Value added tax (VAT): rules of invoicing

2009/0009(CNS) - 28/01/2009 - Legislative proposal

PURPOSE: to amend Directive 2006/112/EC in respect of the invoicing rules, in order to increase the use of electronic invoicing.

PROPOSED ACT: Council Directive.

BACKGROUND: Council Directive 2001/115/EC (?the Invoicing Directive?) - now incorporated in Council Directive 2006/112/EC (?the VAT Directive?) - introduced common EU rules on VAT invoices, with the aim of simplifying, modernising and harmonising the rules on VAT invoices. However, this aim was not fully met: the many options available to Member States have led to a less than harmonised set of invoicing rules. This can clearly be seen in relation to the different rules in place for e-invoicing, and is regarded as one of the barriers to increased use of e-invoicing. A simplification of these rules has considerable potential to reduce the administrative burden on businesses.

IMPACT ASSESSMENT: whilst a full impact assessment has not been possible, bearing in mind the time-limits for reporting contained in the VAT Directive, many of the features of an impact assessment are nevertheless contained in the proposal and accompanying communication.

CONTENT: the aim of the proposal is to increase the use of electronic invoicing, reduce burdens on business, support small and medium sized enterprises (SMEs) and help Member States to tackle fraud. The proposal simplifies, modernises and harmonises the VAT invoicing rules. In particular, it eliminates the current barriers to e-invoicing in the VAT Directive by treating paper and electronic invoices equally. The proposed changes include the following:

Chargeability to tax for intra-Community supplies: the aim is to create a single date on which the tax becomes chargeable, that of the date of the chargeable event as determined by the time of the supply. By requiring the invoice to be issued by the 15th day of the month following the chargeable event, the invoice will still remain the principal document evidencing the intra-Community supply. Furthermore, the date of the chargeability to tax for intra-Community acquisitions is amended so as to correspond with the intra-Community supply.

Right of deduction: two measures have been proposed:

- requirement to hold an invoice for deduction. The proposal applies equal treatment between the requirements of the supplier to issue an invoice and the customer to hold an invoice in order to exercise his right of deduction.

- cash accounting. Amongst other measures, it is proposed to extend the optional cash accounting simplification measure to all Member States. The scheme should be available to all micro enterprises having an annual turnover that does not exceed EUR 2 million.

Issuance of an invoice: the proposal aims to create a set of harmonised rules for Business to Business (B2B) invoices with the consequence that a taxable person issuing an invoice from where he is identified for VAT will have legal certainty that the invoice is valid throughout the EU. For Business to Consumer (B2C) supplies, the applicable rules will remain as the place of taxation but with greater harmonisation and transparency for business.

Contents of an invoice: the proposal aims to create a two tier system of invoicing. Firstly there is a full VAT invoice which is a compulsory invoice containing an extensive set of details for B2B supplies. When there is the likelihood that the customer will be exercising a right to deduction, the supplier has a right of deduction at the preceding stage or for a cross border supply. Secondly, there is the option, or in certain cases the requirement, for a simplified invoice, notably when the invoice amount is less than EUR 200.

E-invoicing: the proposal aims to end any legal barriers to e-invoicing contained in the VAT Directive by treating the transmission of an invoice, whether by paper or by electronic means, equally. Thus, reference to the fact that the e-invoice should be by advance e-signature or by EDI are removed.

Storage of invoices: invoices must be stored for 6 years.

FINANCIAL IMPLICATIONS: estimates show that the maximum mid-term reduction potential in removing the VAT obstacles to e-invoicing is up to EUR 18 billion if all invoices were sent electronically. A more conservative approach to the cost difference between paper and e-invoices, taking into account the number of VAT invoices required and the actual rate of up-take of e-invoicing experienced in Member States that already have a similar treatment between paper and e-invoices, would result in businesses experiencing a lower, but still very significant saving.