

Technical Rule no. 05 rev. 08 ME

(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)

Title	VAT Taxation in the Electricity Market
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Reference Legislation	Article 17, para. 17.10, Integrated Text of the Electricity Market Rules
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Foreword

Article 17, para. 17.10 of the Integrated Text of the Electricity Market Rules (hereafter “ME Rules”) provides that the Market Participant shall - in accordance with the provisions of the Technical Rules - enclose a statement concerning its taxation scheme to its request for entry of data and information as per Article 16, para. 16.2 i) thereof.

1. Application of VAT

The following statements, where applicable, must be enclosed to the request for entry of data and information:

- a) if the Market Participant established in Italy intends to submit power bids for which the reverse charge mechanism is applicable, it shall present a statement issued in the format available on GME’s website (www.mercatoelettrico.org). In the statement, the Market Participant must declare that it qualifies as a taxable dealer under both article 7bis and article 17 of DPR no. 633 of 26 October 1972 (hereafter “DPR 633/72”) for each bid submitted and, anyway, until revocation; or
- b) if the Market Participant established in Italy intends to exercise the option of purchasing goods and services without the application of VAT, as per article 8 c) of DPR 633/72, it shall present a statement of intent issued in accordance with article 1, subpara. c) of Law-Decree no. 746 of 29 December 1983, converted into Law no. 17 of 27 February 1984, and documents to be enclosed thereto, where applicable under the legislation from time to time in force.

In order to continue to exercise the option of making purchases without the application of VAT, the Market Participant established in Italy is required to resubmit to GME the statement and the enclosed documents, where applicable, under the legislation from time to time in force. If the statement and the enclosed documents, where applicable, are not resubmitted within the timings established in the applicable legislation, GME will apply the standard VAT rate to the Market Participant concerned; or

- c) if the Market Participant established in Italy intends to submit power bids for which it requests the application of the reduced VAT rate, it shall present a statement issued in accordance with DPR no. 445 of 28 December 2000. In the statement, the Market Participant must declare that it holds the withdrawal points in respect of which electricity is allocated for the uses referred to in Table A, Part III, no. 103, annexed to DPR 633/72, or that it qualifies as a wholesale customer in accordance with article 2 of Legislative Decree no. 79 of 16 March 1999, in the format available on GME’s website (www.mercatoelettrico.org);

- d) if an EU or non-EU customer intends to submit power bids into the market, it shall present a statement of the VAT taxation scheme applicable to the above electricity purchases under Directive 2006/112/EC, in the format available on GME's website www.mercatoelettrico.org;
- e) if the entity (head office or permanent establishment) that will materially carry out the purchase and/or sale transactions in the electricity market is different from the entity (head office or permanent establishment) admitted as a Market Participant, it shall present a statement, in the format available on GME's website www.mercatoelettrico.org, where the Market Participant (as head office or permanent establishment) notifies to GME the entity (head office or permanent establishment) that will materially carry out the purchase and/or sale transactions in the electricity market.

Where the Market Participant requests or has already requested also the application of the VAT scheme referred to in subpara. a) of this para. 1, in addition to the statement and the documents, where applicable, referred to in subpara. b) of the same paragraph, the latter statement and the related documents, where applicable, will take full effect only in respect of the fees referred to in Article 7, para. 7.1 of the ME Rules which will be invoiced by GME.

2. Effect of the statements

The entry of the data and information contained in the statements referred to in para. 1 above will take effect within the second working day of receipt of the request by GME, in compliance with Article 17, para. 17.9 of the ME Rules, provided that the submitted documents are correct and complete and that the requirements, if any, for updating the data and information supplied by the Market Participant are satisfied.

Pursuant to the combined provisions of article 1, para. 38 of Law no. 239 of 2004 and Article 17, para. 17.9 of the ME Rules, if the Market Participant requests the application of the VAT schemes mentioned in subparas. a), b), c) and d) of para. 1 above and submits the statement mentioned in subpara. e) of para. 1 above after submitting the market participation application and the market participation agreement, the statements must be received by GME within 1 p.m. of the last working day of the week.

These statements will take full effect within the second working day after they have been received, with reference to:

- purchase/sale transactions concluded in the MGP and MI, which will be financially settled in the first week following the week in which GME has received the statement, or the week in which the settlement is scheduled as required by Technical Rule no. 8 ME;
- purchase/sale transactions registered in the MTE and purchase/sale transactions in the MPEG, which will be invoiced after the week in which GME has received the statement.