VAT: Changes to VAT invoice rules

Summary of Responses

17 December 2012

Contents

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1. Introduction

Changes to the VAT invoice rules

1.1 On 13 July 2010, Council Directive 2010/45/EU (‘the Directive’) introduced new rules and amendments to Council Directive 2006/112/EC in relation to VAT invoicing. The Directive requires all EU member states to make the necessary changes to national VAT legislation by no later than 1 January 2013.

1.2 The aim is to simplify and harmonise the existing rules, remove legal obstacles to the use of electronic invoices and reduce the existing administrative burdens on EU businesses in meeting their VAT invoicing obligations.

1.3 The changes remove a number of options that were previously available to individual member states, which have led to different rules in relation to VAT invoicing in the 27 member states, aiming for a consistent set of rules that will be uniformly applied across the EU, making things simpler and removing uncertainty for businesses.

1.4 In many cases the rules being introduced reflect the current UK VAT invoice rules, so the changes that are required to existing UK VAT legislation will be minimal. The technical note provided details of the changes that are being made, to explain their purpose and to highlight the likely impact for UK businesses. The changes to UK legislation take effect from 1 January 2013.

1.5 This document provides a summary of the responses to the HMRC technical note issued on 31 May 2012. HMRC received 13 written responses, together with a number of informal enquiries about the proposed changes. A list of respondents is at Annex A.

2. Responses

2.1 Simplifying the rules for electronic invoicing

2.1.1 Prior to these changes, the existing EU rules for electronic invoicing allowed individual member states to impose additional conditions on taxpayers wishing to use electronic invoicing. This included the requirement to use specific technologies such as electronic signatures and Electronic Data Interchange (EDI) to ensure the authenticity of origin and integrity of content of an invoice.

2.1.2 Under the new simplified rules, individual member states cannot impose additional conditions. Instead, individual businesses can decide the method used and the only condition imposed is that the customer must agree to the use of electronic invoicing. In this sense, paper and electronic invoices are now treated equally. UK legislation will be amended to remove the electronic invoicing and EDI requirements and make it clear that the choice is one for business to make.

2.1.4 Two respondents suggested that the EDI and electronic signature examples should be retained in UK legislation on the basis that they are acceptable technological examples and that their omission could cause confusion for business. Three respondents suggested that further guidance to UK businesses on what constitutes acceptable 'business controls' would be useful.

2.1.5 The examples of EDI and electronic signature in the amended article 233(2) of Council Directive 2006/112/EC are not prescribed and they do not have the force of law, so they cannot be imposed by a member state on any European business. Therefore, the methods by which a business ensures authenticity of origin, integrity of content and legibility are now a business choice. For this reason, they will not be prescribed in UK VAT legislation. They will be included in the detailed supporting guidance for UK businesses which will be issued by HMRC on *'business controls'* and the use of technological methods for ensuring authenticity of origin and integrity of content of electronic invoices as part of the wider implementation of the changes to the UK VAT invoice rules.

2.2 Removing the requirement to issue a VAT invoice for exempt supplies

2.2.1 Current EU VAT law permits a member state to release a VAT registered business from the requirement to issue a VAT invoice for an exempt supply made in its territory. The UK has already adopted this relaxation, so there is no requirement to issue a VAT invoice for an exempt supply made within the UK. The change to existing rules now means that there will no longer be a requirement for a UK supplier making exempt insurance or financial services supplies to a customer in another member state to issue a VAT invoice.

2.2.2 The relevant supplies are those specified in Article 135, paragraphs (a) to (g) of Council Directive 2006/112/EC. The change in EU law provides certainty for UK banking and insurance businesses concerning their invoicing obligations, and removes an otherwise burdensome cross-border invoicing obligation. The UK equivalent supplies are those insurance and finance supplies specified in the Value Added Tax Act 1994, Schedule 9, Groups 2 and 5.

2.2.3 This change was widely welcomed by respondents.

2.3 Use of a simplified VAT invoice for supplies up to £250 in value

2.3.1 HMRC already allows retailers to use a less detailed invoice where the total value of the supply does not exceed £250 in value. One advantage of this is that the retailer's less detailed invoice contains far less information than is required on a full VAT invoice, while still providing the customer with sufficient VAT information for their purposes.

2.3.2 Following the change *all* VAT registered businesses (and not only retailers) will be able to use a simplified VAT invoice when they make a supply in the UK to a taxable person where the value of the supply does not exceed £250, requiring only the following particulars to be shown on the VAT invoice:

- the name, address and registration number of the supplier
- the time of the supply
- a description sufficient to identify the goods or services supplied
- the total amount payable including VAT
- for each rate of VAT chargeable, the gross amount payable including VAT, and the VAT rate applicable

2.3.3 This change was widely welcomed by respondents.

2.4 Reference on an invoice to explain the treatment of the supply

2.4.1 Under existing rules, there is a requirement to provide a reference on the invoice to support the VAT treatment of a supply in the following cases:

- exempt supplies
- margin scheme supplies
- reverse charge supplies
- self-billed supplies

2.4.2 A number of respondents queried the use of a single reference for exempt supplies. The technical note issued on 31 May 2012 suggested that only the single reference 'exempt' was required. This was not correct - the reference in respect of exempt supplies can be a reference to the relevant EU legislation, the relevant UK legislation, or some other reference that adequately explains the treatment. For this reason we are retaining regulation 14(2)(h) of the VAT

Regulations 1995, which provides for the use of a relevant reference or any other indication that the supply is exempt.

2.4.3 Three respondents asked whether it was still possible to include a reference to either the relevant EC or national legislation in respect of the other listed supplies. Businesses are of course free to include a legal reference, but this is a commercial choice and not a legal requirement.

2.5 Time limit for issuing a VAT invoice for an EU cross-border supply

2.5.1 Member states have a degree of choice with regard to the time limit for the issue of VAT invoices for EU cross-border supplies at present. The change being introduced will align the rules on the time limits for issuing a VAT invoice, requiring the invoice to be issued by the 15th day of the month following that in which the goods are removed or the services performed. The changes will, in some cases, reduce the timescale for UK businesses to issue a VAT invoice.

2.5.2 Several respondents observed that the '15th day' VAT invoicing requirement in respect of intra-EU supplies potentially reduces the invoicing timescale, but they also acknowledged that this will only impact supplies made after the midpoint of the month.

2.6 Other changes

2.6.1 There are minor changes to be made relating to goods sent to another member state to have work carried out on them and minor changes to the time of supply and acquisition rules for intra-EU transactions involving continuous supplies of goods.

2.6.2 There were no comments from respondents on these changes.

3. Next steps and Implementation

3.1 The changes to UK legislation will be made with effect from 1 January 2013 by Statutory Instrument.

3.2 HMRC will also be providing supporting guidance on the changes to UK business in December 2012. This will include guidance on 'business controls' and amendments to existing published guidance, where appropriate.

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Annex A: List of stakeholders responding to the technical note

AT & T Global Network Services (UK) BV
Bottomline Technologies Limited
British Telecom Plc
CB VATAmerica LLC
The Chartered institute of Taxation
The Confederation of British Industry
Digital Trust and Compliance Europe
OB10 Limited
The Optical Confederation
UK e-Invoicing Advocacy Group
United Kingdom Oil Industry Taxation Committee
UK Training (Worldwide) Limited
VAT Forum CV, Belgium