

Exigibility of VAT: transitional arrangements remain until end 2014

The new VAT invoicing and exigibility rules, as imposed by the European invoicing directive, remain difficult to implement. The full implementation has been postponed several times by the government. At the end of 2013 it was confirmed that the transitional arrangements can be further applied until the end of 2014. We herewith summarize these transitional arrangements and comment further on the new rules.

The existing versus the new rules

Classically VAT was due when an invoice was issued, even if there was no supply of goods or services. The same goes when invoicing and supply coincide. As from that time VAT was deductible.

Under the new rules VAT is no longer due at the issuance on an invoice, but (1) at the time of the supply of goods, (2) when a service has been completed or (3) to the extend of the payment of the invoice. The right to deduct VAT occurs at the same time.

A supplier of goods or services can still ask for an advance through an 'advance invoice'. This name has become misleading, since this document can (in the future) not longer be considered as a genuine 'invoice'. The 'real' invoice can only be issued when the services have been performed, the goods have been supplied or (a part of) the price has been paid. But it becomes even more complex: the VAT authorities can claim the VAT, as mentioned on the advance invoice, from the supplier, while the customer cannot deduct the VAT. The customer should 'wait' until one of the three (new) above mentioned moments of exigibility of VAT occur. Then he also needs a second document. Only when this is drafted, the VAT can be deducted.

Because these changes have an enormous impact and have important practical consequences (a.o. the modifications of the accounting software following the new rules) transitional arrangements were necessary. After some decisions of the VAT administration it is now clear that the transitional arrangements can be applied until the end of this year.

Transitional arrangements for 'advance invoices'

The transitional arrangements foresee that 'advance invoices' can be further treated as in the past, in other words for the time being an advance invoice remains a 'real' invoice. The invoice should however quote a special mention: 'Application of the legal exigibility rules. Deduction starts after payment of the advance'.

The transitional arrangements have consequences for both the supplier as for its customer:

- the supplier can report the advance invoice in his monthly (or periodical) VAT return in which the advance is paid. He should not wait until the month/quarter with respect to the date of the actual issuance of the final invoice;
- the customer can deduct the VAT, paid on the advance, immediately. He should not wait until the second document is issued when the service is completed or the good has been supplied.