
Council Directive 2001/115/EC harmonises, simplifies and modernises invoicing obligations on traders when they sell goods or services that are subject to Value Added Tax (VAT). It also creates an EU legal framework for electronic transmission and storage of invoices.

What are the new VAT Invoicing rules?

Council Directive 2001/115/EC - in force from 1 January 2004 in existing EU Member States and from 1 May 2004 in the Accession Countries - harmonises, simplifies and modernises invoicing obligations on traders when they sell goods or services that are subject to Value Added Tax (VAT). It also creates an EU legal framework for electronic transmission and storage of invoices.

This means that a trader in the EU will now only have to comply with one set of rules for all the invoices he issues, irrespective of where the goods or services he is supplying are taxable. Any invoice complying with these rules will be acceptable for VAT purposes throughout the EU by all tax administrations.

The Directive provides for:

- A list of mandatory items that must be mentioned on each invoice (date of issue, invoice number, name and address of selling trader and customer, description of goods or services, VAT rate applicable and VAT amount payable). In certain cases, such as new car sales, some supplementary information must be provided.
- Simplification schemes for certain categories of traders (such as small traders) and certain invoices (such as where the amounts involved are small).
- The option to issue electronic instead of paper invoices which will be valid for claiming VAT deductions.
- The freedom to choose the place and method of storage of invoices. For example, the Directive makes it possible for a trader to store invoices online in a Member State other than the Member State in which he is established.
- The possibility for a trader to outsource invoicing operations to a third party or to his customer (i.e. self-billing).

Under what circumstances do the new rules apply?

The new rules apply only in cases where it is compulsory, for VAT purposes, to issue an invoice, i.e. where there is a taxable supply of goods or services from one trader to another, in addition to a few other cases like distance selling from one EU Member State to private consumers in another Member State and sales of new cars. It therefore covers supplies within the same Member State, supplies between Member States, and exports to countries outside the EU (even though the latter are exempted from VAT). In all these cases, the rules regarding the list of compulsory information and the technical requirements apply.

In practice it is very unlikely that traders will use different invoicing systems for business-to-consumers (B2C) sales and business-to-business (B2B) sales. They will probably use the same invoicing systems for both sets of sales (perhaps listing fewer items on B2C invoices because, for example, private consumers do not have VAT numbers).

The new rules do not cover imports from outside the EU, because these fall under Customs rules.
Who stands to benefit from the Directive?

Traders will now only have to cope with one set of rules and so save themselves considerable administrative costs. The new harmonised rules are very flexible as regards the use of electronic invoicing, as traders will only be required to meet certain security requirements it will be up to them to decide what technology they want to use in order to meet those requirements.

The Directive encourages the development of electronic invoicing and thus the development of electronic commerce.

Tax administrations will gain in terms of costs and efficiency. Although the introduction by the Directive of the option for traders to use electronic invoicing will force administrations to make a greater investment in electronic auditing technology (software, hardware and training), they will, as a result, be able to carry out more efficient checks and controls. The European Commission is working together with Member States on the modernisation of tax auditing arrangements as part of the Fiscalis programme of co-operation between Member States to combat fraud.

Under what conditions can traders use electronic invoices?

Under the new Directive, a trader is now able to use electronic invoicing on condition that the authenticity of the origin and integrity of the content of the invoice are guaranteed.

The Directive provides for two alternative ways of ensuring those guarantees:

- Advanced electronic signatures,
- Electronic Data Interchange (EDI).

An advanced electronic signature allows someone receiving data over electronic networks to determine the origin of the data and to check that the data has not been altered.

EDI, a system of secure electronic information transmission, is based on an agreed standard and can be understood and treated automatically without human intervention. One such standard is EDIFACT (Electronic Data Interchange For Administration, Commerce and Transport) now generally accepted as an international EDI standard adopted by organisations trading internationally.

The issuing trader is free to use whatever technology or standard he wants to use, provided that he fulfils the general conditions on security.

EU Member States that are prepared to accept other less secure methods of ensuring authenticity and integrity are free to do so.

The new Directive means that traders no longer have to seek prior authorisation or notify tax authorities in advance before using electronic invoices. However, Member States have the option of imposing a system of prior notification during a transitional period until end-2005.

Why was this new Directive necessary?

It is now far more common for traders to supply taxable goods and services to clients in other Member States. In addition, many firms operating on an EU-wide basis have started centralising invoicing operations, entrusting to a single branch the task of issuing invoices on behalf of all other branches established in different Member States. In these circumstances, the fact that the rules on invoicing have up to now varied considerably from one Member State to the next was a real burden for traders.
Furthermore, electronic invoicing, which can cut invoicing costs, is now becoming increasingly popular, notably as a result of the development of electronic commerce.

But in some countries electronic invoicing has up to now been prohibited or has had to be accompanied by a parallel transmission of paper invoices. Harmonised EU legislation on invoicing should make life easier for traders.

What are invoices used for?

A basic principle of the European Community VAT system set out in the Sixth VAT Directive (77/388/EEC) is that each business in the chain charges the tax on the supply that he makes and deducts the tax on the supply that he receives. Where a trader receives services or goods, his right to obtain a deduction or refund in respect of VAT on the costs of the services or goods supplied to him depends on his being able to produce an invoice to demonstrate the amount of VAT charged. A trader that supplies goods or services in respect of which an invoice must be issued must keep a copy of the invoice for inspection by the tax administrations if required.