



## VAT alert Belgium

### Tax point rules: extension of transitional regimes and change in legislation announced

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On 1 January 2013, a major change was brought to the tax point rules under Belgian VAT by removing the issuance of an (advance) invoice as a tax point. A transitional regime applied in 2013 and 2014. The VAT authorities provided guidelines for a 'final' administrative regime that would have applied as of 1 January 2015, however, the entry into force of this regime was postponed until 1 July 2015. Decision n° 128.109 of 17 April 2015 confirms that the transitional regimes will continue to apply *until the current legal framework is modified*.

#### 'Final' guidance on tax point rules

On 7 October 2014, 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 ([VAT Alert from 14 October 2014](#)).

In essence, this decision allows a supplier to issue an advance invoice for local supplies (even if no tax point has yet occurred). While referring to the "expected" tax point date if the invoice was issued more than 7 days before the taxable event, these advance invoices will be considered as fully compliant. Hence, the customer can also deduct VAT based on this invoice. This deduction is final unless the tax point (supply or payment) does not occur during a three month "window period" after the invoice date. This decision goes further than what was allowed under the transitional regimes of 2013 and 2014, which only tolerated that an invoice was issued provided the payment and the recovery of the charged VAT were done at the same time.

For intra-EU transactions (both goods and services), the simplifications only concern the invoice content for advance invoices. Reporting of transactions in the VAT return and the ESL, both from a supplier and customer perspective, should always align with the actual tax point rather than the invoice date.

Although these new guidelines were to enter into force as of 1 January 2015, the Belgian VAT Administration eventually decided "not to impose these new guidelines" until 30 June 2015 ([VAT Alert from 4 December 2014](#)).

In the meantime, the new Belgian government announced that the new tax point rules would be evaluated.

#### New legislation announced

Decision n° ET 128.109 dated 17 April 2015 announces a change in the tax point rules' legal framework.

The decision also extends the transitional regime until these legislative changes enter into force. This also in fact entails that the 'final' administrative guidelines will not enter into force on 1 July 2015 and thus will not be imposed on businesses.

In practice this means that besides the 'legal' regime, for the time being, businesses are able to apply the 'former' transitional regime of 2013 and 2014, as well as the 'final' administrative guidelines that were published on 7 October 2014.

The decision does not mention any (expected) entry into force date for the newly changed legal regulation on tax point.

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