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L.N. 423 of 2012

VALUE ADDED TAX ACT
(CAP. 406)
Value Added Tax Act (Substitution of Twelfth Schedule) Regulations, 2012

IN virtue of the powers conferred by articles 50 and 75 of the Value Added Tax Act, the Minister of Finance, the Economy and Investment has made the following regulations:-

Citation and commencement.

1. (1) The title of these regulations is the Value Added Tax Act (Substitution of Twelfth Schedule) Regulations, 2012, and these regulations shall be read and construed as one with the Twelfth Schedule to the Value Added Tax Act, which Twelfth Schedule is hereinafter in these regulations referred to as "the Schedule".

Cap. 406.

(2) These regulations bring into force the provisions of Council Directive 2010/45/EU of the 13th July 2010 amending Council Directive 2006/112/EC.

(3) These regulations shall come into force on the 1st January 2013.

Substitutes the Schedule.

2. The Schedule shall be substituted by the following:

"TWELFTH SCHEDULE

[Article 50(5)]

Tax Invoice

Form of tax invoice

1. (1) A document shall not constitute a tax invoice unless:

(i) all the particulars required by this Schedule are properly and fully stated; or

(ii) the invoicing requirements set out in Directive 2006/112/EC are fully complied with.

(2) Any document or message that amends and refers specifically and unambiguously to the initial invoice shall be treated as an invoice.

(3) A simplified invoice shall be considered as a tax invoice where:

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(a) the amount of the invoice inclusive of the tax, is not higher than €100;

(b) the invoice issued is a document or message treated as an invoice;

(c) the invoice contains all the information referred to in item 5.

However, the provisions of this paragraph shall not apply where invoices are required to be issued in case of cross-border supplies or where the taxable supply of goods or services is carried out by a taxable person who is not established in the Member State in which the tax is due or whose establishment in that Member State does not intervene in the supply within the meaning of the proviso in article 20(2) of the Act, and the person liable for the payment of the tax is the person to whom the goods or services are supplied.

(4) For the purposes of this Schedule:

"electronic invoice" means an invoice that contains the information required in this Schedule, and which has been issued and received in any electronic format.

Issuance of tax invoice

2. (1) (a) A tax invoice shall be issued by not later than the fifteenth day of the month following that in which the chargeable event occurs.

(b) Sub-paragraph (a) shall not apply where any payment on account precedes an intra-Community supply of goods.

(2) (a) Invoicing shall be subject to the rules applying in the Member State in which the supply of goods or services is deemed to be made, in accordance with the provisions of the Third Schedule.

(b) By way of derogation from sub-paragraph (a), invoicing shall be subject to the rules applying in the Member State in which the supplier has established his business or has a fixed establishment from which the supply is made or, in the absence of such place of establishment or fixed establishment, the Member State where the supplier has his permanent address or usually resides, where:

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(i) the supplier is not established in the Member State in which the supply of goods or services is deemed to be made, in accordance with the provisions of the Third Schedule, or his establishment in that Member State does not intervene in the supply within the meaning of the proviso in article 20(2) of the Act, and the person liable for the payment of the tax is the person to whom the goods or services are supplied.

However where the customer issues the invoice himself (self-billing), the provisions of sub-paragraph (a) shall apply;

(ii) the supply of goods or services is deemed not to be made within the Community, in accordance with the provisions of the Third Schedule.

(3) A summary invoice may be issued to detail several supplies of goods or services provided that the tax on the supplies mentioned in the summary invoice becomes chargeable during the same calendar month.

(4) Tax invoices may be drawn up by the customer in respect of supplies of goods or services made to him by a taxable person where there is a prior agreement between the two parties and provided that a procedure exists for the acceptance of each tax invoice by the taxable person supplying the goods or services. The Commissioner may require that such invoices be issued in the name and on behalf of the taxable person.

Contents of a tax invoice

3. Saving the other provisions of this Schedule, a tax invoice shall contain the following particulars:

(a) the date of issue;

(b) a sequential number, based on one or more series, which uniquely identifies the invoice;

(c) the name and address of the supplier and the Value Added Tax identification number under which he made the supply;

(d) the name and address of the person to whom the supply is made and the Value Added Tax identification number under which the customer acquired the goods or services supplied to him;

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(e) the quantity and nature of the goods supplied or the extent and nature of the services rendered;

(f) the date on which the supply was made or completed or the date on which a payment on account of the supply was made insofar as that date can be determined and differs from the date of issue of the invoice;

(g) the taxable value per rate or exemption, the unit price exclusive of tax and any discounts or rebates if they are not included in the unit price;

(h) the VAT rate applied;

(i) the VAT amount payable, except where a special arrangement is applied under which, in accordance with this Act, such a detail is excluded;

(j) where the person liable for payment of VAT is a tax representative in another Member State, the VAT identification number of that tax representative, together with his full name and address;

(k) where the VAT becomes chargeable at the time when the payment is received in accordance with Parts One and Three of the Fourteenth Schedule, the mention "Cash accounting";

(l) where the customer receiving a supply issues the invoice instead of the supplier, the mention "Self-billing";

(m) where a tax invoice refers to supplies on which no tax is chargeable, it shall indicate a brief reference to the relevant provisions of this Act, or the appropriate provisions of Council Directive 2006/112/EC, or any other indication on the grounds of which no tax is chargeable, and may distinguish between:

(i) supplies made outside Malta;

(ii) exempt with credit supplies;

(iii) exempt without credit supplies;

(n) where the customer is liable for the payment of the VAT, the mention "Reverse charge";

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(o) where the margin scheme for travel agents is applied, the mention "Margin scheme - Travel agents";

(p) where one of the special arrangements applicable to second-hand goods, works of art, collectors' items and antiques is applied, the mention "Margin scheme - Second-hand goods"; "Margin scheme - Works of art" or "Margin scheme - Collector's items and antiques" respectively;

(q) where the invoice is issued by a taxable person, who is not established in the Member State where the tax is due or whose establishment in that Member State does not intervene in the supply within the meaning of the proviso of article 20(2) of the Act, and who is making a supply of goods or services to a customer who is liable for payment of VAT, the taxable person may omit the details referred to in sub-paragraphs (g), (h) and (i) of this item and instead indicate, by reference to the quantity or extent of the goods or services supplied and their nature, the taxable amount of those goods or services;

(r) in an invoice for the intra-Community supply of a new means of transport the description of the goods supplied shall contain the particulars referred to in the definition of "new means of transport" under article 2 of the Act.

Categories of supplies

4. A tax invoice may also contain the type of the supply by reference to the categories as follows:

(a) a supply by sale;

(b) a supply of goods under a hire-purchase agreement or in terms of which the ownership of the goods is deferred;

(c) a supply on hire;

(d) a supply under a contract of exchange;

(e) a supply consisting in the delivery of goods made from materials provided by the customer;

(f) a supply by sale on commission;

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(g) a supply on sale or return or similar terms;

(h) an export;

(i) any other supply.

Simplified invoice

5. A simplified invoice referred to in item 1(3) shall contain at least the following particulars:

(a) the date of issue;

(b) a sequential number, based on one or more series, which uniquely identifies the invoice;

(c) the name, address and the Value Added Tax identification number of the supplier;

(d) the Value Added Tax identification number of the person to whom the supply is made;

(e) a description sufficient to identify the goods and services supplied;

(f) the total amount of tax payable or the information needed to calculate it;

(g) where the invoice issued is a document or message treated as an invoice pursuant to item 1(2), specific and unambiguous reference to that initial invoice and the specific details which are being amended.

Electronic invoices

6. (1) For the purposes of this Schedule:

"authenticity of the origin" means the assurance of the identity of the supplier or the issuer of the invoice;

"integrity of the content" means that the content required according to this Schedule has not been altered.

(2) The use of an electronic invoice shall be subject to acceptance by the recipient.

(3) The authenticity of the origin, the integrity of the content and the legibility of an invoice, whether on paper or in electronic form, shall be ensured from the point in time of issue

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until the end of the period for storage of the invoice.

Each taxable person shall determine the way to ensure the authenticity of the origin, the integrity of the content and the legibility of the invoice. This may be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

(4) Other than by way of the type of business controls described in paragraph (3), examples of technologies that ensure the authenticity of the origin and the integrity of the content of an electronic invoice are those referred to in article 233 of Council Directive 2006/112/EC.

(5) Where batches containing several electronic invoices are sent or made available to the same recipient, the details common to the individual invoices may be mentioned only once where, for each invoice, all the information is accessible.

Currency

7. The amounts which appear on the invoice may be expressed in any currency, provided that the tax payable or to be adjusted under this Act is expressed in Euro, using the conversion rate mechanism provided for in the Seventh Schedule.

Translation of invoices

8. For control purposes, and as regards invoices in respect of supplies of goods or services supplied in Malta and invoices received by taxable persons established in Malta, the Commissioner may, for certain taxable persons or certain cases, require translation into Maltese or English.".

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