

New VAT invoicing rules

Key features



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New VAT invoicing rules to apply in Malta

On 30 November 2012 various Legal Notices were published so as to transpose into Maltese law the new VAT invoicing rules that have been introduced at EU level by Directive 2010/45 ('the Invoicing Directive'). The new rules aim to simplify, modernize and further harmonize how invoices are drawn up throughout the EU.

The changes cover a wide variety of issues including, but not limited to, the content of invoices, deadlines by which invoices must be issued, the possibility to issue simplified and summary invoices and the issuance of electronic invoices. The possibility for businesses to account for VAT on a cash basis has also been significantly restricted.

This VAT Insight aims to provide an overview of the key changes introduced, which changes will take effect as from 1 January 2013.

Overview

The table below provides a brief outline of the most significant changes, while a more detailed analysis may be found further on in this VAT Insight.

Key Feature	Description
<i>Applicable rules for invoicing</i>	Uniform rules have been introduced to determine which Member State's rules apply to the invoicing.
<i>Content of invoices</i>	Both the terminology as well as the amount of details required on a tax invoice has been amended. In particular cases, simplified or summary invoices are allowed.
<i>Deadline for issuance of invoices</i>	New deadlines have been set for the issuance of invoices.
<i>Electronic invoices</i>	Electronic and paper invoices have been placed on the same footing. The rules applicable to electronic invoices have been simplified.

<i>Issuance of self-invoices</i>	Self-invoicing is made subject to prior agreement between supplier and customer and is only allowed if a procedure exists for acceptance of each invoice by the supplier. Self-invoices must contain the reference 'Self-billing'.
<i>Cash basis of accounting</i>	The possibility for businesses to account for VAT on a cash basis has been restricted to businesses that have an annual turnover not exceeding a certain threshold. The right to deduct input VAT in respect of supplies that are accounted for on a cash basis has been postponed until when the supplies are paid for.
<i>Miscellaneous</i>	Other changes relate to the determination of the taxable amount, the translation of invoices, credit notes, continuous supplies of goods etc.

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Applicable rules for invoicing

Although the new EU invoicing rules enhance harmonisation, Member States are in particular cases still left the freedom to impose specific invoicing requirements. It therefore remains important to determine which Member State's rules apply to the issuance of an invoice in a particular situation.

Invoicing is subject to the provisions of the Malta VAT Act in cases where:

- a supply is deemed to be made in Malta for VAT purposes;
- a supply, made by a Maltese supplier, is deemed to take place outside the EU for VAT purposes;
- a supply is made by a Maltese supplier to a customer established in another EU Member State, for which that customer is the person liable for the payment of VAT.

Self-invoicing is subject to the provisions of the Malta VAT Act in the case where the supply in respect of which the self-invoice is issued is deemed to be made in Malta for VAT purposes (see below).

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Content of invoices

Terminology

A person issuing an invoice may be required to include therein references to indicate a specific circumstance surrounding the supply (for example to indicate that the customer has to reverse charge the VAT). The terminology to be used for the purposes thereof has been altered and new instances in which such references must be made have been introduced.

The table below provides an overview of the new references that may be required.

Terminology	Possible circumstances
<i>"Cash accounting"</i>	Where VAT becomes chargeable at the time when payment for the supply is received (see below).

<i>“Reverse charge”</i>	Where the customer is liable for the payment of VAT.
<i>“Margin scheme – Travel agents”</i>	Where a supply is made in respect of which the margin scheme for travel agents applies.
<i>“Margin scheme – Second-hand goods”</i>	Where a supply is made in respect of which the margin scheme for second-hand goods applies.
<i>“Margin scheme – Works of art”</i>	Where a supply is made in respect of which the margin scheme for works of art applies.
<i>“Margin scheme – Collectors’ items and antiques”</i>	Where a supply is made in respect of which the margin scheme for collectors’ items and antiques applies.
<i>“Self-Billing”</i>	Where the customer receiving the supply issues the invoice instead of the supplier (see below).

Where an invoice is issued by a Maltese supplier in respect of a supply made to a customer established in another EU Member State and for which that customer is the person liable for the payment of VAT, the following details may be omitted from the invoice:

- the taxable value per rate;
- the unit price exclusive of VAT and any discounts or rebates not included in the unit price;
- the VAT rate applied;
- the VAT amount payable;

in which case they must be replaced by an indication of the taxable amount of those goods or services by reference to the quantity or extent of the goods or services supplied and their nature.

Simplified Invoices

A new feature introduced is that a simplified invoice (containing fewer details) may be issued where the amount of the invoice – inclusive of VAT – is not higher than €100 or where the document serves as a credit note.

Simplified invoices are however not allowed in respect of cross-border supplies or supplies made by a Maltese supplier to a customer established in another EU Member State and for which that customer is the person liable for the payment of VAT.

A simplified invoice must contain at least the following particulars:

- the date of issue;
- a sequential number;
- the name, address and the VAT identification number of the supplier;
- the VAT identification number of the customer;
- a description sufficient to identify the goods and services supplied;
- the total amount of VAT payable or the information needed to calculate it;
- where it serves as a credit note, a specific and unambiguous reference to the initial invoice and the specific details which are being amended.

Summary Invoices

A summary invoice may be issued to detail several supplies of goods or services provided that the VAT on the supplies mentioned becomes chargeable during the same calendar month.

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Deadline for issuance of invoices

Invoices must be issued by not later than the 15th day of the month following that in which the chargeable event takes place (except where any payment on account precedes an intra-Community supply of goods).

This new rule aims to harmonize the deadline throughout the EU for all intra-Community supplies of goods and services for which the customer is the person liable for the payment of VAT, so as to ensure that suppliers declare the transactions in their Recapitulative Statements (also known as EC Sales Lists) for the same period as for which their customers account for VAT on the corresponding acquisition or purchase through their periodic VAT returns.

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Electronic invoices

Since the use of electronic invoicing can help businesses reduce costs and be more competitive, current VAT requirements on electronic invoicing were revised to remove existing burdens and barriers to uptake. Under the new rules, paper and electronic invoices (i.e. invoices that have been issued and received in any electronic format) are placed on the same footing. Electronic invoices however still require acceptance by the recipient.

Each person issuing an electronic invoice must ensure the authenticity of the origin, the integrity of the content and the legibility of the invoice, from issuance until the end of the period for storage of the invoice, by any business controls which create a reliable audit trail between an invoice and a supply of goods or services. Since various electronic-invoicing technologies exist, businesses wishing to make use of electronic invoicing should be aware of the technologies that can assist them best in setting up the necessary controls.

Where batches containing several electronic invoices are sent or made available to the same customer, the details common to the individual invoices may be mentioned only once where, for each invoice, all the information is accessible.

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Issuance of self-invoices

Self-invoicing is subject to the provisions of the Malta VAT Act in the case where the supply in respect of which the self-invoice is issued is deemed to be made in Malta for VAT purposes (see below). As mentioned above, such invoice must contain the reference 'Self-billing'.

A customer may only draw up an invoice instead of the supplier to the extent that there is prior agreement in respect thereof with the supplier and further provided that a procedure exists for the acceptance of each tax invoice by the supplier. The Director General (VAT) could require that such invoices be issued in the name and on behalf of the supplier.

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Cash basis of accounting

The possibility for Maltese businesses to account for VAT on a cash basis has been significantly restricted. Under the new rules the objective is that only Maltese professional services providers and retailers, civil, mechanical or electrical engineering contractors whose annual turnover does not exceed €2,000,000 (exclusive of VAT) retain the option to account for VAT on a cash basis. That option can however not be applied in respect of exempt intra-Community supplies or transfers of goods and services in respect of which VAT is payable by the customer.

Where cash accounting is opted for, the right to deduct the VAT paid on purchases is now postponed until the time when the VAT on the relevant supplies has been paid to the supplier¹. This new restriction does not only affect the businesses that account for VAT on a cash basis, but also applies to the right of deduction of the customers of such businesses in respect of supplies made to them by such persons². Businesses may thus need to adapt their accounting systems to ensure that they do not deduct VAT charged to them by persons adopting a cash basis of accounting before the relevant supply has been paid for.

A tax invoice in respect of a supply of professional services that is accounted for on a cash basis must be issued by not later than the 15th day of the month following that in which the payment for the said supply of services is made.

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Miscellaneous

Some other, less significant, changes have been introduced, such as in relation to:

- **Determination of the taxable amount.** Where the factors used to determine the taxable amount are expressed in a foreign currency, the exchange rate applicable shall be the last selling rate recorded, at the time the VAT becomes chargeable, applied by commercial banks in Malta or the latest exchange rate published by the European Central Bank at that time. Upon importation of goods into Malta, the relevant exchange rate must be determined in accordance with the Community provisions governing the calculation of the value for customs purposes;
- **Credit notes.** Credit notes drawn up in accordance with the requirements of the VAT Act qualify as tax invoices;
- **Translation of invoices.** The Director General (VAT) may, for certain businesses or certain cases, require translation into Maltese or English of invoices issued in respect of goods or services supplied in Malta and/or invoices received by businesses established in Malta.
- **Continuous supplies of goods.** Continuous supplies of goods over a period of more than one calendar month which are dispatched or transported and supplied VAT exempt to a Member State other than Malta must be regarded as being completed on expiry of each calendar month until such supplies come to an end.

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¹ This already applied to retailers, civil, mechanical and electrical engineering contractors

² For the purposes hereof, businesses that account for VAT on a cash basis must mention "Cash accounting" on the invoices relating to their supplies.

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