

INVOICING AND VAT

European Commission proposals : COM(2000) 650 final

UNICE COMMENTS

Introduction

UNICE welcomes the publication of the European Commission's proposals on invoicing and VAT. The adoption of standard VAT requirements for invoices throughout the EU will reduce compliance burdens for all businesses and greatly simplify trade in the single market.

However, it is vital that there is minimum scope for variation of the rules by individual Member States, as otherwise much of the practical benefit will be lost. In addition, there are a number of detailed aspects of the proposals, which, if not amended, would in fact add to the administrative burden of trading across borders, and these are dealt with below. It is essential that these aspects are amended before the proposals are implemented.

Where a Member State's existing rules do not require an invoice to be issued for exempt supplies, the new directive should not impose such a requirement.

Member States' ability to require the use of their language on invoices issued by their traders creates a significant compliance burden for businesses trading in more than one state. A similar problem arises with refund claims under the 8th Directive. Member States should be encouraged to show greater flexibility on this issue.

Obligation to issue an invoice

Self-billing and outsourcing

The ability to delegate the obligation to issue an invoice to the customer or a third party is welcome. However, Member States' ability to impose further conditions in connection with self-billing or outsourcing arrangements should be limited by the directive, as otherwise each Member State could have different rules which would create an excessive compliance burden. In addition, in the interests of EU competitiveness, the same conditions should apply whether or not there is a mutual assistance agreement with the country in which the customer or third party is located.

In the case of self-billing, UNICE questions whether there is a need for any explicit agreement between the two parties to which they can refer if

requested by the tax administration. Under normal commercial practice it is enough that the vendor silently accepts the invoice (e.g. by payment) where there is no reason to challenge it. This practice should also be sufficient for the tax administration. However it is important that when a taxable person acts fraudulently by producing false invoices to claim input VAT, the alleged supplier (who may not have made any supplies at all, or supplies of a lesser amount) is safeguarded from being assessed.

Invoice contents

Place of supply of goods or rendering of services

The proposed requirement to state the place of supply, which was not part of the recommendations of the PwC report, would create a new and unnecessary compliance burden. Very few, if any, businesses will have computer software that can handle this.

Reference to provision justifying exemption

In the case of exempt supplies, the proposed additional requirement to state the provision justifying exemption is also unnecessary and would impose needless compliance burdens. It would be difficult and therefore costly to adapt accounting software packages to meet this requirement. Furthermore, the question arises what the effect would be if the wrong provision is quoted, i.e. the supply is exempt, but under a different provision. Would this invalidate the invoice?

VAT identification numbers

The proposal states that VAT numbers will be required “where necessary”. The meaning and scope of this is not clear. It suggests that Member States could adopt different requirements, which would be counter-productive. It should only be necessary to state the customer’s VAT number in cases where the VAT treatment of the supply is dependent on the customer’s business status. Requiring the customer’s VAT number to be stated in all cases, including those not involving cross-border supplies, would be an unreasonable addition to compliance burdens.

Invoices for smaller amounts

Member States should be free to decide on reductions in the contents requirements for invoices for smaller amounts. Harmonisation of these requirements is unnecessary. In the case of intra-EU cross-border supplies, confirmation is needed that the applicable rules on invoice contents would be those of the Member State of the supplier.

Repetition of invoice data

Where batches of invoices are sent to a single recipient, the proposal allows data common to all invoices to be transmitted only once. This relaxation

should be extended to allow businesses that continually deal with each other to replace the traditional parts of an invoice with well-established identification codes such as a customer number or EAN code. This would reflect the way in which many businesses actually operate.

Accumulation of invoice data

In some business sectors, individual items of invoice data (e.g. information about the parties, prices, orders, deliveries etc.) are transmitted in a number of separate electronic messages, rather than all at once in a single message. The proposal should be amended to allow the required invoice data to be accumulated over a number of separate messages, provided they can each be linked to the relevant supply.

Electronic invoicing

Prior notification

Prior notification serves no useful purpose, as the explanatory memorandum itself acknowledges. Invoicing arrangements will be agreed by contract and separate notification is therefore totally unnecessary. In the interests of facilitating trade and minimising costs, Member States should be prevented from maintaining this requirement on implementation of the directive.

Advanced electronic signature

UNICE does not see the necessity to require the authenticity of the origin and integrity of the contents of electronic invoices to be guaranteed by means of an “advanced electronic signature” as defined in Article 2(2) of Directive 1999/93/EC. This would be a significant new burden for business. Inserting the necessary data into accounting software could introduce costly technical issues. In addition, the need to store the signature as well as the invoice data for each invoice would impose a substantial storage burden.

There is no equivalent requirement to guarantee the authenticity of the origin and integrity of the contents of paper invoices, even though a paper invoice is just as easy to falsify as an electronic invoice. The proposals do not make the case for introducing additional security measures for electronic invoices that add to business costs and which do not apply to paper invoices. This would not be consistent with the principal objective of facilitating e-commerce.

The decision on security measures to be used should be left to the parties to a transaction. Commercial considerations will ensure that they take adequate steps to protect their interests. The issue of on-line security should not be confused with VAT legal obligations.

Use of an advanced electronic signature should become optional. However, it would be preferable to promote the use of an electronic signature within the meaning of Article 2(1) of Directive 1999/93/EC”, as this is technology neutral and less costly to implement.

Storage of invoices

The requirement for immediate access to invoice data will be unrealistic for many businesses, especially SMEs. If invoices are required to be stored for many years, old computer systems may not be able produce the data immediately. Therefore a reasonable time period – not less than 2 weeks - should be allowed for production of data on request by the tax authorities.

The directive should specify the further conditions which Member States can impose on their taxable persons with storage facilities located in a country with which there is no mutual assistance agreement, in order to limit the scope for differences between Member States.

Definition of electronic invoice transmission and storage

The proposed definition of transmission and storage of invoices “by electronic means” needs clarifying to ensure that this covers all means of electronic transmission, including the use of Internet technology. For example, there is concern that the definition as it stands might be used by some countries to prevent certain web-oriented systems. The definition implies a transmission of data by the supplier, while web-based technology allows for the supplier to access the customer’s web site and provide an invoice there, or for the invoice to be posted on the supplier’s web site and made available to the customer via the Internet.

It could be argued that there is no transmission of an invoice in these circumstances – only the transmission of a password to enter the site – and that therefore this type of system is outside the scope of the draft directive. Member States should not have the opportunity to insist on EDI or other such narrow forms of electronic transmission.

Deduction of input VAT

Although it is not mentioned explicitly, UNICE assumes that the electronic invoice is an invoice that can be used by taxable persons to claim input VAT via the 6th, 8th or 13 th. Directives.

Timetable for implementation

A generous period of time should be allowed for businesses to adapt their computer systems to comply with the new standard VAT requirements for invoices.

* * *