Discussion paper on the growth of additional requirements and the fragmentation of provisions relating to e-Invoicing at Member State level

Version 1.0

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1. INTRODUCTION

A growing number of Member States are introducing additional requirements for e-Invoicing based on local definitions and provisions.

These arise:

1. In the areas of e-invoice issuance in conjunction with a commercial transaction.
2. In the areas of related reporting and audit.

In practice, the two areas mentioned above are interrelated and not strictly separable. Such requirements are usually motivated to improve tax revenue generation for government. The requirements typically go beyond the EU VAT Directive 2006/12/EU, as amended by Directive 2010/45/EU, which were intended to provide a harmonized environment for e-invoicing across the EU

In some respects, these measures draw their inspiration from outside Europe from countries, which adopt so-called 'clearance' models for e-invoicing (further discussed in Section 3.4). Certain Member States are currently implementing similar models or features of such models, which often impact both of the areas referred to above.

As a general principle, there is great merit and benefit in seeking to improve revenue generation, to eliminate tax fraud or under-declaration, and to improve audit and control procedures. The challenge is to ensure that this is achieved whilst maintaining an essentially uniform environment that does not create obstacles and barriers to e-invoicing adoption. Indeed, if more harmonization was to be implemented it could act as a very positive force for e-invoicing adoption. This positive impact is further strengthened by the tendency of these new control procedures to require the use of structured data, a tendency that aids the adoption of e-invoicing itself.

However, the observed additional requirements are presently not at all harmonized across the EU and may unintentionally impact the ability of taxable persons and their service providers to generate, deliver and report e-invoices by electronic means in an easy-to-manage, efficient and compliant manner.

The Directives 2010/45 and 2014/55, relevant for e-invoicing in general and in public procurement respectively, have been or will soon be transposed into Member State law, and thereby create a generally harmonized basis for e-invoicing. But the lack of uniformity in the additional requirements described above risks continue to impact the smooth and timely adoption of e-invoicing, unless certain actions are contemplated. The various additional requirements and their impact are described and discussed in the following sections.

It would be beneficial if the recommendations set out in Section 4 below were carefully considered by the European Commission and Member States. The overriding policy imperative is for a substantial measure of harmonization in the implementation of these additional requirements.

2. IMPACT AND OPPORTUNITIES

E-invoicing and its related reporting and audit systems and processes have the potential to reduce the administrative burden for enterprises whilst at the same time improving the effectiveness of tax and other administrative controls. However to deliver these benefits it is essential to ensure that the systems and processes do not create obstacles by imposing diverse and sometimes conflicting requirements on organizations, requirements which vary from country to country.

Enterprises operating solely in a single domestic market might with effort and help from service and solution providers adapt to additional local requirements. A range of more complex challenges face enterprises carrying out multi-country operations, as well as enterprises forming part of their supply chains.

The service and solution providers that support enterprises are also impacted especially when conducting multi-country operations. If they are not physically present in the country, such requirements may be difficult or impossible to meet without engaging the services of a local party. Consideration should be given to the operation of the Single Market in this respect.

To maximize the benefits of real-time or near-real-time reporting, audit or e-invoice 'clearance' processes, and ensure the fullest possible efficiency, business and government stakeholders need to work together towards the agreement of common definitions, harmonized (or at least compatible) processes and generally accepted data formats. Such methodologies based on such agreements could indeed provide the basis for continuing efficiency and simplification of the VAT system.

Given rapid growth in e-invoicing adoption, there is clearly merit in giving consideration to segregating the areas of invoice issuance (and delivery) from the area of reporting and audit, to avoid unintended consequences in terms of e-invoicing adoption and growth.

This paper is not intended to cover the diversity experienced in various invoice exchanges in the B2B and B2G space for example based on specific sectoral and business requirements, including the use of extensions to a 'core' invoice and the use of various information elements by the trading parties. The challenges in this area are the subject of other work being carried out by the EMSFEI and the CEN/Technical Committee 434 in relation to the implementation of European Norm for the core invoice- EN16931. Some further observations are made in the final bullet in Section 3.2.

3. DISCUSSION OF THE CHALLENGES ADDITIONAL REQUIREMENTS CAN CREATE

3.1. Definitions and sources of enterprise data on e-invoices

A key issue relates to the definition of the 'invoicing system' to form the basis of meeting the additional requirements at the enterprise level. Business information systems are often composed of multiple elements, which may be operated by a combination of the end-users themselves (taxable persons) or outsourced or licensed from third party service and solution providers. In such an environment, the question as to the practical impact of a requirement for a definition of an 'invoice', 'bill or simplified invoice', 'report of an invoice', 'consolidated invoice', 'invoicing system' or 'invoice issuer' becomes critical because the supplier and buyer need to be certain that requirements imposed on them can be met. This applies both in circumstances where the supplier or buyer has technical control over its operations, and where the relevant processes are provided by a service or solution provider.

Furthermore, the requirements of tax legislation often take it for granted that information can be easily integrated from various sources in an IT eco-system, or that it is possible to operate with one monolithic system. In reality, the situation is far from straightforward at the practical level. Invoicing processes often encompass not only the Enterprise Resource Planning (ERP) or accounting ledger, but one or more other systems as already stated. Such data integration requirements need to be supported by technical tools such as relational databases.

One legislative approach would be to target the fulfilment of additional requirements entirely on what are generally described as ERP systems, which contain the core accounting ledger, and would then need to be suitably enhanced. It is possible to infer from some descriptions of additional requirements that the ERP system is targeted given that they borrow language and concepts from, or place reliance on the OECD SAF-T specifications[1], which were prepared for e-audit of such 'enterprise' systems. Problems arise because it is often unclear or ambiguous as to whether the additional requirements should be met through direct access to invoice records in the ERP system, or by means of access to the actual invoice that is exchanged between supplier and buyer (and stored in compliance with EU VAT Directive Chapter 4, Sections 3 and 4), or both. The result is a wide variety of expectations and practices in relation to the technical fulfilment of the additional requirements, in areas such as the control of sequential numbering, invoice data export functionality and the real-time or deferred (near-real-time) reporting of invoice information to the tax administration.

Alternatively, legislation could restrict itself to addressing the definition of responsibilities (the 'what'), leaving it to the taxable person the freedom to assign the roles to be discharged individually and collectively within its systems and processes ('which system'). In this method, taxable persons would need to ensure that their ERP system meets the requirements but they

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[1] **SAF-T** (Standard Audit File for Tax) is an international standard for electronic exchange of reliable accounting data from organizations to a national tax authority or external auditors. The standard is defined by the Organisation for Economic Co-operation and Development (OECD). The file format is based on XML. See SAF-T v2.0 XML schema http://www.oecd.org/ctp/taxadministration/45167181.pdf

may also need to require information from other corporate systems and from the systems of their service and solution providers. This arises where service providers operate 'cloud-based Software-as-a-Service' solutions and 'portals' which allow suppliers to enter invoice data manually or source data from purchase orders for that purpose. In such solutions, the service provider may 'create' the invoice in its system on behalf of the supplier, rather than such invoice originating from an invoice record residing in the ERP system. These services may be distributed among a number of providers (e.g. compilation of invoice data in one system, and sending the data for the purpose of applying a digital signature to another system). The consequence of these realities is that additional requirements may place burdens on various third parties, and therefore such requirements need to be designed in such a way as to take into account the prevalence of outsourcing and the use of service and solution providers.

3.2.   E-invoice issuance

EU harmonized the rules on e-invoice issuance, through VAT Directive and its amendments, inter alia with the aim of making e-invoicing a predominant way of exchanging invoices by 20202. Yet disharmonized additional requirements introduced at Member State level are potentially impacting the realm of e-invoice issuance, and therefore creating requirements that impact the compilation of invoice data or actual issuance of the invoice. An additional aspect is that such requirements may not just affect the supplier, but also third party service and solution providers that act on the supplier's behalf (as the Directive 2010/45 acknowledges the possibility that the supplier may choose whether to issue the invoice itself, or to outsource the issuance to a service provider, or the buyer itself (self-billing)). Below are examples of such additional requirements:

- System certification requirements including for notification and reporting of the e-invoicing system being used for issuance are examples of requirements, which were originally aimed at the reporting of tax-related data but in practice became additional requirements for e-invoice issuance. In some Member States the possibility of issuing compliant legal invoices may be limited to the use of 'certified' or 'notified' invoicing systems.

- Rules concerning the determination of the party or parties, systems or processes that have responsibilities in the invoice creation and delivery process.

- Specific numbering scheme requirements both as to content and the identification of the invoicing system responsible for generation can create issues for e-invoicing service and solution providers, which may be challenged to generate sequential invoice numbers that immediately replicate the ERP booking. Such a function had originally been envisaged for ERP systems, however it is nowadays rare that invoices are universally composed and issued in the ERP systems.

- Local requirements for information elements to appear in the invoice can create barriers for the automated processing of e-invoices. Invoices may need to be enriched for each territory, with specific set of data. Examples include statutory information on the parties such as addresses, legal information about a legal entity, local identifiers of the parties, or additional information elements. The latter area is catered for by the Extension Methodology related to EN 16931- the EU core invoice standard, although this tool will require vigilance if automated processing is to be promoted. Hopefully the

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[2] See the European Commission Communication 'Reaping the benefits of electronic invoicing for Europe' of 2 December 2010.

stakeholders will be careful when proliferating such requirements while at the same time undertaking the monitoring of changing requirements at Member State level. All interested parties would benefit from uniformity with regards to the content of invoices. EN 16931 is a good step in this direction and through its Core Invoice Usage Specification (CIUS) has made available a useful feature to allow the specification or restriction of required information elements in a way that is conformant with the EN.

3.3.   Reporting and audit

While tax reporting and audit practices are clearly an area of Member State sovereignty, harmonization in these fields could serve as a catalyst for e-invoicing adoption and greater efficiency. Some areas that are the subject of additional requirements are as follows:

- Automated or 'real-time' reporting requirements, shifting the timing from ex-post (audits) to ex-ante (reporting).

- System certification including notification and reporting of the e-invoicing system used for reporting and audit information. It would be counter-productive in all circumstances to introduce requirements for mandatory certification of invoicing systems. Such certification requirements on a multi-country basis will add cost and complexity to e-invoicing. In well-established 'clearance systems' e.g. in certain Latin American countries a different approach is taken by clearly specifying in a standard or regulation, the exact data requirements for real-time reporting, so that the tax administration's system can simply reject transactions that do not meet their minimum technical requirements. (Minimum testing requirements for connecting to a government service are of course needed in such scenarios.)

- Rules concerning the determination of the party or parties, systems or processes that have responsibilities in the reporting and audit process.

- Requirements for data to be extracted or exported in a specific structured format or with a specific content. The commonly used information element used to report the invoice varies from being the invoice instance itself to a sub-set of essential information extracted from the invoice, or sometimes even a super-set of the invoice information. In the latter case, more information than is contained in the invoice itself needs to be added, usually compiled from a taxpayer's own systems or from those of its service providers. This makes the reporting process very cumbersome if super-sets are required. They are rarely harmonized from country to country.

A uniform framework for generating reporting sub-sets is a missing element in the e-invoicing eco-system. It should be recognized that consistently created sub-set information derived from an invoice could be used in a variety of scenarios not only for tax reporting but also for financing, transaction status or response messaging. This suggests that there are benefits in developing harmonized approaches based on standards.

It should be recognised that the harmonization of real-time reporting requirements could promote the use of standards such as the European Norm 16931 for core invoice. The latter would be an obvious choice for the invoice structure and content that needs to be reported to the tax administration, and from which any required reporting sub-set could be derived. Such standards could take advantage of already existing transmission and transport protocols and reporting messages developed by the International Standards Organisation (ISO) within the financial family of messages ISO 20022XML, since the transmission to the tax administration should ideally not require any non-standard data format, security or transport methods.

3.4. 'Clearance' arrangements

A government administered taxation platform could be involved in the VAT-compliant creation, issuance, receipt, and the reporting and audit process for an e-invoice. Actual delivery of the invoice to the buyer may be made through such a 'clearance' arrangement. Clearance is a process that typically makes it mandatory for an online tax administration platform to have received and/or approved an invoice prior to, or immediately after, its VAT-compliant issuance and buy-side processing.

In such models, the invoice is usually pre-approved by the tax administration or its agent before the supplier is allowed to issue it as the legal invoice, or before the tax administration itself delivers the approved legal invoice to the buyer. In some arrangements the invoice should be submitted for registration to the tax administration right after the 'closing' of the invoice data, which defines the issuance of the invoice. The buyer subsequently often has to obtain confirmation from the tax administration that the supplier has been given approval; buyers may also have to send additional acknowledgement messages so the tax administration can build up their own 'ledger' from authenticated information, directly from the invoice transaction as it happens.

The benefit of such systems is that they focus on the exchange of invoice data rather than extending the use of transactional reports, for example generated under the SAF-T concept, and provide independently verifiable information on 'primary' transaction data rather than data recorded by taxable persons; this could alleviate other tax audit and reporting requirements. Adoption of a clearance model may also reduce the need for multiple certifications of software and services supporting e-invoicing. A drawback arises when such systems are designed and implemented in a disharmonised way across different countries.

Clearance systems are in operation since several years in many non-European countries (e.g. in Latin America) and are conceptually a promising alternative to the additional requirements for real-time reporting. They are designed to avoid invoice fraud and to increase VAT tax collections. Several EU Member States have been evaluating clearance with a view to adopting some or all of their features; Italy is first out to adopt a true clearance model where the invoice will be formally issued by the tax administration platform. In Hungary, the invoice data will need to be supplied to the tax authority immediately after the creation of the invoice, meaning in real time and without human intervention.

4. RECOMMENDATIONS

It is proposed that the Commission initiates a debate within appropriate policy functions and forums about the growth of additional requirements and their co-existence with the VAT Directives, including their correlation with the process of e-invoicing in the Single Market, to ensure that requirements are developed and defined in a way that does not create obstacles to the players in the Single Market but instead can help foster e-invoicing while combatting fraud.

As potential further actions the following recommendations are proposed at Member State level:

1. Restrict to the minimum necessary such additional requirements and where possible join forces with other Member States to establish a harmonized environment, recognizing the substantial cost burden they create, particularly if disharmonized, and the resultant obstacles to e-invoicing adoption.

2. Ensure that definitions, regulations and requirements are drafted in as uniform a way as possible, and with a clear understanding on the impact for the respective roles of all the parties in mind, both taxable persons and the wide variety of service and solution providers involved in the 'cloud-based service' environment

3. Design additional requirements, especially relating to VAT reporting (whether automated or not), invoice numbering and standard audit files in such a way as to ensure that it is clear that a specific enterprise system or process must comply, or ensure that the requirement can be met by any enterprise system in the dispersed end-to-end processing chain.

4. These proposals ultimately concern a number of key choices, which need to be explicitly addressed, e.g. What is being regulated? : reporting or e-invoicing (often outsourced); What should be reported?: accounting data including the invoice record or transactional data; What is deemed to be 'invoicing software': in-house software generating invoice records, or the software generating the tax invoice or communicating with trading partners?

In the Appendix, individual descriptions are provided for a number of countries that have introduced additional requirements.

5. APPENDIX: SOME HIGH LEVEL DESCRIPTIONS OF INDIVIDUAL COUNTRY SYSTEMS

The countries below have introduced requirements additional to those flowing from EU VAT Directive and other related legislation, in the areas illustrated below. These descriptions are considered current at the time of writing.

5.1. Portugal

The main features of the Portuguese additional requirements are as follows:

1. Invoice software certification: It is a requirement that Portuguese taxable persons must use software that is certified by the Portuguese tax authority to generate the final version of the invoice. Such software should also be capable of exporting data in a specific format.

2. The reporting of invoice data to the tax authorities can be derived as follows:

   - From the transmission of electronic data integrated in certified electronic billing software such as web services.

   - From electronic transmission by means of a file created in accordance with File SAF-T (PT) on a monthly basis.

   - From data provided manually to 'Portal Finance' (the tax authority's website).

   - By other electronic means, as defined by the Ministry of Finance.

The way the certification requirements are designed it is sometimes uncertain as to which actual software needs to be certified in more complex situations, for example those involving components provided by service and solution providers, such as e.g. e-invoicing portals.

5.2. Spain

The main features of the Spanish additional requirements are as follows:

1. Electronic accounting: Taxable persons with a turnover exceeding 6 million euro must maintain the accounting books electronically, within the platform of the tax authority (known in Spanish as Sede Electronica).

2. Reporting: The records will be automatically created and maintained by the tax authority by incorporating the data on invoices and transactions reported electronically by the taxable person. The reporting timeframe is 4 days from issuance of the invoice.

   - The subject owning the report must possess a NIE Number (local tax ID) and be identified in the Taxpayers Registry.

   - The subject owning the report must send the information using a recognized digital certificate that may be associated to the National Identification Card (e-DNI) or any

other digital certificate valid in compliance with the current regulatory framework. When the reporting is done through third parties, such third parties must hold the digital certificate.

The Spanish system, known as SII, focuses the reporting requirement on the ERP system, but does require reporting entities to synchronize with their trading partners.

5.3.   Hungary

The main features of the Hungarian additional requirements are as follows:

1. Definition of invoicing system: the invoicing system must be able to export a defined set of invoice data to the Hungarian tax authority and also generate sequential and progressive invoice numbering. The identified system performing these functions will be considered the "invoicing system" and its operation will be decisive as to when the invoice will be regarded as final. (These requirements are applicable to both paper and electronic invoices).

2. Notification: The taxable person (supplier) must notify the tax authority as to the identification of its invoicing system. This should be done using a special form available on the tax authority's webpage and must include:

   • Name and ID of the system or web address to the system;

   • Name and tax ID of the system developer (not required when using online invoicing system);

   • Name and tax ID of the seller/provider of the invoicing system;

   • Start date of usage/date of purchase).

3. Invoice numbering: The invoicing system must be able to continuously number invoices; the number range must be sequential on an agreed basis.

4. Data export: The invoicing system must be able to allow defined data to be exported to the Hungarian tax authority. This function is called 'Tax Authority Control Data', and requires invoicing systems to extract, store, and, upon request by the tax authority, provide certain invoice data in a pre-defined XML format. This XML file containing the specified invoice data that must be stored by the invoicing system. There needs to be transformation to a local file format for audit purposes.

5. Reporting: As of 1 July 2018, the above data export requirement will become a real-time reporting requirement, whereby invoicing systems must be able to electronically report data regarding supplies of domestic B2B sales for which the VAT reaches or exceeds HUF 100,000. The reporting must be performed immediately after the invoice has been issued, and this has to be done automatically (without human intervention).

The Hungarian system creates issues relating to the attribution of responsibilities for invoice numbering, legal issuance and reporting between the invoicing system and supporting service platforms provided by third parties.

5.4. Poland

The main features of the Polish additional requirements are as follows:

1. Reporting: Taxpayers are required to be able to submit seven different SAF-T structures (in pl: Jednolity Plik Kontrolny, JPK). Six of them are being submitted upon request by the tax authorities, including the JPK-eInvoice, whereas one of them, the so-called JPK-VAT file, must be submitted proactively by the taxpayer on a monthly basis.

   a. Taxpayers have two options for delivering the SAF-T report to the Polish Ministry of Finance; either by CD/DVD or through a software connected to the Ministry of Finance.

   b. The latter option of transmission requires the report to be digitally signed by an authorized representative of the taxpayer using a Qualified Electronic Signature in the meaning of Art 3.12 of the eIDAS Regulation or using a so called ePUAP platform which allows Polish citizens to communicate with different authorities in a secure manner and which can be used only by properly identified individuals. (The Polish Ministry of Finance are working on resolving the problem that they cannot validate/accept QES from other Member States due to some technical issue.)

The Polish system focuses the reporting requirement on the ERP system, but still requires reporting entities to source information from other systems such as banks.

5.5. Italy

The main features of the Italian additional requirements are as follows:

1. The reporting of invoice data to the tax authorities can be derived as follows:

   - From electronic transmission by means of a XML file created in accordance with regulation of Revenue Agency on a six monthly basis. The XML file could be provided manually to online services (the tax authority's website).

   - Until 31.12.2018, as an option, the invoices data can be acquired by Revenue Agency if the taxpayer opts for e-invoicing (only XML national standard) through the "Sistema di Interscambio", the dispatcher already used for mandatory e-invoicing versus Public Administration bodies.

   - From 01.01.2019 e-invoicing through the "Sistema di Interscambio" will be mandatory for all invoices exchanged between subjects resident in Italy (B2G, B2B and B2C) in XML national standard or European standard on e-invoicing (CEN). E-invoices could be issued and received also by providers. In interactions with the "Sistema di Interscambio", "provider" is anyone who sends or receives e-invoice in the above mentioned standard on behalf of the economic operator (VAT subject). No specific authorization is required by the "Sistema di Interscambio" for the provider. The provider must have an agreement with the economic operator who wants to send or receive the e-invoice; a telematic channel (web service or FTP) with "Sistema di Interscambio" or a Certified Electronic Mail (PEC, used in Italy).

   - The process of transmitting and receiving e-invoices via e-mail requires in the invoice file a "recipient address" field with a 7-digit code identifying the telematic channel previously accredited to the "Sistema di Interscambio" or a PEC address:

the "Sistema di Interscambio" reads the field "recipient address" and delivers the e-invoice via web service/FTP or PEC channel.

- Providers that interact with the "Sistema di Interscambio" in their roles as both transmitter and receiver through the same transmission channel may opt for the "simplified flow": in this case the flow of messages undergoes changes to enable greater efficiency in the process of transmitting electronic invoices and the related notices. The "Simplified Flow" option is associated with the registered channel for file transmission/reception; therefore Intermediaries intending to opt for the simplified flow may declare this when they register the channel.

- Only some fiscal mandatory data of e-invoice will be acquired by Revenue Agency. For transnational operation there will be a mandatory of invoice's data electronic transmission or the possibility of e-invoicing further to the above mentioned rules.