

Changes in VAT legislation regarding Invoicing and Cash Accounting

If you are a person registered for VAT in Malta, you are required to note the following changes regarding VAT that will be taking place as from the 1 January 2013.

These changes bring into force Council Directive 2010/45/EU amending Council Directive 2006/112/EC and will consist of the following:

- New rules regarding the tax invoice and its contents
- Use, storage and access of electronic and paper invoices
- New provisions for Cash Accounting and right of deduction
- VAT treatment of goods transferred for valuation purposes and continuous intra-community supplies

1.0 New rules regarding the tax invoice and its contents

1.1 Invoicing shall be subject to the rules applying in the Member State in which the supply of goods and services takes place. However, where a person is not established in the Member State where tax is due and customer is liable for the tax (reverse charge) or where supply is outside the EU, the rules of the Member State of the supplier apply.



1.2 A tax invoice shall be issued by not later than the fifteenth day of the month following that in which the chargeable event occurs or the date on which a payment is received, whichever is the earlier. However this does not apply to a payment on account for intra-community supplies of goods.

1.3.1 Instead of a normal tax invoice a supplier may issue a simplified invoice which shall be considered as a tax invoice. Such simplified invoice may be issued where:

- (a) the amount of the invoice inclusive of the tax, is not higher than €100;
- (b) the invoice issued is a document or message treated as an invoice;
- (c) the invoice contains all the necessary information referred to in item 5 of the Twelfth Schedule to the VAT Act.

1.3.2 A simplified invoice is not allowed in case of cross-border supplies or where the taxable supply of goods or services is carried out by a taxable person

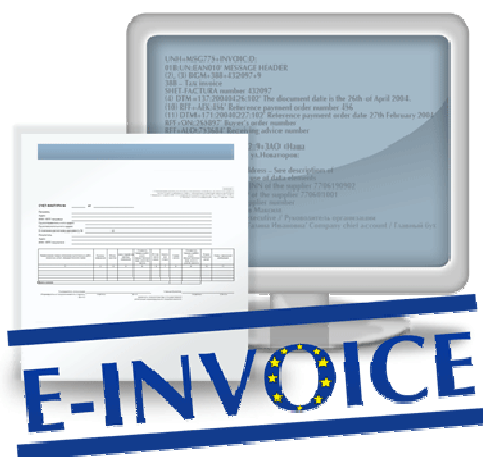
- who is not established in the Member State in which the tax is due or whose establishment in that Member State does not intervene in the supply; and
- the person liable for the payment of the tax is the person to whom the goods or services are supplied.

1.4 A summary invoice may be issued for several supplies of goods or services for which the tax becomes chargeable in the same calendar month.

1.5 There is new information required to be included in the tax invoice. This information mainly consists of the following text where applicable:

- “Cash Accounting” – where supplier uses the cash accounting scheme;
- “Self-billing” – where invoice is being issued by the purchaser;
- “Reverse Charge” – where the liability for the payment of VAT lies on the purchaser;
- “Margin Scheme – Travel Agents” – where the supply falls under the Travel Agents Margin Scheme;
- “Margin scheme – Second-hand goods” where the supply falls under the Second-hand Margin Scheme;
- “Margin Scheme – Works of art” or “Margin Scheme – Collector’s items and antiques” – where the supply falls under the Margin Scheme for any of these categories.

1.6.1 An operator may use an electronic invoice which shall be subject to acceptance by the recipient.



1.6.2 An electronic invoice is an invoice that contains the information required in the Twelfth Schedule and which has been issued and received in any electronic format.

1.7 Where there is prior agreement between the supplier and the customer, tax invoices may be drawn up by the customer, provided that a procedure exists for acceptance of each tax invoice by the supplier. These invoices may be required to be issued in the name and on behalf of the supplier.

1.8.1 Where a taxable amount for importation is expressed in a currency other than in Euro, the exchange rate shall be determined according to the calculation of the value for customs purposes. In cases other than importation of goods, where the currency is not in Euro, the exchange rate applicable could either be the latest selling rate recorded, applied by commercial banks in Malta or the latest exchange rate published by the European Central Bank at the time the tax becomes chargeable using the exchange rate for each currency.

1.8.2 The amounts which appear on the invoice may be expressed in any currency, provided that the tax payable or to be adjusted is expressed in Euro, using the conversion rate mechanism provided for in the Seventh Schedule.

1.9 Where the invoice is issued by a taxable person, who is not established in the Member State where the tax is due or whose establishment in that Member State does not intervene in the supply, and who is making a supply of goods or services to a customer who is liable for payment of VAT, the taxable person may omit certain details which are normally required under sub-paragraphs (g), (h) and (i) of item 3 of the Twelfth Schedule and instead indicate, by reference to the quantity or extent of the goods or services supplied and their nature, the taxable amount of those goods or services.

1.10 Any document or message that amends and refers specifically and unambiguously to the initial invoice shall be treated as an invoice.

1.11 In certain circumstances, invoices may be required to be translated to Maltese or English for control purposes.

2.0 Use, storage and access of electronic and paper invoices

2.1.1 "authenticity of the origin" means the assurance of the identity of the supplier or the issuer of the invoice;

2.1.2 "integrity of the content" means that the content required according to this Schedule has not been altered.

2.1.3 The authenticity of the origin, the integrity of the content and the legibility of an invoice, whether on paper or in electronic form, shall be ensured from the point in time of issue until the end of the period for storage of the invoice.



2.1.4 Each taxable person shall also determine the way to ensure the authenticity of the origin, the integrity of the content and the legibility of the invoice. This may be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

2.2 Examples of technologies that ensure the authenticity of origin and integrity of content of an electronic invoice are those detailed in article 233 of Council Directive 2006/112/EC.

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

2.4 Invoices shall be stored in the original form in which they were sent or made available, whether paper or electronic. Additionally, in the case of invoices stored by electronic means, the Commissioner may require that the data guaranteeing the authenticity of the origin of the invoices and the integrity of their content shall also be stored by electronic means.

2.5 Where a taxable person stores by electronic means invoices which he issues or receives, guaranteeing online access to the data concerned to the Commissioner, and where the tax is due in another Member State, the competent authorities of that Member State shall, for control purposes, have the right to access, download and use those invoices.

3.0 New provisions for Cash Accounting and Right of Deduction

3.1 The Cash Accounting Scheme may only be used by persons supplying Professional Services and for Supplies by Retailers and by Civil, Mechanical and Electrical Engineering Contractors whose annual turnover does not exceed €2,000,000, exclusive of tax.

3.2 It is optional and does not require any authorisation from the Commissioner.

3.3.1 The right of deduction of input tax of a person who opts to use the Cash Accounting Scheme shall be postponed until the tax on any goods or services supplied to him has been paid to his supplier. On the other hand, where a person who opts for Cash Accounting fails to mention the words “Cash Accounting” on a tax invoice, he will have to account for VAT on that supply under the normal rules.

3.3.2 **Where a tax invoice indicates the words "Cash Accounting", the right of deduction of input tax claimed by the purchaser (if applicable), shall arise when the purchaser effects the payment of the tax to the supplier.**

3.4 Cash Accounting shall not apply to supplies of services in respect of which the tax is payable by the customer and to supplies or transfers of goods and exempt intra-community supplies.



4.0 VAT treatment of goods transferred for valuation purposes and continuous intra-community supplies

4.1 Goods that are transferred for the purpose of valuation to another Member State and then returned back to their initial supplier in the Member State from which they were initially dispatched shall no longer be regarded as a transfer to another member state.



chargeable event.

4.2 The continuous intra-community supplies of goods over a period of more than one calendar month shall be regarded as completed on the expiry of each calendar month.

4.3 In the case of an Intra-Community Supply or a Transfer of goods, the tax will now become chargeable on the earlier of one of the following dates:

- either the date of the invoice; or
- on the fifteenth day of the month following

4.4 Under normal circumstances in the course of a supply

- where the delivery of goods gives rise to successive statements of account or payments, the goods shall have to be treated as delivered on the last day of each period to which such statements of account or payments refer;
- where a continuous supply of goods does not give rise to statements of account or payments during a year, it shall be regarded as being delivered at least at intervals of
- where a payment on account is made for a supply on a date prior to the chargeable event (payment on account).

However these three conditions do not apply to intra-community supply or transfer of goods.