

eInvoicing Public Meeting
Brussels, 19 June 2008



Legal and regulatory inhibitors to the acceptance of Electronic Invoicing

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Legal & regulatory inhibitors to the acceptance of Electronic Invoicing



- Background
- Group Composition
- Objectives
- Proceedings
- Selection of Main Areas of Interest
- Issue Groups
- Issue Evaluation Templates
- Issues on the CEN/e-invoicing Portal
- Interim Findings
- Future WG2/SG2 tasks

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Background (1)

→ Aim of Electronic Business since 1970's

- Simplification
- Enhancing efficiency
 - National Trade
 - International Trade
- E-Invoicing Benefits not realised to expected extent:
 - National Level
 - Cross Border/Intra EU level



Background (2)

→ EU and national VAT legislation

- Perceived as most significant to E-invoicing
 - Council Directive 2001/115/EC (*Invoicing Directive*)
 - Simplifying, modernising & harmonising VAT invoicing
 - Directive on the Common System of Value Added Tax (2006/112/EC)

→ Many alternative possibilities for implementation offered to Member States

- Detail of guarantees of authenticity and integrity
 - Regulatory and Procedural Differences

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Brussels, 19 June 2008

Group Composition



WG2/SG2 Member	Organisation
Dave Chambers	H.M. Revenue & Customs
Eloy Ruiz Madueño	Spanish Tax Administration
Marina Ferraro	Italian Tax Administration
Alexandra Sladek	Austria Pro
Daniella Cross	IBM
Tony Nisbett	IBM
Greg Gosling	DataCert
Olaf Schrader	Ariba
Franco Ruggieri	FIR DIG Consultants
Fabio Cavarro	InfoCert
Wolfgang Matt	Hilti Corporation
Mounir El-Khoury	Technical Editor WG2, MKE

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Objectives



- CEN/ISSS Electronic Invoicing Workshop Phase 2
Compliance Group – WG2/Task Group (TG) 2

- Tasks
 3. Monitoring the legal requirements in member states as regards cross border exchange of electronic invoices
 4. Recommendation of changes in the legal environment for electronic invoicing

Proceedings



→ Could have

- Enumerated all electronic invoicing issues in all Member States
- Issued Lengthy questionnaire to stakeholders
- Deliberated for years without achieving anything

→ Instead

- Direct approach
 - Real Issues and challenges
- Recommendations for business justified
 - Changes
 - Clarifications
- Member State Tax Administration(s)
- Responsible European Commission Directorates

Original Extensive “Special Challenges” - Categories



- Buyer acceptance of e-invoicing
- Special issues concerning e-invoicing
- EDI definition
- EDI Interchange agreement
- EDI Security and audit trail
- EDI Summary statement
- EDI Other requirements
- Electronic signatures and Certificates
- Other methods
- Outsourcing e-invoicing processes General
- Outsourcing of Invoice issue
- Outsourcing E-signature issues
- Outsourced issue authorisation
- Outsourcing buyer functions
- Outsourcing Buyer's authorization
- Invoice process requirements
- Invoice content
- Credit Note
- Self-billing General
- Self-billing Supplier acceptance of invoice
- Self-billing agreement
- Self-billing Hybrid forms
- Self-billing E-signature issues
- Archiving General
- Archiving Outsourcing of archival
- Archiving Outsourcing agreement



Current “Special Challenge” List – Issue Groups

- Buyer Requirements
- Electronic Signatures & Qualified Certificates
- Other Methods to ensure Authenticity & Integrity
- Invoice Process Requirements
- Cross Border
- EDI
- Self Billing
- Outsourcing
 - Invoice Issue
 - Buyer Functions
- Archiving
 - Storage Period
 - Form/Format
 - Location



Buyer Requirements

→ Paper invoicing

- No acceptance required (“Natural”)

→ Electronic Invoicing

- EU legislation requires buyer acceptance of Electronic Invoicing
 - EU legislation
 - Member State legislation
- imprecise as to details

Electronic Signatures & Qualified Certificates



→ EU Legislation permits Member States to:

- Insist on Qualified Electronic Signature
- based on Qualified Certificate
- Created using Secure Signature Creation Device
- Linked to Natural, not Legal Person

→ EU Member States

- Impose additional requirements:
 - Non national certificates impracticable
 - ➔ MNE's use two certificates
 - ➔ Other businesses don't invoice electronically

“Other Electronic Means” to ensure Authenticity & Integrity



- No common definition for Advanced Electronic Signatures
- Non Signature, Non EDI Other Means
 - Facilitative, but lacks
 - certainty
 - definitive requirements

Invoice Process Requirements



→ Process related issues

- Invoice Rejection issues
- Invoice cancellation (before making available to customer)
- Voucher numbering
- Separate notification of portal available invoice

→ Invoice Content

- EU and Member State VAT Legislation required data elements
- Rounding rules
- Statements required on invoices

Intra EU Cross Border



→ Inconsistencies

- Which jurisdiction's rules on guarantees of authenticity and integrity apply to a cross Intra EU border invoice?
- In a cross Intra EU border supply of goods, is an invoice required for the second taxable event?
- In a cross Intra EU border supply of services, which Member State's tax rules (and rules on guarantees of authenticity and integrity) apply varies.

Electronic Data Interchange (EDI)



→ EU Legislation accepts EDI partner agreement

- EU Commission Recommendation 1994/820/EC of 19 October 1994
 - to Guarantee Authenticity and Integrity
 - ➔ But permits Member States to insist on periodic paper summary of EDI invoices exchanged
 - Hamper use of Electronic invoicing using Electronic Data Interchange

Self Billing



- Generated by Customer on behalf of supplier
 - VAT Administration Concerns
 - Supplier issues invoice as well as customer
 - Customer deducts input tax VAT twice
 - Supplier fails to account for output tax against self billed invoice and/or treats the output tax on the self billed invoice as input tax
- Inconsistencies between Member States
- Explicit Self Billing invoice acceptance requirement
- “Hybrid invoicing”
 - Some Self Billing
 - Some “conventional” invoicing

Outsourcing



- Tax Payer responsibility clear
 - Service Provider's not
- Issue of invoice outsourced
 - End to End control
 - First and Last Mile conditions
- Outsourcing of Archiving

Archiving



→ Mandatory Storage Period

- Period Member States require varies in VAT legislation
- Other legislation requires different periods
 - Accounting Law
 - Company Law
 - Competition Law

→ Archiving format inconsistencies

- Can electronic invoice be stored as hard copy?
- Can hard copy invoice be stored electronically?

→ Permitted location of archiving

- Only in Member State?
- In another Member State?
- Outside the EU?

Issue Evaluation Templates



- Common Feature of Sub Groups 1 and 2
 - multi line spreadsheet – control list of issues
- Each line has an Issue Evaluation Template
 - Problem Statement
 - Issue Category
 - Problem Description
 - Countries where problem evident
 - Appropriate EU Member States
 - All EU Member States
 - Suggested resolution (or evidence of good practice)
 - Process of Implementing the resolution
 - Group's suggestion(s)
 - Time period for implementing the resolution

Sample Issue Evaluation Template



Statement of the Problem

Line 4 Buyer Requirements / Explicit form

Does the buyer's agreement to accept invoices in electronic format have to be given explicitly, or is it sufficient for the buyer to accept, process and pay an electronic invoice for the buyer to be deemed to have accepted the use of electronic invoices?

If an explicit agreement to accept electronic invoices is required, is it permissible for this agreement to be retained in electronic format?

If a business agrees to exchange electronic invoices with one business partner using a trading partner, does this indicate the business's willingness to accept electronic invoices from all businesses that exchange electronic invoices by means of that service provider?

Countries in which the problem is evident

All

Suggested resolution (or evidence of good practices addressing the problem)

There should be no requirement for an explicit agreement to accept electronic invoices.

If an explicit agreement is required to indicate acceptance of electronic invoices, the suggestion would be to have a standard form of words containing the acceptance. It must also be clear whether this agreement can be made and stored electronically; and which party is required to store the agreement

If explicit agreement is required, can each of the parties to the invoice exchange make this agreement with a service provider, including agreeing to electronic invoice exchange with any party represented by the service provider?

Process of implementing the resolution

Input to the PWC DG/TAXUD study.

Issues to be posted on Electronic Invoicing Portal



→ 42 Issue Evaluation Templates ready for

- Work Group 1 developed e-Invoicing Portal <http://www.e-invoice-gateway.net>.
- Open issues for discussion to:
 - Industry
 - trade sector
 - other interested parties

→ Invitation to submit further issues to portal

- for WG2 SG2 review
- to be made available for discussion on portal
- must be:
 - business justified
 - Practical
 - Resolvable in reasonable time scale
 - within WG2/SG2 scope

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Interim Findings

- EDI - No additional requirements
 - No digital signature
 - No summary list
- Issue of Electronic Certificates
 - EU Member States to list
 - approved/supervised Certification Authorities
 - Other Member States with recognised Trust-service Status Lists
- Acceptance of Electronic Invoices
 - No requirement for explicit E-invoicing agreement
 - If explicit agreement required
 - specific terms / electronic retention
 - Agreement with service provider covers all its users

Future Work Group 2/Sub Group 2 Tasks



→ Analysis and Documentation of issues

- Already identified
 - 40 additional issues on E-invoicing portal?
- Received from E-invoicing portal

→ Presentation of issues

- EU Directorates
 - Tax and Customs Union (DG/TAXUD)
 - Enterprise and Industry (DG/ENTR)
 - Internal Market (DG/MARKT)
 - Information Society (DG/INFOSOC)
- Member State Tax Administrations
 - *via* FISCALIS E-Audit Group



THANK YOU FOR YOUR ATTENTION Any Questions?

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