

22 September 2008

TASKFORCE REPLY TO EEI DRAFT RECOMMENDATIONS

A corporate taskforce met on Thursday, 4 September, at BUSINESSEUROPE for a discussion of the draft recommendations issued by the Expert Group on E-Invoicing.

Participant List

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Introduction

The taskforce welcomes and strongly supports the key aim of the draft recommendations to ensure equal treatment of paper invoices and e-invoices. This aspect is the fundament for shaping an environment that allows e-invoicing to grow and should form the basis for the development of a technology neutral solution for e-invoicing in the Expert Group. Whether in paper or in electronic format, invoices always sit on top of other legal documents (e.g. contracts, purchase orders etc.) related to the respective transaction and the same business internal control processes are applied to both of them.

There is no need for onerous security measures when it comes to the authenticity and integrity of e-invoicing, particularly when businesses can prove that proper internal control processes are in place. Therefore, equal treatment of paper invoices and e-invoices relates foremost to authenticity and integrity. As the experience in practice shows, e-invoicing is used most in those countries (e.g. Scandinavian countries, etc.) which treat paper and e-invoices the same when it comes to integrity and authenticity. This clearly confirms why the Expert Group's work needs to start from this basis.

VAT Fraud has often been the argument for, why higher security measures are required when it comes to e-invoicing. Experience in practice shows, that those countries where e-invoicing is used most have not reported any increase of VAT Fraud. While there is a clear need to tackle VAT fraud and to punish the fraudsters, it seems absurd to fight the battle in an area where there is no explicit evidence for VAT Fraud and where most administrative savings (efficiency and cost) could be made for legitimate business, administrations and consumers around Europe.

E-invoicing is a key aspect when it comes to the Commission’s objectives to promote growth and competitiveness of the Internal Market. The taskforce, therefore, thinks that the Expert Group’s work and the Commission’s role as facilitator and advocate are crucial to shape a prosperous environment for e-invoicing. From our perspective this can best be done on the basis of the above-mentioned principles.

Finally the taskforce would like to stress that e-payment and e-invoicing are two separate topics with separate complexities. It is, therefore, particularly important that e-payment will not become a pre-condition for e-invoicing. While compatibility is important, e-payment should not be the driver for e-invoicing and even more important should not hinder the developments on e-invoicing.

Comments on the draft EEI Recommendations:

Starting from the premise of equal treatment of paper and e-invoicing, it is regrettable that this key aim is not kept up throughout the draft. This reply intends to point out where, if implemented, the draft recommendations would not reach the objective of simplifying the use of e-invoices but could make life more complicated for companies. Also, one should keep in mind that e-invoicing also takes place in the B2C environment and that B2C relations might have to be addressed in the Model Agreement. Furthermore, the terminology should be as accurate as possible.

EEI Draft Recommendation (and amendments in track changes)	Corporate Taskforce (TF) Comments
1. That paper and electronic invoices should be treated in the same way; and that there should be no essential difference in VAT legislation between paper and electronic invoices but rather a uniform implementation and interpretation of such legislation;	The TF fully supports this paragraph.
2. That the concept of %authenticity of origin+ and %integrity of content+ as mentioned in Article 233 section 1 of the VAT Directive should remain as a general principle to be observed, and as such shall remain the principle on which the Member States shall define the controls and audit trails that they will be entitled to conduct on electronic invoicing data;	<p>This paragraph should be changed in such a way that it states the equal treatment of paper and e-invoicing on authenticity and integrity and that the internal controls at supplier and customer level should safeguard this.</p> <p>There is a stark contradiction to §1. Art 233 leads to non-equal treatment of paper invoices versus e- invoices. The TF sees no rationale for having different treatment of paper and e-invoices, nor to have different controls and audit trails. The internal control systems of businesses that apply to paper</p>

	<p>invoices should equally apply to e-invoices.</p> <p>Also, the TF considers that paper invoices might be more prone to fraud as e- invoices are more traceable (e.g. through corresponding IP addresses). Finally, the distinction between electronic and paper invoices is and will be more and more blurred: attachment to an email, pdf file, fax, phone message . all those can be considered as e-invoice in certain Member States.</p>
<p>3. That the measures to guarantee authenticity of origin and integrity of content as mentioned in Article 233 of the VAT Directive should be technologically neutral and that the consistent application of business controls should be the most important <u>sufficient</u> reassurance to tax authorities that VAT processes are correct and appropriate;</p>	<p>Internal business controls, if properly implemented, should be a sufficient reassurance to tax. Although an electronic signature is a method to prove authenticity of origin and integrity of content, the issuance of e-invoices should not trigger the obligation of an electronic signature if authenticity of origin and integrity of content can also be proved by other means</p> <p>The TF believes that the current checks and balances (e.g. two-ways check, e.g the check with a PO (purchase order) and the actual receipt of the goods/service) for paper invoices should be a sufficient control mechanism for e-invoices, too.</p>
<p>4. That business controls carried out by trading parties, together with appropriate and proportionate controls in the process of exchanging invoices, are the best available guarantee that not only the invoices accepted are authentic, but also actually reflect products and services that have been delivered and should be paid for</p>	<p>It is unclear what is meant by ‘together with appropriate and proportionate controls in the process of exchanging invoices’. The TF suggests to delete or clarify this part.</p> <p>It has to be made clear that this refers not to the tax authorities but to existing internal control processes.</p>
<p>5. That Member States therefore accept the principles of the %EEI Model Agreement+ as regards guarantee of authenticity of origin and integrity of content and that an EEI Agreement entered into between two parties the trading parties established in the European Union shall be accepted</p>	<p>The TF suggests to clarify the reference to ‘parties established in the EU’ as it does not reflect the VAT reality in the EU. Parties can be VAT-registered in the EU but not established in the EU. Also they can come from EFTA members. Triangulation involving parties not established in the EU, e.g. to import components for the manufacturing sector, is a very common</p>

<p>in every Member State for VAT purposes;[<i>The Model EEI Agreement to be drafted and placed in an annex to this Recommendation, and containing business and technical dispositions for adoption by the trading parties</i>]</p>	<p>feature and needs also to be taken into account in this discussion. Finally, this is a great possibility to export EU e-invoicing standards to the rest of the world, which should be used. Furthermore, the EEI Model Agreement should become one mandatory accepted %bird way+ method for Member States but Member States should nevertheless have the option to accept other %bird way+ methods.</p>
<p>6. That Member States accept that the overall process control framework within and between trading parties is the most element, as it addresses the overall context in which invoicing takes place, and that such process controls should ensure the genuineness of transactions, through proper reconciliation and audit trails, checks on the integrity of data and physical controls such as delivery notifications, purchase orders and contracts, segregation of duties, and security of transmission of data;</p>	<p>The TF suggests to reformulate this paragraph with a view to solely state that concrete measures for control have to be clarified in the specific EEI. Any further elaboration is confusing.</p> <p>The reference to the control framework between parties and the elaboration further below (yellow part) is prone to risks. Firstly, companies often have no physical control over purchases. Goods are frequently ordered with one party and delivered by another party. This is particularly the case for intra-company transactions. Secondly, how to control the physical delivery in the case of services? Furthermore, the segregation of duties would create problems for SMEs.</p> <p>Also reference is made to %physical controls ã such as purchase ordersã ..+. In the e world purchase orders are also electronic so it will be impossible to perform a physical check.</p>
<p>7. That trading parties who wish to undertake e-Invoicing, will evidence their agreement to do so by means of a simple and easy to accept agreement (the %EEI Model Agreement+), which forms part of their normal contractual documentation. This Model agreement may also be included within the terms of service agreements entered into between</p>	<p>Both parties have to be responsible for their own controls.</p> <p>It is not clear what is exactly meant by the yellow part.</p>

<p>either or both trading parties with one or more service providers, provided that both trading parties become bound towards each other in relation to the terms of the Model Agreement. Trading parties who agree on a self-billing arrangement will need to combine the EEI Agreement with the self-billing agreement they will enter into. The EEI Model Agreement will be business model neutral and not specify or mandate specific invoice business content;</p>	
<p>8. That economic operators and organizations conducting their invoicing activities by EEI, use the %EEI Model Agreement+ and its commentary, as set out in the Annexes hereto and thereby carry out e-invoicing on the basis of simple, cost effective processes, which are capable of easy integration into the whole trade process from order to payment;</p>	<p>The TF would recommend to include this paragraph in a more general introduction as it is not a recommendation.</p> <p>Is this also applicable to a B2C scenario?</p>
<p>9. That Member States facilitate the use of this %EEI Model Agreement+ and provide the most appropriate measures to that end, including the adoption of the Agreement for e-Invoicing between enterprises and public sector organisations.</p>	

Conclusion

The equal treatment of paper and e-invoices is the key aspect for the future growth of e-invoicing applications. The taskforce highly welcomes the aim of the Expert Group’s recommendations to build this aspect into an EEI Model Agreement. The set up and wording of the EEI Model Agreement will be critical for the success to shape a prosperous e-invoicing environment across the EU. It should encourage those Member States with a limited use of e-invoicing in practice to give up their reservations and create an open environment for e-invoicing. At the same time, those Member States where e-invoicing is already successfully used in practice should not face additional restrictions. Also in the future, the taskforce would welcome the opportunity to comment on publications by the Expert Group from a user perspective.

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