Belgium | Deloitte Tax | 14 October 2014

VAT alert
Belgium

Final tax point 2015 rules for VAT published by the VAT authorities

Upon the invoicing directive's transposition on 1 January 2013, a major change was brought to the tax point rules under Belgian VAT, by abolishing the issuance of an (advance) invoice as tax point. Considering the major practical impacts this change triggered, a transitional regime applied in 2013 and 2014. Today, the Ministry of Finance published its final guidance on the tax point rules, foreseeing definitive guidelines and simplifications that will apply as of 1 January 2015 (Decision n° E.T. 126.003 dd. 07.10.2014). These guidelines, which were developed in close concertation with industry and the economic professions, accommodate to a large extent the key concerns raised by the new legislation

Key rules and simplifications

By abolishing the issuance of an invoice as a tax point date, it was unclear to what extent invoices raised before the actual tax point would oblige the supplier to report VAT on the transaction and would thus allow the buying taxpayer to deduct the VAT invoiced.

The decision therefore focuses on advance invoices, defined as "an invoice containing all mandatory requirements (except the tax point date) and issued before the taxable event arises and before a payment is made". In such cases, the new legislation forced the parties to closely follow-up on either the payment or the taxable event (delivery, completion of service, etc).

The definitive regime now foresees tolerances allowing taxpayers to overcome some practical hurdles in ERP systems which resulted from the new tax point rules.

These mainly focus on **local B2B transactions in Belgium**, where VAT is charged between the parties rather than reverse charged by the buyer. The guidelines can be summarised as follows:

- The *supplier* can issue an advance invoice (even if no tax point has yet occurred) but should refer to the "expected" tax point date in case the invoice is issued more than 7 days before the taxable event. Such expected tax point reference can be an expected or ultimate payment date, or the planned date of the taxable event. These advance invoices will be considered as compliant and no other document will have to be issued once the effective tax point (payment or taxable event) occurs. The supplier is free to report the transaction and pay the VAT based on the advance invoice date or based on the actual tax point date.
- Upon receipt of the advance invoice, the *customer* can deduct VAT based on the invoice date. This does away with the major concern of having to verify the actual tax point date for each invoice received. A "window period" of three months will be foreseen for the customer to prove that a tax point occurred. In case no payment or taxable event took place during the 3 months following the end of the month wherein the advance invoice was issued, the customer should regularise the initially deducted VAT by repaying it via his/her VAT return. If a tax point arises at a later stage, the VAT can be recovered again.

This system allows a significant level of *flexibility* at the level of the supplier, at the same time limiting the administrative burden for the customer to the follow-up of purchase invoices going unpaid for over 90 days. Special rules are foreseen for situations where corrections are made to the VAT invoiced, where the customer goes bankrupt or where the supplier recovers VAT paid too early on bad debts.

The guidelines also consider the application of the new tax point rules for **intra-EU transactions (both goods and services)**. Simplifications are limited to the reverse charge to be reported by the customer (possible on the basis of the received advance invoice). On the contrary, the supplier should report the transactions in the VAT return and the ESL in line with the actual tax point rather than the invoice date. This is justified based on the need to have correct exchange of information on these flows between EU Member States.

Actions

The newly published guidelines bring an end to a long period of uncertainty and have the benefit of not bringing new requirements on invoicing processes and ERP systems. However, within the short deadline of January 2015, businesses should pay specific attention to, amongst others, the following aspects:

- Possible changes required on invoice references ("expected tax point date");
- Processes to be put in place to monitor the "window period" and perform the regularisation where appropriate;
- Intra-EU invoicing and/or reporting to be adapted if not done yet.

A good starting point for the 2015 preparation is an analysis of the available systems information on timing of delivery and invoicing. Based on this, invoicing and reporting processes can be modelled so as to obtain a VAT compliant approach, with potential cash flow improvements as a benefit.

Webinar

This topic will be covered in a webinar on 17 October 2014 which you can follow remotely from your own location.

The 2015 tax rules will be more thoroughly analysed during this session and participants will have the opportunity to send their questions to the speaking VAT experts.

Click here for information on the session and to register.

Contacts

Any questions concerning the items in this publication? Please contact your usual tax consultant at our Deloitte office in Belgium or:

- Johan Van der Paal, jvanderpaal@deloitte.com, + 32 2 600 66 39
- Ivan Massin, imassin@deloitte.com, + 32 2 600 66 52
- Hilde Vandeperre, hvandeperre@deloitte.com, + 32 2 600 67 92
- Kim Bar, kbar@deloitte.com, +32 4 349 34 53

For general inquiries contact:
bedeloittetax@deloitte.com, + 32 2 600 60 00

Be sure to visit us at our website: http://www.deloitte.com/be/tax

Deloitte Belgium
Berkenlaan 8A, 8B, 8C
1831 Diegem
Belgium