

Exigibility of VAT: again changes as from 2016?

The rules concerning the exigibility, and the thereto related deduction of VAT, have changed several times over the last years. Since the start of 2015 the time of the supply, the completion of the service or the (partial) payment were decisive. This however led to important difficulties in practice. Therefore the rules will most probably change again as from 1 January 2016. The government already laid down its draft legislation.

At this time: supply, completion of the service or payment

The rules as they apply since 1 January 2015 determine the exigibility at:

- The time of the supply of goods;
- The time of the completion of the service;
- The time of the (partial) payment if this occurs earlier.

As from that time the VAT is due and the client can deduct the VAT. Even if he does not hold an invoice.

This means that the invoice date as such is of no importance. However some exceptions apply: 'administrative tolerances'. The precise rules are a.o. influenced by (i) the question whether the customer is another VAT payer (B2B) or a final consumer (B2C) and (ii) whether or not the invoice was issued more or less than seven days before the tax point.

As from 1 January 2016: invoice date

The new plans of the Government come down to this. The invoice date will again determine the moment of exigibility.

This means that as from 2016 one of the following dates will be determined:

- The invoice date;
- The date on which an advance will be paid, but only in case this payment occurs before the supply or the completion of the service. Watch out: in case the payment takes place AFTER the supply/completion of the service, but BEFORE the invoice is issued, the invoice date will remain determining and not the payment.

The invoice should be issued ultimately the fifteenth day of the month following the month of supply/completion of the service. In case the invoice is not issued in due time, then the date on which it had to be issued becomes of importance: the transaction should be reported in the VAT return for the period in which the invoicing deadline expires.

For intracommunity transactions other rules apply.

Special case: services/supply for the Government (B2G)

For services/supplies to the Government VAT becomes due when (a part of) the payment is received.

Note: plans, but no law

Currently these rules are in the phase of draft legislation. The chances are up that this will be in the law as from beginning of next year. In any case we will keep you informed.