



E-invoicing in Germany: law enters the mediation process

1 Legislative process

In the summer of 2023, Germany was authorised by an implementing decision of the EU Council to introduce rules deviating from the EU VAT Directive with regard to e-invoices. The legislative process was subsequently initiated via the "Growth Opportunities Act", which contains the rules for a national e-invoicing obligation in Germany. However, as the Federal Council (Bundesrat) objected to the first government draft, it required amendment. This amended draft was then approved by the Federal Parliament (Bundestag). Nonetheless, the Federal Council rejected this new draft, which will now go through a mediation process. The rejection of the amended draft law is primarily based on inconsistencies in other areas. The rules on e-invoicing are unlikely to be changed. The current e-invoicing proposals are therefore expected to apply from 2025.

2 Scope of the national e-invoicing obligation in Germany

A national e-invoicing obligation is to be introduced in the B2B sector. A taxable person established in Germany will be obliged to issue an e-invoice for supplies taxable in Germany, (which are not VAT-exempt under sec. 4 nos. 8 to 29 of the German VAT Act), if the invoice recipient is also established in Germany (sec. 14 para. 2 sentence 2 no. 1 of the Draft of the German VAT Act). A taxable person is deemed to be established if it has its registered office, place of management, domicile or habitual residence in Germany or a domestic fixed establishment, for VAT purposes, is involved in the transaction (sec. 14 para. 2 sentence 3 of the Draft of the German VAT Act). The general obligation to issue an invoice within six months after the supply was carried out continues to apply (sec. 14 para. 2 sentence 1 of the Draft of the German VAT Act). Transactions subject to the e-invoicing obligation no longer require active approval of receiving an e-invoice by the invoice recipient (sec. 14 para. 1 sentence 5 of the Draft of the German VAT Act).



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Invoices for small amounts (sec. 33 of the German Implementing Regulation) and invoices for tickets (sec. 34 of the German Implementing Regulation) are exempt from the e-invoicing obligation.

3 Definition of an e-invoice

The definition of an e-invoice, within the meaning of the new rules, is narrower than at present. Only an electronic invoice that complies with the requirements of Directive 2014/55/EU - and therefore with CEN standard 19631 - will be considered an e-invoice (sec. 14 para. 1 sentence 6 no. 1 of the Draft of the German VAT Act) or if the invoice issuer and invoice recipient have concluded a joint agreement on the e-invoice format to be used. The prerequisite for this is that the format used enables the correct and complete extraction of the required information in accordance with Directive 2014/55/EU or is interoperable with it (sec. 14 para. 1 sentence 6 no. 2 of the Draft of the German VAT Act). The second alternative was only included in the draft law during the last revision. This primarily takes into account concerns from the business community that the original new definition of an e-invoice was too narrow and that previous investments in the digitalisation of e-invoicing processes, such as EDI invoices, should not have been in vain. However, the core element is still the CEN standard 19631, which is already being used as part of the B2G e-invoicing obligation and is currently being revised.

All other invoices that do not fulfil the above-mentioned requirements will, in future, be considered as "other invoices". For other electronic invoicing documents (e.g. PDFs), the invoice recipient's consent is still required (sec. 14 para 1 sentence 5 of the Draft of the German VAT Act.)

4 Introduction date and transitional provisions

The e-invoice obligation for B2B transactions between residents is to be introduced on 1 January 2025. This has not changed, as regards the latest amendments.

Transitional rules still only affect the obligation to issue invoices. Where domestic invoice recipients receive their supplies from other domestic companies, they are still obliged to receive e-invoices without restriction from 2025.

The following transitional provisions apply to invoice issuers:

- In 2025 and 2026, paper invoices and other electronic invoices (the latter still only with the consent of the invoice recipient) will continue to be permitted, in addition to e-invoices.
- In 2027, domestic companies with a total turnover of up to EUR 800,000 in the previous calendar year may continue to issue paper invoices and other electronic invoices (the latter still only with the consent of the invoice recipient) to their domestic customers.
- In 2027, EDI invoices may also continue to be issued with the consent of the invoice recipient.

The transitional provisions have also been extended again, in terms of timing, in the current draft. The e-invoice obligation will therefore only affect most invoice issuers from 2027. The crucial point could still be the unrestricted receipt of e-invoices from 2025. Here, too, the Federal Council had called for transitional rules, but these have not (yet) been implemented in the revised draft that has now been passed by the Federal Parliament.