



OPINION OF THE HIGH LEVEL GROUP

Subject: Reform of the rules on invoicing and electronic invoicing in Directive 2006/112/EC (VAT Directive)

I. Background

- (1) The High Level Group of Independent Stakeholders on Administrative Burdens (HLG) was set up *inter alia* to advise the Commission on suggestions for administrative burdens reduction measures coming from the Consortium¹ and from stakeholders through the internet consultation. The Consortium has submitted a document presenting ideas for a revision of the rules on invoicing in the VAT Directive² collected from businesses during the measurement. In addition, stakeholders have submitted ideas for reduction measures concerning these rules³.
- (2) Based on these suggestions and with input from the Commission, Ms. Fritsch, Mr. Berger, Mr. Møllerup and Mr. Potdevin, who were appointed as reporting members for the priority area VAT, have prepared the present opinion. It constitutes the HLG's advice to the Commission on administrative burden reduction for the reform of the VAT invoicing rules which is scheduled for adoption by the Commission before the end of 2008.

II. General Comments

- (3) Invoicing is a central part of business processes. **It affects every business in every domain and in every country.** The VAT Directive specifies rules on invoices sent or received by taxable persons and aims at harmonising rules on the VAT chargeable and deductible. The rules list certain kinds of information that have to be put on the invoice (e.g. the VAT identification number of the issuer of the invoice). They furthermore specify that invoices have to be stored for later inspection by the tax authorities. Finally, there are certain specific requirements if business partners chose the practice of self-billing or of issuing summary invoices, leaving it up to Member States to shape the requirements.

¹ Capgemini, Deloitte, Rambøll management; assigned by the Commission to measure administrative burden based on certain EU legislation and to identify measures to reduce this burden.

² Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.

³ Please confer to point 8 in the opinion adopted by the HLG on 18 September 2008.

- (4) The VAT Directive explicitly allows the use of electronic means for sending and archiving invoices. **The rules however leave too many options to Member States so that national requirements for electronic invoices differ between Member States, which increases costs in case of cross-border transactions and makes e-invoicing less attractive.** In particular, different rules regarding the authenticity of the invoice have been identified as one among several reasons why the overall market penetration of e-invoicing across the EU is still low⁴.
- (5) A revision of the rules on e-invoicing is foreseen in Article 237 of the VAT Directive to align them with technological development. The Commission has announced, *inter alia* in the Small Business Act, that it will use this revision as an occasion to review the invoicing rules in their entirety based on the ‘think small first’ principle. Several studies (e.g. by PricewaterhouseCoopers - PwC - and by the Consortium)⁵ have investigated the burdens currently imposed on enterprises and have collected a number of reduction ideas. From the PwC study a selection of recommendations was put to public consultation and was discussed with Member States. The legislative proposal is scheduled for adoption by the Commission in December 2008. In parallel, the Expert Group on E-invoicing has been set up to establish a European Electronic Invoicing Framework.
- (6) The rules on invoicing in the VAT Directive are in the scope of the measurement exercise of the Action Programme⁶. The Consortium has tried to quantify the VAT-specific costs (administrative burdens) and has provided preliminary draft measurement data. While the HLG notes that these figures are only preliminary and indicative, it also acknowledges the large potential for reduction in this area. The estimate of the administrative burdens of the invoicing rules is EUR 43 bn. per year and the mid-term savings potential concerning electronic invoicing is estimated at EUR 18 bn. of these VAT-specific costs. An increased uptake of e-invoicing is estimated to impact also on the overall costs of businesses for invoicing (sum of VAT-specific costs and business-as-usual costs). The preliminary reduction potential in terms of overall administrative costs⁷ is estimated at EUR 113 bn. Other ideas seem to hold an important reduction potential as well. Moreover, beyond the cost-cutting dimension, the use of electronic invoicing and its integration into IT supported business processes has a real potential to contribute to overall business competitiveness.
- (7) The HLG notes that this quantification is based on preliminary draft measurement data and that the Commission has expressed serious reservations with regard to these preliminary figures. The HLG considers that the data may only serve as an indicator for the reduction potential in this area and therefore welcomes the possibility to come back to the topic based on the final measurement data after the necessary quality assurance has been performed.

⁴ Please refer to the open letter by the chairman of the E-invoicing Expert Group <http://ec.europa.eu/enterprise/ict/policy/einvoicing/eeicoverletter.pdf>.

⁵ The PwC study will be available at http://ec.europa.eu/taxation_customs/taxation/vat/key_documents/reports_published/index_en.htm

⁶ COM(2008)35, p.2-3.

⁷ Please note that, in line with existing national measurements, the EU SCM measurement is focused on VAT-specific costs on invoicing.

III. Advice to the Commission/Conclusions

- (8) The HLG welcomes the Commission's plan to reduce the administrative burden stemming from the current VAT rules on invoicing. The HLG believes that this area holds a significant reduction potential and that especially a higher uptake of electronic invoicing by businesses would yield important savings for European businesses. **It therefore calls upon the Commission to present an ambitious legislative proposal removing unnecessary obligations in this area and enabling enterprises throughout Europe to make maximum use of the savings potential presented mainly by electronic invoicing and electronic archiving.**
- (9) The HLG thinks that Community legislation should encourage the use of e-invoicing and e-archiving based on the considerable technological developments in that field and taking into account also the environmental aspect. The fact that currently only a small proportion of businesses make use of e-invoicing and e-archiving is in particular caused by the numerous specific requirements in comparison with paper invoicing. **The guiding principle should be the equal treatment of paper and electronic invoices whilst encouraging enterprises to use electronic invoicing.** For this reason, the HLG calls upon the Commission and the Member States to eliminate requirements specifically imposed on electronic invoicing and electronic archiving which may hinder the uptake of these technologies and prevent the realisation of significant cost savings. In any instance, the equal treatment of paper and e-invoices should not lead to new requirements for paper invoices that are more burdensome than the current ones.
- (10) Based on the recommendations derived from the PwC study as outlined in the public consultation, the HLG encourages the Commission to carefully examine and amend where appropriate the current invoicing rules in line with the following principles of administrative burden reduction:
- Harmonisation of invoicing requirements can reduce the burden notably on businesses engaged in intra-Community trade. These harmonised requirements should be adjusted to the situation of SMEs.
 - The scope of the invoicing rules should be carefully examined in light of the 'think small first' principle whenever the current full requirements are not essential for the purpose of tax collection and fraud prevention.
 - The specific requirements imposed on optional business practices, such as self-billing or summary invoices, unduly render these business practices less attractive. Further harmonisation should be considered as businesses should be able to decide on whether or not to use these practices on the basis of operational and market grounds, not administrative burdens.
 - On their end, tax administrations should modernise their practices and benefit from technological change rather than impeding it.
- (11) Concrete examples for the application of the principles above are:
- If harmonised timeframes for issuing invoices are introduced it is essential to adjust the rules to the situation of small businesses as they would face great difficulties with a timeframe of only 15 days after the calendar month of delivery that was suggested in the public consultation.

- Introducing a harmonised threshold for simplified invoices, which is higher than the different thresholds used by Member States today, and allowing enterprises to use simplified invoices⁸ up to that amount could substantially reduce the administrative burdens primarily for small businesses.

(12) **Given the huge savings potential of the e-invoicing technology, the HLG calls upon the Commission and Member States to carefully examine whether there are further possibilities to encourage e-invoicing.** Any European approach developed for the purpose of promoting e-invoicing should be harmonised and technologically neutral, as well as flexible enough, so as not to impose additional financial burdens on businesses. It should be based on the mutual recognition of national standards. The HLG calls upon the Commission and Member States to make sure that no new financial or administrative burdens are created in the context of the implementation of the planned reform.

Brussels, 22 October 2008

⁸ Cf. to Art. 238 of the VAT Directive.