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Review of the VAT invoicing rules: frequently asked questions

Why is there a need to change the VAT invoicing rules?

Current national VAT invoicing rules are excessively complicated and disparate. This has facilitated VAT carousel fraud but also led to unnecessary administrative burdens on business operating cross-border. In particular it has hampered the up-take of electronic invoicing. Today's important initiative will put forward much simpler and modern comprehensive rules whilst allowing tax administrations effective means of control.

This view is shared by business as evidenced by the replies to the public consultation and by the opinion of the High Level Group of Independent Stakeholders (HLG). Thus there is clearly a need to further simplify, modernise and harmonise the existing invoicing rules.

What are the main changes to the rules on invoicing?

There are numerous changes proposed in the invoicing proposal. These aim to reduce burdens on business, to promote SMEs, to increase the up-take of electronic invoicing and help Member States tackle fraud.

The changes affect mainly the conditions for issuing an invoice, the content of VAT invoices, electronic invoicing and the storage of invoices.

Does this proposal help to tackle fraud?

Yes. The proposal helps tackle VAT carousel fraud, mainly involving cross border transactions (see IP/08/454), in several ways.

Firstly, the proposal makes coincide the date of supply of an Intra-community transaction and the date of chargeability of the tax (when it is due to the Treasury). Today, those dates do not coincide. Date of chargeability is set up at the latest at the 15th day of the month following the date of supply. Fraudsters abuse this rule by systematically reporting the transaction to the national tax authorities the month after it has taken place so as to avoid timely controls. This measure complements the change from the quarterly to the monthly business reporting to tax administrations agreed in December 2008 (see MEX/08/1216, 10th item).

Secondly, as there is a requirement for a supplier to issue an invoice so the requirement for the customer to hold that invoice to claim a right of deduction is strengthened. Member States will have the possibility to require a valid invoice even for VAT claimed in respect of a reverse charge supply.

Thirdly, any business claiming a right of deduction must hold an invoice that contains details of his VAT number.

How will this proposal make electronic invoicing easier?

By creating equal treatment between paper and electronic invoices the Commission believes the VAT obstacles that hamper the use of electronic invoicing will be removed. The current rules for e-invoicing requiring either use of an advanced electronic signature or electronic data interchange (EDI), along with the various options and interpretations afforded to Member States, makes electronic invoicing difficult to implement, especially cross border. These conditions will be removed.

What are the benefits for small and medium sized enterprises (SMEs) from this proposal?

This proposal forms part of the Small Business Act adopted on 25 June 2008 (IP/08/1003). There are a number of measures contained in the proposal that are specifically aimed at SMEs.

These measures include the option for Member States to introduce an optional cash accounting scheme and the use of simplified invoices, especially for small values.

And more technical questions…

What are the changes that affect the conditions for issuing an invoice?

These can be summarised as follows:

a) Self-billing

Invoices may continue to be issued by the customer but the requirement to have a prior agreement with an acceptance procedure for each invoice under conditions determined by each Member State is withdrawn. These conditions are replaced by the mention "self-billed invoice" on the invoice.

b) Summary invoices

The option for Member States to set the conditions for summary invoices is removed. Instead all business may use summary invoices providing that all the details required for an individual invoice are included and the period of a summary invoice is no longer than 1 calendar month.

c) Exempt supplies

The option for Member States to allow an invoice not to be issued for exempt supplies is removed. Instead a full VAT invoice is required for exempt supplies with a right of deduction at the preceding stage (when the supplier has a right to deduct VAT on his purchases), and a simplified invoice is required for exempt supplies without a right of deduction at the preceding stage (when the supplier has no right to deduct VAT on his purchases).

This distinction is made since the risk of fraud is higher when the supplier can claim a right of deduction in relation to the supplies he has made. Also exempt supplies with a right of deduction at the preceding stage are typically for exports, where the supplier would normally for commercial reasons issue a full invoice, and for which most Member States require a full invoice.

This harmonises the rules across the EU

d) When an invoice must be issued

All businesses must issue an invoice when required by the 15th day of the month following the date of the supply.

e) Outsourcing of invoicing to third parties outside the EU

The option for Member States to impose conditions on businesses that outsource invoicing to third parties outside the EU is deleted.

f) Simplified invoices

Member States have the option to require a simplified invoice for B2C (business to consumers) supplies.

For B2B (business to business) transactions, businesses can issue simplified invoices for low value invoices below EUR 200, for credit notes and exempt supplies without a right of deduction at the preceding stage, except when cross border.

g) Full VAT invoice

These are required for all B2B (business to business) supplies except for those allowed as simplified invoices.

h) Distance sales

The requirement to issue an invoice for distance sales in all cases is removed. A simplified invoices may be required in a Member State if an established business is required in that Member State to issue an invoice for a similar supply.

i) A payment on account preceding a supply

The current rules require that for a payment on account for a future intra-Community supply of goods an invoice is issued. The invoice then creates a chargeability to tax. The proposal now only requires an invoice to be issued after the supply is made removing any ambiguities in invoicing for an intra-Community supply that has not been made.

What are the changes that affect the contents of an invoice?

These can be summarised as follows:

a) Amendment to an invoice (Credit notes, debit notes)

The contents of a credit or debit note are harmonised and the details required are those of a simplified invoice provided that reference is made to the original invoice.

b) The currency of the VAT amount

The VAT amount will continue to be required in the currency of the Member State where the tax is due. Any other currency for the VAT amount will need to be converted using the ECB rate.

c) Simplified invoices

These invoices must contain all the following details, which are largely those contained in the proposed new Article 238(2) of the VAT Directive:

- The date of issue;
- VAT identification number of the taxable person making the supply;
- Identification of the type of goods or services supplied and their value;
- The VAT amount to be payable or to be credited, or the information needed to calculate it.

d) Full VAT invoice

The full VAT invoice contains those details mentioned in the proposed new Article 226 of the VAT Directive. Such invoices must contain the following details

1. the date of issue;
2. a sequential number that uniquely identifies the invoice;
3. the supplier's VAT identification number;
4. the customer's VAT identification number;
5. the supplier's full name and address;
6. the customer's full name and address;
7. a description of the quantity and nature of the goods supplied or services rendered;
8. the date the tax becomes chargeable (due to the Treasury);
9. the VAT rate applied;
10. the VAT amount payable;
11. a break-down of the VAT amount payable per VAT rate or exemption;
12. the unit price of the goods or services exclusive of tax, discounts or rebates (unless included in the unit price);

There are two changes from the current rules. Firstly, the customers VAT number (item 4) is required in all cases (up to now it was only obligatory for intra-Community supplies of goods or where the customer is liable for payment of the VAT, and was an optional obligation for Member States to apply in respect of domestic transaction) and secondly the date of the supply is replaced by the date the tax becomes chargeable (due to the Treasury) (see item 8). The latter allows the customer to claim a VAT deduction in the same period as the VAT becomes chargeable.

Are there any other details required on a full VAT invoice?

Yes, other details are required on a full VAT invoice depending on the nature of the supply. The only changes to Article 226 are the following:

a) For exempt supplies the code "EX" is required. The reference to the VAT Directive, national legislation or any other reference that the supply is exempt is removed.

b) For reverse charge supplies (when VAT is not charged by the seller to the customer but the latter (rather than the seller) is responsible for paying the VAT to the Treasury) the code "RC" is required. The reference to the VAT Directive, national legislation or any other reference that the supply is subject to the reverse charge is removed.

c) As a simplification measure for cross border reverse charge supplies where it is difficult to know the VAT rate and corresponding taxable amount, only the value of the different goods or services supplied is required.

What are the changes that affect electronic invoicing?

These can be summarised as follows:

a) E-signatures or EDI

Businesses will be free to send electronic invoices under the same conditions as they would send paper invoices. The pre-conditions for sending electronic invoices by either advanced electronic signature of be electronic date interchange (EDI) are removed. The additional optional conditions for electronic signatures and EDI are also removed.

b) Acceptance by the recipient

This is no longer required. Normal commercial practice of tacit approval will apply.

What are the changes that affect the storage of invoices?

These can be summarised as follows:

a) Electronic storage

The option for Member States to require the storage of invoices in the original format is removed. This allows businesses to store paper invoices in electronic form.

b) Period of storage

The option for Member States to set the period of storage is withdrawn. A common EU storage period for VAT invoices is set at 6 years.

c) Translation of invoices

Member States will still be able to request invoices to be translated into their national languages. However, any Member State requesting a translation must state which "particular invoices" the request relates to, thereby removing the different approaches of Member States.

d) Place of storage

No conditions can be imposed on the place of storage other than the place of storage must allow the invoices to be available without undue delay. The requirement for invoices to be available electronically on-line when held outside of the Member State of the supplier or customer is removed.

e) Notification of the place of storage

This is no longer required in any circumstances.

f) Storage by non-taxable persons

Member States currently have the option that for B2C (business to consumer) supplies the private individual is required to keep the invoices received or that non-taxable legal persons are required to store invoices. This option for Member States is withdrawn.

In which Member State do the invoicing rules apply?

a) Issue of on an invoice

The rules on the issue of an invoice are applicable in the Member State from which the supplier making the supply is identified for VAT. However, the applicable rules can be where the customer is identified for VAT when he issues an invoice subject to a reverse charge and the supplier is in another Member State.

b) Storage of an invoice

The rules are applicable in the Member State in which the supplier and customer are respectively identified for VAT.

What is the change to the rule on the chargeability to tax for intra-Community supplies?

The invoice, issued before the 15th of the month following the date of an intra-Community supply, will no longer create a chargeability to tax. Instead the chargeability to tax for intra-Community supplies will be determined only by the date of the supply.

Will the chargeability to tax intra-Community acquisitions also change?

Yes. The chargeability to tax will arise only when the supply takes place. It will no longer become chargeable on the 15th day of the month following the supply nor will the invoice

What is the change as regards holding a valid invoice to claim a right of deduction?

In general a taxable person is required to hold a valid VAT invoice to claim a right of deduction. This will apply irrespective of whether it is a reverse charge supply.

Nevertheless, Member States may continue to allow a right of deduction based on other evidence than a valid VAT invoice.

What is the change in respect of accounting for VAT on a cash basis?

Member States will be allowed, without seeking a derogation form the VAT Directive, to introduce an optional cash accounting scheme in which a business accounts for VAT on receipt of payment of the supplies made and claims a right of deduction on payment of the supplies received. Members States can set the ceiling for use of the scheme at EUR 2 000 000, the EU definition of a micro enterprise.

In addition Member States may allow a customer of a business accounting for VAT on a cash basis to have an immediate right of deduction, rather than having to wait until the payment is made.

Changes are made to the content of an invoice so that the customer can know when his right of deduction can be claimed.

Will businesses be able to store invoices electronically instead of on paper?

Yes. Those Member States that currently require that the invoice is stored in the original format, such as paper, will have to allow businesses to store those invoices electronically.

Will all the rules on invoicing be harmonised throughout the EU?

No. All the VAT rules on invoicing will be harmonised in all Member States with one exception; Member States have the option of whether an invoice is needed for business to consumer (B2C) invoices. However, any such requirement to issue a B2C invoice is limited to a simplified invoice.

All the other options available to Member States are either withdrawn or are harmonised.

Is the VAT amount on an invoice still required in the currency of the Member State where the tax is due?

Yes. In order to ensure that the VAT declared matches the VAT deducted the VAT amount must be stated in the Member State where the tax is due.

However, the rules have been simplified to help businesses. The exchange rate that is to be used to convert the VAT amount to the currency of the Member State where the tax is due shall be the exchange rate set by the European Central Bank (ECB). The various facilities that the ECB offers should reduce the burden for business of this requirement.

Why is there still the option for Member States to continue to require businesses to issue an invoice for B2C (business to consumer) supplies?

This is kept to help the tax authorities control fraud. However, the conditions relating to this option are made more business friendly.

Any B2C invoice that is required need only contain the details required for a simplified invoice.

Are there any benefits to distance sellers in this proposal?

Yes. Distance sellers are only required to issue simplified invoices if for the same supply established businesses in that Member State are also required to issue B2C (business to consumer) invoices. The requirement for a distance seller to issue an invoice in all cases is removed.

How will businesses know if a simplified invoice is required for B2C (business to consumer) supplies?

Currently the invoicing rules applicable in the Member States are updated on the Commission website (see

http://ec.europa.eu/taxation_customs/taxation/vat/traders/vat_community/index_en.htm).

This Commission information will be maintained and Member States may be required to keep the information on their website.

Is the requirement to issue an invoice by the 15th of the month following the date of the supply not too short a period?

It is true that for businesses in certain Member States this will be a stricter condition than currently applies. For businesses in other Member States it will be a longer period than they are used to.

Any harmonised period by which an invoice needs to be issued needs to find a balance between giving the issuer flexibility over when the invoice is issued and meeting the customer's need to have a valid invoice to claim a right of deduction. Too short a period inconveniences the issuer and too long a period may cause difficulties for the customer. The date set creates a reasonable balance and complements the existing period set for intra-Community supplies.

Has the public been consulted on the changes to the VAT rules on invoicing?

Yes, the Commission launched a public consultation to involve all stakeholders in the review of the VAT invoicing legislation.

A detailed summary report of the results of the public consultation is available at:
http://ec.europa.eu/taxation_customs/common/consultations/tax/index_en.htm