

Changes to UK invoicing requirements *HMRC revises and clarifies approach*

Summary

HMRC has published the results of its public consultation on the proposed changes to the VAT invoicing rules, which it still intends to implement with effect from 1 August 2007. HMRC is substantially revising its approach to the controversial issue of the requirement to produce VAT invoices for exempt supplies made to businesses in other Member States. HMRC has also clarified a number of points of detail on the application of the new rules.

Background

On 15 March 2007, HMRC announced its intention to make several changes to the UK rules on VAT invoicing. The changes are designed to implement fully the Invoicing Directive (2001/115/EC), and are prompted by enforcement action taken against the UK by the European Commission.

The most controversial change is the new requirement to issue a VAT invoice for all cross-border business-to-business (B2B) exempt supplies of services. Other proposed changes include the need for VAT invoices to be uniquely and sequentially numbered, and to bear a legend indicating that the supply falls within a margin scheme, is exempt from VAT, or is subject to the reverse charge mechanism.

Invoicing for exempt supplies

Following 'strong representations' from business, HMRC acknowledges that the proposed regulations, as drafted, could have "serious and unintended effects on the finance sector". HMRC has therefore announced the following changes to its approach:-

- The draft regulations will be amended to make it clear that the requirement to issue VAT invoices for exempt supplies only arises, in particular, where an invoice is required by the Member State of receipt.
- The requirement to issue a VAT invoice for exempt supplies will only apply, in practice, if the customer requests one.
- This represents a substantial change from the original proposals and may address some of the concerns raised (particularly by the financial services sector) over the invoicing changes.

The utility of these revisions may depend on the details. The amendment to the regulations raises the possibility that businesses may have to take local VAT advice to determine whether invoices are required in the Member State of its customers. It also remains to be seen whether taxpayers will be content to rely on a concession that the rules will only be enforced in the (probably unlikely) event that the customer requests a VAT invoice.

Unique and sequential numbering

UK law currently only requires a VAT invoice to bear an identifying number, whereas the Invoicing Directive requires the invoice number to be both unique and sequential.

HMRC confirms that the invoice number may be a combination of numbers and letters, and that *it is acceptable to have different sequences for different business units or even different customers*. This is consistent with the aim of the requirement, which is to ensure that there are no gaps in the invoice number sequences to aid the audit process.

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Legends indicating nature of supply

UK law currently only requires a VAT invoice to bear a legend in three specific circumstances, and prescribes the wording of the legend. The Invoicing Directive, by contrast, allows reference to be made to the nature of the supply in three different ways. HMRC states that it will amend the UK rules to align them with the flexibility afforded by the Directive, but that businesses may continue to use the prescribed wording.

Where the Directive requires a legend on VAT invoices but the UK law currently does not (i.e. exempt, reverse charge and margin scheme supplies), HMRC also intends to allow businesses maximum flexibility in the wording of the legend.

Transitional concessions

HMRC confirms that it may allow businesses time to amend their systems, in particular, to accommodate the numbering changes where no such sequence is currently used.

HMRC also considers it acceptable that businesses exhaust their existing stocks of stationery before migrating to the new rules.

What should you do now?

All taxpayers potentially affected by the proposals should consider the likely impact of the new rules on their business.

As the changes are due to take effect in a little over six weeks' time, early action is vital to ensure that the necessary systems changes are made and the new rules are complied with appropriately and without incurring penalties.