00.

2.2 GIFTS TO EMPLOYEES AND SIMILAR SUBJECTS

In general, the cost incurred by the employer for the purchase of goods to be donated to employees and similar persons (e.g. collaborators) is deductible from business income according to the rules relating to the costs of work services.

This rule does not apply to expenses for education, recreation, social assistance and worship which are deductible from business income up to a limit of 5 per thousand of the expenses for the provision of employment.

On the employee side, the gifts received in relation to the employment relationship contribute to forming the income for the employee; gifts received that, in the 2025 tax period, do not exceed, together with the amount of the other *fringe benefits* (art. 1 co. 390 - 391 of Law no. 207 of 30.12.2024), are not taxable:

- € 1,000.00, for employees without fiscally dependent children;
- 2,000.00 euros, for employees with fiscally dependent children.

In the *fringe benefit* threshold for the 2025 tax period, it is also possible to include the sums paid or reimbursed to employees by employers for payment;

- domestic users of the integrated water service, electricity and natural gas;
- of the costs for rent or interest on the mortgage relating to the main residence.

2.3 REGIME OF THE SO-CALLED "MINIMUM TAXPAYERS"

According to circ. Revenue Agency 13.7.2009 no. 34, the expenses for gifts purchased under the so-called "minimum taxpayers" regime, referred to in art. 27 of Legislative Decree 98/2011, are fully deductible in the period of support, if they relate to assets with a value equal to or less than 50.00 euros.

In the event that the assets exceed this limit value, the related expenses are deductible as representation expenses, according to the criteria provided for by the Ministerial Decree of 19.11.2008.

However, according to the instructions for filling out the INCOME PF 2023 form, expenses for gifts could be deducted for the entire amount paid if inherent to the exercise of the activity, without distinction based on value (this specification is no longer present in the instructions to the INCOME PF 2024 and 2025 forms).

2.4 FLAT-RATE REGIME

Expenses for gifts purchased under the flat-rate regime, pursuant to Law 190/2014 (2015 Stability Law), are not relevant in the determination of income, since, in this regime, taxable income is quantified through the application of the profitability coefficient provided for the specific activity carried out to the amount of revenues or fees received in the tax period. This means that any expenses incurred are not analytically deductible, as their amount is predefined in the profitability coefficient.

Therefore, the above considerations with reference to the so-called "minimum taxpayers" regime *pursuant to* Legislative Decree 98/2011 cannot be extended in any way.

2.5 IRAP

2.5.1 Gifts to customers

With regard to the determination of the IRAP taxable base for corporations (srl, spa, sapa) and cooperatives, expenses for gifts are deductible for the amount allocated to the income statement, without prejudice to the new obligation of traceability of payments.

For commercial partnerships (snc, sas and companies equivalent to them), on the other hand, gifts are not deductible for IRAP purposes.

2.5.2 Gifts to employees and similar persons

With regard to the determination of the IRAP taxable base for corporations (srl, spa, sapa) and cooperatives, expenses for gifts intended for employees and similar subjects (e.g. collaborators) are deductible, if they are functional to the business activity and do not assume a remunerative nature for the employee or collaborator (e.g. overalls and/or work shoes).

If they are included in the expenses for employees, the related treatment will depend on the type of beneficiary worker (please note that, since 2015, expenses for permanent employees are fully deductible).

For partnerships, on the other hand, gifts to employees (or collaborators) are non-deductible for IRAP purposes, as they are not included among the relevant expenses, unless they are intended for permanent employees or workers for whom the deductibility of the related costs is established (e.g. research and development workers).

2.6 ARTS AND PROFESSIONS

2.6.1 Gifts to customers

The cost of goods that are the subject of free transfer or gifts to customers is deductible from the professional's income as entertainment expenses, up to a limit of 1% of the fees received during the tax period. Similar treatment is applicable for IRAP purposes for associated firms and associations of professionals.

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Also for artists and professionals, entertainment expenses and those for gifts are deductible, both for income tax and IRAP purposes, if made by bank or postal transfer or through other traceable payment systems.

The new obligation for arts and professions operators applies to expenses incurred from 18.6.2025.

2.6.2 Gifts to employees or collaborators

For professionals, the cost incurred for the purchase of goods given as a gift to their employees (or with laboratories) is not specifically regulated.

The cost of these gifts should be fully deductible from professional self-employment income, like any other expense for employment or similar services incurred by the professional, since donations to employees are not included among the representation expenses, according to the notion provided by the Ministerial Decree of 19.11.2008 (also applicable to self-employment income).

For IRAP purposes, the inclusion of these charges among the expenses for work services should exclude their deductibility for associated firms and associations of professionals, unless they:

- are functional to the self-employment activity and do not take on a remunerative nature for the employee or collaborator;
- or are intended for permanent employees or other workers for whom the related costs are deductible (e.g. research and development workers).

3 VAT

The free supplies of goods to customers follow the general rules of VAT taxability, with the exception of goods not part of the company's own activity, for which some cases of exclusion are envisaged.

3.1 ASSETS THAT ARE PART OF THE COMPANY'S OWN ACTIVITY

The free supplies of goods falling within the business activity follow the general discipline of art. 2 co. 2 no. 4 of Presidential Decree 633/72, which considers them "assimilated" to supplies "in the strict sense" and as such taxable VAT; consequently, input VAT is deductible.

For the purposes of the taxable amount, pursuant to art. 13 par. 2 letter c) of Presidential Decree 633/72, the value to be taken as a reference is given *"by the purchase price or, failing that, by the cost price of the goods or similar goods, determined at the time when such transactions are carried out"*.

3.1.1 Documentation for the transfer

VAT reimbursement is not mandatory for free supplies of goods.

In the absence of recourse, the transaction can be certified, alternatively:

- by issue, in a single copy, a self-invoice indicating the purchase price of the goods, the applicable rate and the relevant tax, also specifying that it is a "self-invoice for gifts". This document, which must be noted exclusively in the VAT register of sales, can be issued individually for each supply, or monthly for all supplies made during the month;
- noting, on a special "register of gifts", the total amount of the purchase prices of the goods sold free of charge, referring to the supplies made on each day, divided by rate.

For the documentation of retail transactions subject to the storage and transmission of fees (Article 2 of Legislative Decree 127/2015), however, only the issuance of the single self-invoice (and not also the "monthly" one) is allowed, and it is not possible to use the register of gifts.

Self-invoices for gifts must be issued electronically pursuant to art. 1 co. 3 of Legislative Decree 127/2015:

- reporting the data of the transferor/supplier both in the "Data of the transferor/supplier" section and in the "Data of the transferee/principal" section;
- indicating "TD27" in the "document type" field ("Invoice for self-consumption or free transfers without recourse");
- reporting the date of execution of the transaction in the "Date" field of the "General data" section; if it is a summary invoice, it can be the date of the last operation or in any case a date of the month.

VAT not charged in recourse is non-deductible for income tax purposes.

3.1.2 Free Samples

The following are excluded from VAT free of charge:

- of modest value;
- specially marked, indelibly; the obligation can also be correctly fulfilled by affixing a label, although removable, on the goods or on the packaging that contains them;
- which take place *"to promote the asset, in order to improve its knowledge and dissemination among current and potential users"*.

The deductibility of the tax paid on the purchase of goods or services relating to such transactions remains unaffected.

3.2 ASSETS NOT PART OF THE COMPANY'S OWN ACTIVITY

Purchases of goods intended to be sold free of charge, the production or trade of which is not part of the undertaking's own activity, always constitute entertainment expenses, irrespective of the unit cost of the goods themselves.

For goods not included in the company's own activity (not being of its own production or trade), the free supply is always excluded from VAT.

The VAT relating to entertainment expenses, on the other hand, is deductible only in relation to the purchase of goods with a unit cost not exceeding 50.00 euros.

Therefore, input VAT is:

- deductible, if the unit value of the asset does not exceed € 50.00;
- non-deductible, if the unit value of the asset is greater than 50.00 euros.

3.3 GIFTS TO EMPLOYEES AND SIMILAR PERSONS

The goods purchased to be sold as a gift to their employees and similar subjects (e.g. collaborators) are not inherent to the business activity and cannot even be qualified as entertainment expenses; consequently, the relevant VAT is non-deductible, while their free supply is excluded from the scope of the tax.

The same considerations also apply to services purchased to be rendered as a gift to its employees and similar persons (non-deductibility of the tax relating to the purchase of the service and subsequent free service outside the scope of VAT).

However, if the gifts are represented by goods that are the subject of the business activity, the tax deduction is due, while the free transfer is taxable.

4 GRANTING OF "VOUCHERS"

It is now common practice to grant gifts also in the form of "vouchers", which allow the purchase of goods/services in affiliated businesses.

4.1 TREATMENT FOR VAT PURPOSES

The VAT rules applicable to the issuance, transfer and redemption of *vouchers* are contained in art. 6-bis, 6-ter, 6-quarter and 13 co. 5-bis of Presidential Decree 633/72 and apply to vouchers issued after 31.12.2018. It was in fact reformed by Legislative Decree 141/2018 in order to implement the innovations of Directive 2016/1065/EU.

According to the aforementioned provisions, vouchers (or "consideration vouchers") are instruments that contain the obligation to be accepted as consideration or partial consideration for a sale of goods or services and that show on the medium used or on the related documentation the information necessary to identify the goods or services to be transferred or provided or the identities of the potential transferors or providers, including the general conditions of use of the vouchers themselves.

In addition, a distinction is made between:

- "single-use" vouchers, if at the time of issue all the elements that make it possible to determine the VAT treatment applicable to the underlying transaction (e.g. nature, quality, quantity of the goods or services supplied) are already known. In this case, the supply of goods or the provision of services to which the "single-use" voucher entitles the holder shall be deemed to have been made at the time of issue of the voucher, as well as at the time of each transfer of the same prior to redemption;
- "multi-purpose" vouchers, if the rules applicable, for VAT purposes, to the supply of goods or services to which the voucher entitles you are not known at the time of its issue (for example, because it is possible to use the voucher at a retailer who sells goods subject to different VAT rates). In this case, the transaction is considered to have been carried out only when the voucher is redeemed, giving rise to a supply of goods or a provision of services (the chargeability of the tax arises, therefore, according to the ordinary rules referred to in Article 6 of Presidential Decree 633/72).

4.2 TREATMENT FOR DIRECT TAX PURPOSES

The deductibility of expenses incurred for the purchase of *vouchers* that companies give to their customers follows the treatment of entertainment expenses.

In the event that the vouchers are granted to employees, they constitute *fringe benefits* for employees as a result of paragraph 3-bis of art. 51 of the TUIR and the related costs would be among those deductible for the company.