European E-invoicing Service Providers Association

Resolution on EESPA's concerns about the proliferation of additional requirements on e-invoicing at Member State level

Carried unanimously at the EESPA General Assembly Meeting of 19 May 2016, Tallinn Estonia

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Background

Whereas it is observed that a growing number of Member States are introducing Additional Requirements in the areas of invoice definition, reporting and audit, which in practice significantly impact the ability of taxable persons and their service providers to efficiently, cost-effectively and compliantly send or make available invoices by electronic means. (* set out in the attached problem statement);

And whereas, it is possible that Member States are overlooking the vital role that service and solution providers play in the deployment of e-invoicing, and that is becoming increasingly challenging for service and solution providers to provide their e-invoicing services in a consistent and easy-to-use manner across the EU Single Market;

And whereas, Article 234 of the EU VAT Directive (2010/44/EC) states 'Member States may not impose on taxable persons supplying goods or services in their territory any other obligations or formalities relating to the sending or making available of invoices by electronic means.'

Recommendations

EESPA now resolves and recommends that Member States:

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 and the resultant obstacles to e-invoicing adoption.
2. Ensure that definitions, regulations and requirements are drafted with all the parties in mind, both taxable persons and the wide variety of service and solution providers involved in the 'cloud-based service' environment and which provide mission critical service to taxable persons and need to implement the requirements based on their defined roles and responsibilities.
3. Design Additional Requirements relating to especially VAT reporting (whether automated or not), invoice numbering and standard audit files in such a way as to ensure that they can be met ideally in a single system operated by or on behalf of a taxable person, and where access to third party systems is required it is done in such a way that is clear, unambiguous and reflective of the reality of evolving e-invoicing and related third party services.

And that the European Commission:

1. Initiates a debate within appropriate policy functions and forums about the growth of such Additional Requirements, their disharmony, their co-existence with the VAT Directive 2010, and their potential impact on the growth of e-invoicing in the Single Market.
2. Analyze to which extent these Additional Requirements such as those listed in this document are inspired by the so-called 'clearance' models for electronic invoicing which is practiced in many countries outside Europe and may be under consideration in EU Member States that do not feel that the current legislative framework around invoicing provides sufficient control to reduce the VAT gap. Indeed, a better understanding of the growing consideration of such models in the European Union is in EESPA's view a prerequisite for the mandatory assessment of the operation of Directive 2010/45 in 2016.
3. Considers an initiative to promote a process of harmonization of such Additional Requirements across the EU.

***Problem statement about the proliferation of additional requirements on e-invoicing at Member State level**

Since the adoption of Directive 2010/45, Member States such as Portugal, Spain, Italy and Hungary have introduced various requirements targeting e-invoicing systems using a legal or practical definition of 'invoice' which can be interpreted to mean either the electronic equivalent of a paper invoice, or an invoice record that is typically held in a company's Enterprise Resource Planning (ERP) or Accounting system. Serious issues are also raised by the definition of 'invoice system'.

In many cases, such Member States impose Additional Requirements for the electronic invoice or a record of it together with surrounding processes, for example in relation to:

- Automated or 'real-time' reporting requirements.
- System certification, notification or reporting.
- Ability for data to be extracted and exported in a specific structured format and/or with specific content.
- Determination of the Party that has defined responsibilities under business-to-government e-invoicing schemes and reporting obligations.
- Specific numbering scheme requirements both as to content and the invoicing system responsible for generation

It should be stated that the adoption of Additional Requirements especially in the reporting area are being introduced often with reference to so-called 'clearance systems' used outside the EU, in countries and regions such as Latin America and deigned to avoid invoice fraud and to increase VAT tax collections. In 'clearance' models, the invoice is usually pre-approved by the tax administration or its agent before the supplier is allowed to issue it to the buyer.

The resultant lack of clarity in relation to the definition and characteristics of an 'electronic invoice'[1] in Member State legislation and the expectations of Additional Requirements on their sphere of activity significantly impacts the operations of third party solution and service providers.

Modern business information systems are often composed of multiple components, which may each be licensed from, operated, or hosted by a combination of end-users (taxable persons) and a large number of third party service and solution providers. In such an environment, the question as to the practical impact of a requirement for an 'invoice', 'invoicing system' or 'invoice issuer' becomes critical because the supplier and buyer need to be certain that requirements imposed on them are met. This applies both in circumstances where the supplier or buyer has technical control over its operations, and also where the relevant system/service/information is under the control of a third party provider, which

[1] 'electronic invoice' means an invoice that has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing (EU Directive 2014/55/EU).

provides invoice management and network services. The terms 'invoicing system' and 'invoice issuer' are consequently terms that urgently need to be more accurately defined.

In many cases, the additional invoicing requirements referred to above are initially targeted on a taxable person's (corporate) ERP or Accounting system. This can often be inferred from the fact that descriptions of these requirements may borrow language and concepts from, or place reliance on the OECD SAF-T specifications[2] which were prepared for such 'enterprise' systems.

What is the problem?

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/Accounting system, or by means of access to the actual invoice that is exchanged between supplier and buyer (and stored in compliance with VAT Directive Chapter 4, Sections 3 and 4), or both. The result is a wide variety of expectations and practices in relation to the fulfillment of such Additional Requirements.

Taxable persons need to ensure that their ERP/Accounting system meets the requirements in question but also may need to require from their service and solution providers that their systems be adjusted to also meet such Additional Requirements. This is particularly the case where service providers operate 'cloud-based services' and ‘portals’ which allow suppliers to enter invoice data manually or from purchase orders for that purpose. In such solutions, the service provider 'creates' the invoice on its system on behalf of the supplier, rather than such invoice originating from an invoice record residing in the ERP/accounting system.

The consequence of these realities is that Additional Requirements place considerable burdens on a variety of parties apart from the taxable person, and such requirements need to be designed in such a way as they minimize widespread impacts and take into account the prevalence of outsourcing and the use of service and solution providers, whose interests need to be taken into account, explicitly rather than by association. More clarity is required to understand the specific expectations in relation to Additional Requirements.

A further dimension of the problem is the fact that Additional Requirements in Member States vary widely and do not conform to any standard models or harmonized requirements. For example, where a service provider, that does not have significant presence in a country with such Additional Requirements, faces significant investments or requires the contracting of a local service provider, which often need to be locally certified, to fulfill only the need for the Additional Requirements. The broad point is that the imposition of additional requirements on a disharmonized basis creates additional costs and complexity.

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[2] **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

Despite the efforts of the EU to create a level playing field and a uniform environment for e-invoicing in general, the proliferation of Additional Requirements at Member State level is weakening the Single Market and may impede the take-up of e-invoicing. This problem can only get worse as further Member States impose Additional Requirements. The lack of uniformity is such requirements may unwittingly distort competition in the Internal Market, impede the free movement of services, and create burdens on e-invoicing systems, and which could negatively affect the European Union's ability to meet its objective of broad-scale adoption of e-invoicing by 2020.