

Common system of value added tax (VAT)

2004/0079(CNS) - 10/02/2020 - Follow-up document

In accordance with Directive 2006/112/EC (the VAT Directive), the Commission presented, on the basis of an independent economic study, an assessment report on the impact of the invoicing rules applicable from 1 January 2013.

The evaluation focused on the invoicing rules of Council Directive 2010/45/EU (Second Invoicing Directive or SID) and in particular on whether they contribute to the four general objectives initially set, namely: (i) reduction of administrative burdens on businesses, (ii) reduction of VAT fraud/impact on control activities, (iii) proper functioning of the internal market and (iv) promotion of SMEs.

Positive assessment of the Directive

The Commission believes that the assessment of the Directive is largely positive, as having effectively supported the simplification and harmonisation of invoicing and e-invoicing rules across the EU. The provisions of the SID remain relevant and appropriate for stakeholders needs namely clearer, simpler and more harmonised e-invoicing rules.

(1) Reduction of administrative burdens

The biggest impact of the SID on the reduction of administrative burden is due to the higher uptake of unstructured e-invoicing, because of simplifications which encouraged companies to switch from paper invoices to PDFs.

The Directive is estimated to have reduced administrative burdens on companies by EUR 1.04 billion over the 2014-2017 of which about EUR 920 million is to be attributed to the uptake of unstructured invoicing. The micro companies benefited the most from this impact of the SID, given that they adopted the unstructured e-invoices as they were not equipped to deal with structured e-invoicing requirements.

(2) Impact of the internal market

The SID made a positive contribution to the functioning of the internal market, mainly through e-invoicing and cross-border invoicing. The data collected within the study demonstrates that, while in 2014 one in four intra-EU traders issued e-invoices, this number increased to three in four traders in 2018.

In addition, the changes relating to the new rules on applicable invoicing regimes, the uniform time limit for issuing invoices for intra-EU transactions, currency conversion and the simplified content of invoices for cross-border transactions subject to the reverse charge have simplified the use of this regime for cross-border transactions and increased the legal certainty of the invoicing rules applicable to intra-EU transactions.

(3) Tax control

According to tax authorities and stakeholders, the current invoicing rules are well adapted to the needs of tax control activities and the invoicing rules do not allow for much further improvement of tax controls. A possible amendment of the VAT Directive to this effect would have little added value.

(4) Promotion of SMEs

SMEs benefited from about 55% of the burden reduction due to the more widespread use of unstructured e-invoicing. The difference in burden reduction, which is still significant, is attributed to large companies as large firms issue a visibly higher number of invoices. The main focus of possible further improvements to promote SMEs would need to be on cash accounting. However, the cash accounting scheme is overall positively assessed by stakeholders and no emerging issues were signalled. In addition, a more radical approach considering only structured e-invoices as a valid document would require amendments to the existing legislation.

Main shortcomings and ways forward

In some areas, such as the improvement of tax control activities and the promotion of SMEs, the results were positive, but less than they could have been. The evaluation of the invoicing rules revealed a deficiency in the SID and some emerging problems, namely:

(1) Lack of clarity in the system of business controls that create a reliable audit trail

The SID introduced the concept of Business Controls that create a reliable Audit Trail (BCAT) as a mean to prove the e-invoice Integrity and Authenticity. This concept is perceived as still complex, not uniformly interpreted by the tax authorities and poorly applied by economic operators across the EU. Stakeholders see this as a shortcoming of the SID.

Rather than providing such clarifications in the legislative text, the report suggests examining whether it would be easier to clarify the system of business controls establishing a reliable audit trail through the Commission's explanatory notes and the sharing of good practice in Member States. This may be accompanied by some additional clarifications on the legal definition of e-invoices.

(2) Complexity of archiving rules

The Commission considers that it would be difficult to intervene at EU level in this area since it is the Member States that define the detailed requirements for archiving invoices. With the development of digital solutions, the reflection in this area could focus for instance on whether developing a standard for a European cloud service for storage of invoices could be useful.

Another issue that emerged after the adoption of the SID but not resulting from it is the introduction by several Member States of requirements to submit electronic declarations on certain domestic transactions. The Member States introduced such reporting to tackle fraudulent activities. Stakeholders see a risk of dis-harmonisation and increased administrative burdens by the proliferation of such national e-reporting requirements.

Conclusions and future steps

The report notes that the invoicing rules introduced by the SID are assessed as working well by tax authorities and stakeholders and no major issues were identified. In the context of the fight against fraud and given the technological developments and the recent trends in certain Member States on e-invoicing and e-reporting, the Commission together with Member States will explore whether the potential of e-invoicing can be further unveiled at EU level. The Commission will also open a reflection on the e-reporting requirements.