VAT'S UP
VAT NEWSLETTER

VAT in the Digital Age (Part 3): digital reporting requirements and mandatory e-invoicing

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1 Background

During the last few years, several EU Member States have introduced digital reporting requirements (DRR), providing information to tax authorities on a transaction-by-transaction basis. The measures have proven successful in increasing VAT collection estimated between EUR 19 – 28 billion in those particular Member States. In some cases, the implementation of DRR was accompanied by mandatory e-invoicing requirements to facilitate the digital reporting. However, Member States who intended to introduce mandatory e-invoicing were required to request a derogation from the VAT Directive under Art. 395, which is subject to the unanimous agreement of the EU Council. Taking this into consideration, it is not surprising that the EU Commission proposes to implement DRR and mandatory e-invoicing as a default rule under the slogan of modernizing VAT reporting obligations.

2 Digital reporting requirements (DRR)

One of the objectives of the EU Commission's initiative is to replace the outdated recapitulative statements with a DRR system for intra-Community transactions by amending Art. 262 – 271 of the VAT Directive, which will provide faster information of a higher quality on a transaction-by-transaction basis. The amendments shall take effect as from 2028.

The DRR for intra-Community transactions shall cover the same transactions that were covered by the recapitulative statements (except for call-off stocks, which will cease to exist). Supplies subject to the reverse charge mechanism according to Art. 194 of the draft VAT Directive shall also be included in the DRR. The Member States shall also be obliged to collect data about intra-Community acquisitions of goods and transactions treated as such, which is currently optional for the Member States under the existing regulations on recapitulative statements.

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Art. 263 of the draft VAT Directive sets out the main features of the new DRR system:

- information must be transmitted on a transaction-by-transaction basis,
- the deadline for the transmission of data is two working days after the issuance of the invoice, or after the date the invoice should have been issued,
- transmission of the data must be carried out electronically,
- Member States will provide the means for these transmissions,
- information can be submitted directly by the taxable person or by a third party on their behalf.

Art. 264 of the draft VAT Directive stipulates that all mandatory content of an invoice in accordance with Art. 226 of the draft VAT Directive must be submitted for each transaction, except for name and address of supplier and customer (which is redundant because their VAT-IDs are reported) and the date of supply or payment. The new mandatory elements of an invoice (bank account, agreed date / amount of payment, in the case of an invoice amendment, the initial invoice number – see below), shall also have to be reported. The requirement that line-item information, such as the quantity and nature of the supplies must be reported, will, in practice, prove challenging. Invoices may no longer cover different supplies.

3 Mandatory e-invoicing

In a first step, with effect from 2024, the definition of electronic invoices in Art. 217 of the VAT Directive shall be changed and aligned with Directive 2014/55/EU on electronic invoicing in public procurement (B2G). Then, 'electronic invoice' shall mean an invoice, which has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing. This is particularly relevant for EU Member States who may want to impose the obligation to issue electronic invoices, which will be possible as of 2024, based on Art. 218 (2) of the draft VAT Directive, without the prior authorization of the EU Council.

In a second step, with effect as from 2028, Art. 218 of the VAT Directive shall be amended and require that all invoices be issued in a structured electronic format. As of then, the Member States may only accept invoices on paper or other formats for transactions not subject to the DRRs, particularly "domestic supplies" and exports outside the EU. Currently, according to Art. 218 of the VAT Directive, invoices are generally accepted on paper or in electronic form.

Additionally, the deadline for the issuance of invoices on intra-Community supplies of goods, and on supplies where the reverse charge applies, will be set at two days after the chargeable event takes place (Art. 222 of the draft VAT Directive).

The possibility to issue summary invoices for a calendar month will be eliminated as this goes against the goal of providing information on transactions to the tax administrations in almost real-time (Art. 223 of the draft VAT Directive).

Information required by the tax administrations for the reporting obligation is included in Art. 226 of the draft VAT Directive:

- the identifier of the bank account in which the payment for the invoice will be credited,
- the agreed dates and amount of each payment related to a concrete transaction, and
- in the case of an invoice that amends the initial invoice, the identification of that initial invoice.

Art. 232 VAT Directive shall be deleted and e-invoicing shall no longer be subject to any prior acceptance or authorization, either by the recipient or by the tax authorities.

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