

Consultation paper

Review of existing legislation on VAT invoicing

Note

This document is being circulated for consultation to all parties concerned in the context of a legislative proposal on VAT invoicing.

The sole purpose of this consultation is to collect relevant information and help the Commission develop its thinking in this area.

This document does not necessarily reflect the views of the Commission of the European Communities, and should not be interpreted as a commitment by the Commission to any official initiative in this area.

The parties concerned are invited to submit their comments no later than 19 September 2008.

Comments may be sent by letter, fax or electronic mail to

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1. INTRODUCTION AND BACKGROUND

The Commission is required under Article 237 of the VAT Directive¹ to present a report to Council by 31 December 2008 on technological developments in respect of e-invoicing, and a legislative proposal if appropriate. As the provisions of the Invoicing Directive (2001/115/EC) which are now contained in the VAT Directive did not fully meet its stated aims of simplifying, modernising and harmonising the conditions laid down for invoicing in respect of VAT, the review on invoicing will go wider than just e-invoicing.

2. INVOICING STUDY

In order to complete its work the European Commission has commissioned a study on invoicing which will be finalised in the autumn of 2008 and published on the Commission web site.

The aim of the study is to look at four areas of invoicing - the requirement to issue an invoice; the content of the invoice; e-invoicing; and archiving of invoices. For these areas the study analyses the burdens faced by business in complying with the rules and the need for Member States to effectively control VAT. Based on this analysis a draft report has been sent to the Commission which includes recommendations for changes to the VAT Directive. Given the need to make any proposal before the end of 2008, the Commission is anxious to have input from the public at the earliest possible date and for that reason, the consultation is based on a selection of draft recommendations made in the context of the study.

3. QUESTIONS SUBMITTED TO THE PUBLIC AND INTERESTED PARTIES

The Commission would be interested in receiving contributions from the public and all interested parties in response to the selection of the recommendations (see Annex 1) contained in the draft report.

In particular,

- 1) Which recommendations do you agree with and why?
- 2) Which recommendations do you disagree with and why?

In addition,

- 3) Should e-invoicing be based on the following criteria?
 - a) Equality of treatment between paper and e-invoices,
 - b) Guaranteeing the authenticity of origin and the integrity of content of an e-invoice should remain as a general principle to be observed,
 - c) An agreement, either implicit or explicit, between the supplier and customer.

¹ Council Directive 2006/112/EC of 28 November 2006 on the Common System of Value Added Tax, OJ L 347, 11.12.2006. Directive as last amended by Council Directive 2008/8/EC of 12 February 2008, OJ L 44, 20.2.2008, p. 11.

4) What other recommendations do you think should also be considered in the context of a legislative proposal on VAT invoicing and why?

4. FINAL OBSERVATIONS

Your contribution to this consultation should be sent to TAXUD-D1-INVOICING@EC.EUROPA.EU by 19 September 2008.

It is important for contributors to clearly identify: name, address, e-mail, activity, and, in the event of representative organisations, the level of representation.

Your contributions will be acknowledged collectively and published on the website of DG TAXUD. The results will be summarised in a report to be published on the same website.

ANNEX 1: Selection of draft recommendations

Annex 1

Selection of draft recommendations from the Invoicing Study

1. Provisions in case countries with which no legal instrument relating to mutual assistance exists are involved should be abolished as these are not really needed by the large majority of the national authorities for control purposes.
2. The requirement to issue an invoice for supplies as referred to in article 33 of Directive 2006/112/EC should be abolished, as, on the one hand, there is no need for an invoice to control the correct and timely payment of VAT due and, on the other hand, VAT is not deductible.
3. The option allowing Member States to require issuing an invoice to private individuals should be abolished for the same reasons.
4. A harmonised time limit for issuing invoices should be implemented, more specifically, we recommend imposing the requirement to issue invoices no later than the 15th day of the month following the month in which the taxable event took place.
5. The option currently provided for in article 223 of Directive 2006/112/EC allowing Member States to impose specific conditions in case of a summary invoice should be abolished, and the general rules with respect to “single invoices” should be applicable.
7. The requirement to have a prior agreement in case of self-billing should be abolished as it is not a key element for control purposes.
8. The acceptance procedure in case of self-billing should only be implicit or silent as national authorities have other means to control the correct payment and deduction of VAT.
9. In order to inform the national authorities and the supplier that a self-bill invoice has been issued, the word “self-bill” should be clearly stated and two boxes could be added on the VAT return “I received self-bills from my customers” or “I issued self-bills to my suppliers” to be ticked by the taxpayer as appropriate..
10. A clear definition of “sequential numbering” should be provided in order to avoid different interpretations. All other requirements mentioned in article 226 of Directive 2006/112/EC should not be changed.
11. Abolish the option to require for paper invoices to be stored in the Member State as the principle providing access “without undue delay” is already included and resolves the national authorities’ concern.
12. The option provided to Member States not to allow converting paper invoices into electronically archived invoices should be abolished.
13. A harmonised storage period for invoices, i.e. 7 years as from 1 January following the year in which the taxable event took place, should be imposed (except for capital goods subject to a longer revision period).

14. In case it is not possible to eliminate all national options for invoicing:

a) the rules of the country where the supplier is established should prevail; with the exception of self-billing where the rules of the country of establishment of the customer (issuing the self-bills) should prevail;

b) if a supplier or for self-billing the customer is not established in one of the EU Member States he has to comply with the rules of the Member States that has granted him a VAT identification number under which he makes his supply of goods or services or issues the self-bills.

15. In case it is not possible to eliminate all national options for archiving:

a) the rules of the country where the supplier or the customer is established should prevail for their respective archiving obligations;

b) if a supplier or a customer is not established in one of the Member States he has to comply with the rules of the Member States that has granted him a VAT identification number under which he makes his supply of goods or services.