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New Circular Letter on e-invoicing in Belgium published

The Belgian Tax Authorities have published a Circular letter concerning e-invoicing (Circular AAFisc Nr. 14/2014 dd. 04.04.2014). The Circular comments on the legal framework that applies in Belgium following the implementation of the EU Directive 2010/45/EU into national legislation in 2013. Apart from elaborating on the conditions that are to be considered when applying e-invoicing, the tax authorities provide extensive recommendations on the “business controls” and “reliable audit trail” that businesses should put in place. The Circular applies retrospectively since 1 January 2013, and replaces all previous guidance on this subject.

Prerequisites for e-invoicing

In the new Circular Letter, the VAT authorities align their guidance to the principles set out in the legislation, namely that the same invoice requirements apply to both paper and electronic invoices. An invoice is considered as electronic if it is both issued *and* received electronically, whereby it is irrelevant in which electronic format the invoice is exchanged (EDIFACT, XML, PDF, Word, Excel, made available on a web portal etc.).

For electronic invoices in particular, the two following main conditions apply:

- Given that an invoice should be a correct reflection of one or more actual transactions, **the authenticity of origin, the integrity of the content and the legibility of the invoice** should be guaranteed until the end of the legal archiving period. There are no prescribed methods or technological processes imposed by the VAT authorities to achieve this.
- The use of electronic invoices is only allowed in case the invoice recipient agrees to receive the invoice in an electronic format. Under the current legislation, this **acceptance** can be both explicit or implicit (e.g. by payment of the invoice). However, the Tax Authorities place great emphasis on the benefits of an explicit, written agreement.

Guaranteeing authenticity of origin and integrity of content

Whereas in the past, the requirements of authenticity and integrity could only be met through the technology of an electronic signature or EDI, the Belgian legislation and administrative practice gradually shifted to a situation whereby the choice of how to cope with these requirements was left open to the business.

The new Circular extensively comments on the concepts of “business controls” creating a “reliable audit trail”, which were introduced by Directive 2010/45/EU. The invoice, whether issued on paper or electronically, is to be considered in the broader context of the business activities performed. What is striking in this context, is that the Authorities now explicitly declare that the strict technological means, such as EDI and digital signature, are no longer sufficient to prove the authenticity of a transaction. Instead, alternative evidence resulting from business controls is necessary.

The choice of business controls and how these are put in use is left open to the taxpayer and should be in line with the type of activities, values traded and size of the company. However, the Tax Authorities give clear incentives and suggestions in this respect. Apart from the typical 2-way and 3-way matching principles, reference is made to some general IT controls, the possibility to contract an external auditor and the – almost indispensable – self-control and documentation.

The Tax Authorities clearly place the responsibility of meeting these requirements with the business, as it also excludes the possibility for taxpayers to request a ruling to validate a certain set-up of business controls and/or the certification of accounting- or invoicing software. Instead, they recommend once more to make sure that any documentation regarding any available business controls is kept, thereby creating a reliable audit trail.

Action required

With their long awaited Circular Letter, the Tax Authorities have gone beyond a commentary on the legislation in place and have given their vision on the way taxpayers should implement and document business controls. Businesses should carefully evaluate how to align their approach with the model envisaged by the tax authorities. The Circular Letter is in that respect a clear incentive, particularly for larger businesses, to set up a proper documentation of the business controls in place, as it may be expected during tax audits that this is readily available. For businesses looking actively into e-invoicing, the Circular Letter confirms the broad recognition that is possible under the legislation, while highlighting certain attention points that are important to the tax authorities and should ideally be accommodated in the e-invoicing process.

It is important to note that this Circular Letter must be viewed as part of a broader trend whereby the Authorities want to have more control and insights in a companies' invoicing process, which is also reflected in the recent changes to the tax point rules and in the guidelines on archiving and corrective invoices that are still in the pipeline.

Sources

Circulaire AAFisc Nr. 14/2014 (nr. E.T. 120.000) dd. 04.04.2014 ([Dutch](#) | [French](#))

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