

Tax Representation



27 August 2008

TAXREP 59/08

FUTURE REGULATION OF VAT INVOICING

A submission made on 27 August 2008 to HMRC by the Tax Faculty of the Institute of Chartered Accountants in England and Wales concerning the proposal to amend the rules on VAT invoicing.

CONTENTS

	Paragraph
Introduction	1-3
General – Timing	4
Key point summary	5-11
Comments	12-29
	Annex
Who we are	A
Ten Tenets for a Better Tax System	B

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FUTURE REGULATION OF VAT INVOICING

INTRODUCTION

1. We are pleased to respond to HMRC's JVCC Information paper 08/08 issued in June 2008 on the future regulation of VAT invoicing, which can be found at http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?nfpb=true&_pageLabel=pageExcise_ShowContent&propertyType=document&columns=1&id=HMCE_PROD1_028657
2. We are also aware of the European Commission's own Consultation Paper, *Review of existing legislation on VAT invoicing*, to which we shall also be responding.
3. Details about the Tax Faculty and the Institute of Chartered Accountants in England and Wales are set out in Annex A and our Ten Tenets for a Better Tax System which we use as a benchmark is in Annex B.

GENERAL – TIMING

4. We do have some concerns with the timing of this exercise. HMRC's JVCC Information paper refers to 'enter(ing) negotiations with the European Commission concerning the future regulation of VAT invoicing'. The Commission's Consultation Paper refers to the 'need to make any proposal before the end of 2008'. Businesses involved in cross-border trade within the EC already have a challenging IT timetable with the 1 January 2010 changes required for the VAT Package and possible further anti-fraud measures, both of which at the moment need further clarification. If there are also to be changes to cross-border invoicing requirements, these will need to be finalised very early in 2009 if they are not to cause significant additional costs for these businesses.

KEY POINT SUMMARY

5. We are in general agreement with the principles outlined in the JVCC paper.
6. Any changes should be kept to a minimum.
7. We recommend that the EC establishes a framework of invoicing requirements that lists compulsory and optional items for inclusion on sales invoices.
8. It should not become a legal requirement for any business to issue its sales invoices electronically.
9. It would not be appropriate to include all the rules that may be required for cross border trade to all domestic supplies.
10. Any variances to standard invoicing requirements should be kept to a minimum.

11. Electronic invoicing should not become a barrier to business, either as a consequence of it becoming a legal requirement to submit invoices electronically or because the conditions become too onerous.

COMMENTS

Principles underlying negotiation and change

12. Businesses are likely to have different priorities, depending on their size and operations. Large and small businesses trading in the domestic market are likely to have different capabilities, but both will want simplicity and the least prescription. On the other hand, large businesses trading cross-border, with operations and VAT registrations in more than one Member State are more likely to be interested in standardisation across the EC, even at the expense of simplicity in any particular Member State.
13. We are in general agreement with the principles outlined in the JVCC paper. However, we believe that there would need to be certain additional controls (ie above and beyond those required for paper invoices) for EDI invoicing at header level.
14. We believe that simplicity should be given a high priority, but please note our comments at 10. above.

The current VAT invoicing situation

15. We understand that there are businesses in some industries that find it difficult to allocate a sequential number to their invoices. For example, many utilities treat a combination of the invoice date and customer account number as their unique reference for VAT purposes. A more rigid requirement in relation to the inclusion of a sequential number on such invoices may involve affected businesses in substantial computer system development costs.
16. A more rigid requirement in relation to the sequential numbering of invoices is also likely to pose difficulties for large businesses with shared service centres producing invoices for their operations in several different countries or several branches within one country or a combination of these factors. It is therefore important that any rules relating to sequential numbering are consistent across all Member States to avoid a potential conflict that could arise by allowing different rules in different countries. The requirement for sequential numbering should therefore be both consistent and compatible across the EU.
17. We recommend that the sequential numbering requirement is made as flexible as possible to minimise the difficulties and cost to affected businesses.
18. We believe that the addition of any further requirements to VAT invoices would introduce an unwelcome and unnecessary burden to businesses.

The future of VAT invoicing

19. Any additional requirements would be regarded by many businesses as unwelcome and would, inevitably, incur some cost. Any changes should therefore be kept to a minimum.
20. We recommend that the EC establishes a framework of invoicing requirements that lists compulsory and optional items for inclusion on sales invoices using the following guidelines:
 - Compulsory items are those that would be compulsory for all sales invoices in all Member States;
 - Optional items are those that would not be compulsory in all Member States but would be compulsory in at least one Member State (items that were not compulsory in any Member State would not need to be included in the framework);
 - It should be a legal requirement for any country wishing to make an optional item compulsory within its own territory to obtain approval from the EC prior to implementation. Details of any such variations should be made available to all businesses in all countries and kept to a minimum;
 - It should not be possible for any country to introduce a legal requirement for a particular item on a sales invoice that is not contained within the framework of compulsory or optional items;
 - If an optional item ceases to be compulsory in any EU country, it should be removed from the framework;
 - The EC should maintain and publish for access to all businesses a copy of the framework showing which of the optional items are compulsory in each Member State;
 - It may be necessary to produce two separate frameworks for domestic and international supplies.
21. A final framework would be likely to fall into four parts:
 - 1 Compulsory items for international trade in all Member States;
 - 2 Compulsory items for domestic trade in all Member States;
 - 3 Optional items for international trade, showing which of these items were compulsory in each Member State;
 - 4 Optional items for domestic trade, showing which of these items were compulsory in each Member State.
22. As we have said above, there are clear advantages to some businesses, particularly those that operate in several Member States, to standardise the invoicing requirements across the EU. However, we do not believe that all the rules that may be required for cross border trade would be appropriate for domestic supplies. For example, a requirement to include the customer's VAT registration number on all domestic sales invoices would create a significant additional burden for all businesses, particularly those that are never involved with international trade. Since VAT will be charged and accounted for by the supplier, it is difficult to see what advantage would accrue to HMRC.

23. There are currently additional requirements placed upon particular types of invoice, such as those used in second hand schemes and the tour operators margin scheme. Any such variations to the standard invoicing requirements should be kept to a minimum. Ideally, they should be removed altogether.
24. Where a business has to introduce new wording or additional features to its invoices, we recommend that approval be given to use existing stocks of stationery to exhaustion, in a similar way to the approval that is often granted upon a change of VAT registration number. We suggest that such a concession should last for at least two years after the introduction of any new invoicing requirements.
25. We do not believe that it should be a requirement for any business to issue its sales invoices electronically. For some businesses, particularly small ones, such a requirement would introduce a significant additional burden.
26. There are many large transactions where electronic invoices would be inappropriate, such as the one-off sale of a taxed property by a charity or the sale of a new car to a private individual. It would be disproportionate in the former case to expect the charity to comply with electronic invoicing rules for a single supply, which might not be repeated for many years.
27. We believe that the introduction of standard EU codes and/or legal references to all invoices would present a significant and unnecessary burden to most businesses. There would also be a high risk of error in any such regime, particularly for businesses that provide a wide range of goods and services.

Electronic invoicing

28. We believe that electronic invoicing should not become a barrier to business. Consequently, any restrictions should be kept to a minimum, whilst maintaining a reasonable amount of control in an attempt to prevent fraud.

Involvement of the JVCC going forward

29. We agree that a sub group to deal with VAT invoicing issues would be useful and are prepared to participate in such a group if it is formed.

NG
27.08.08

WHO WE ARE

1. The Institute of Chartered Accountants in England & Wales is a professional body representing some 128,000 members. The Institute operates under a Royal Charter with an obligation to act in the public interest. It is regulated by the Department of Trade and Industry through the Accountancy Foundation. Its primary objectives are to educate and train Chartered Accountants, to maintain high standards for professional conduct among members, to provide services to its members and students, and to advance the theory and practice of accountancy (which includes taxation).
2. The Tax Faculty is the centre for excellence and an authoritative voice for the Institute on taxation matters. It is responsible for tax representations on behalf of the Institute as a whole and it also provides services to more than 11,000 Faculty members who pay an additional subscription.
3. Further information is available on the ICAEW website, www.icaew.co.uk.

THE TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. **Statutory:** tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. **Certain:** in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. **Simple:** the tax rules should aim to be simple, understandable and clear in their objectives.
4. **Easy to collect and to calculate:** a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. **Properly targeted:** when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. **Constant:** Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. **Subject to proper consultation:** other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. **Regularly reviewed:** the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. **Fair and reasonable:** the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. **Competitive:** tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as **TAXGUIDE 4/99**