



MALTA  
INSTITUTE  
OF TAXATION

## The MIT VAT Practitioners' Forum - Report 22 March 2023

This Report sets out an overview of the matters discussed and the salient points raised at the MIT VAT Practitioners' Forum held on 22 March 2023 at The Notch Conference Centre. It is for information purposes only. The contents of this report do not constitute official guidance, nor advice, and should not be relied upon as such.

Any comments or queries concerning the contents of this Report should be addressed to the Chief Technical Officer on [CTO@maintax.org](mailto:CTO@maintax.org) or [MIT@maintax.org](mailto:MIT@maintax.org)

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## Panel 1: A Spotlight on...the VAT in the Digital Age Proposals

The first panel discussion was moderated by Sarah Cassar Torregiani (Chief Technical Officer of the Malta Institute of Taxation) and featured panelists from the MIT's Indirect Tax Technical Committee: Saviour Bezzina, Louise Grima and Anna Herrera as well as guest panellist from the Office of the Commissioner for Revenue, Nico Sciberras.

The panellists discussed the three pillars of the [VAT in the Digital Age proposal](#), which seeks to revise the EU VAT Directive to address:

- Digital reporting requirements (DRR) & e-invoicing
- The Sharing Economy (specifically the sale of accommodation and passenger transport via platforms)
- E-Commerce and the Single VAT Registration

### 1. E-Invoicing & Digital reporting requirements (DRR)

The moderator provided an overview of the key aspects of the proposals under this pillar which looks to adapt the concept of e-invoicing to the current digital reality, removing the existing requirement for an electronic invoice to be subject to the acceptance by the recipient, in preparation for an eventual move to mandatory digital reporting requirements.

#### 1.1 E-Invoicing

Under the proposed changes an e-invoice will be an “invoice...that has been issued, transmitted and received in a structured electronic format”, that is, an invoice that is drawn up in a format whereby the data can be automatically read from the document into computer systems, and which must comply with the European Standard (EN 16931). The proposal looks towards mandatory e-invoicing for intra-EU B2B transactions in 2028, but gives Member States the option for Member States to impose mandatory e-invoicing from 2024.

The key takeaways from the panel discussion were:

- As a first phase, Member States will be required, as a minimum, to provide for e-invoicing at the European Standard. Member States must require that, as of 2028, taxable persons supplying goods or services intra-EU B2B may only issue e-invoices.
- It was generally agreed that until 2028 (the date when mandatory e-invoicing is proposed to be implemented) tax invoices may be issued in hard or soft copy (PDF).



- Businesses will be required to implement specific software to be able to issue as well as receive and read e-invoices.
- If e-invoicing remains optional in Malta until the end of 2027 but becomes mandatory for traders established in other EU Member States, what if the EU trader supplies services to a Maltese business and issues an e-invoice which the Maltese business does not have the software to receive and read electronically? It was concluded that in such scenario the EU trader must be requested to send the e-invoice in a readable format (e.g. PDF). It was noted that the proposed legislation suggests the customer must be able to accept the e-invoice – whilst this is not an issue when e-invoicing is mandatory, this may be an issue in practice before 2028 and is likely to be addressed in the final version of the legislation.

## 1.2 Digital Reporting Requirements (DRR)

The Commission's proposal calls for the introductory of mandatory reporting of specified invoice data by the supplier, within 2 days from the issuance of the e-invoice and by the customer, within 2 days of receipt of the e-invoice. This will be mandatory for B2B, intra-EU cross-border supplies of goods and services from 2028 but will remain optional for domestic transactions. There is no applicable threshold.

The key takeaways from the panel discussion were:

- Businesses are going to have to adapt their systems to be prepared for DRR.
- The envisaged procedure is that the taxpayer will send the invoice to its customer within 2 days from the chargeable event. The taxpayer would subsequently need to extract certain data and report that data to the Office of the Cfr. This proposed method however is still awaiting clearance by Data Protection Officers.
- The proposed timing for issuing invoices and reporting the data to the authorities (2 days) is recognised to be impracticable for businesses. It is understood that this is one of the aspects of the proposal that the EU Commission is looking to revise.
- The local authorities are assessing the feasibility or otherwise of introducing e-invoicing/receipting for all transactions, i.e. not only intra-EC B2B transactions but also domestic B2B and B2C.

## 1.3 The platform economy

Changes are being introduced to address issues which arose in relation to certain supplies via platforms: (i) accommodation and (ii) passenger transport.

The key takeaways from the panel discussion were:

- It would appear that what the Commission is trying to achieve is to eliminate distortion of competition, not between underlying suppliers and hotels but between the platform offering accommodation from its underlying suppliers and hotels. Since once the underlying suppliers use the platform, they are competing with bigger players (Hotel industry).



- The proposed changes would not impact those registered under article 10 but only those registered under article 11 or 12 and those not registered for Malta VAT.
- It has been proposed to introduce the following to article 135 of the VAT Directive: *“The uninterrupted rental of accommodation for a maximum of 45 days with or without the provision of other ancillary services shall be regarded as having a similar function to the hotel sector”* with the scope of limiting the new rules to accommodation rentals of up to 45 days. The consequence of this new provision from a Malta VAT perspective is that all accommodation/letting of 45 days or less will be excluded from the exemption relating to the letting of immovable property (i.e. whether to a ‘tourist’ or otherwise).

## 1.4 Other points raised

- The changes will introduce a mandatory reverse charge on all cross-border services;
- An interesting change has been proposed to OSS reporting – this will be mandatory even where the supplies made in the Member State of the customer are VAT exempt in that Member State.
- One question discussed is whether VIDA will bring about the administrative simplification it is set to achieve.

## Panel 2: VAT – pitfalls and obstacles

This second panel was moderated by Chris Borg, Chairperson of the MIT’s Indirect Tax Committee, with panellists: David Ferry, Tony Pace, Matthew Zampa, and Andrew Buhagiar from the Office of the Cfr. During this session the panellists discussed certain issues arising in practice and shared their insights and experiences.

Some key takeaways from this panel were:

### 2.1 General observations

- VAT is transaction based: you must get compliance right immediately. If a certain error is made once, the chances are that it will be repeated until the error is noticed. This could potentially result in a significant exposure for the taxpayer.
- There is a gap between the level of competence required by industry and the actual competence of industry players.
- Businesses are becoming more sophisticated – from a VAT perspective there should be a focus on getting systems and processes right.
- The culture is addressing VAT ex post facto, instead of forward planning. VAT aspects should be addressed in advance.



## 2.2 Some obstacles encountered in practice

- A lengthy and laborious process for releasing refunds from the Office of the CfR.
- Delays in processing Tax in Danger applications.
- VAT Return Correction forms – whilst considerable improvement has been noted since the move to electronic submissions, the panellists were of the view that the processing of applications is taking much longer than clients would ever expect.
- Corrections to article 12 submissions – panellists question why this process isn't electronic like article 10 corrections.
- The Customer Care facility may be relevant for basic taxpayer queries but is not relevant for the nature of queries that for practitioners may have. It was suggested that a 'Helpdesk' for practitioners should be set up. However, it was noted that the quality of the output from the Office of the CfR also depends on the quality of the input received from the practitioner.
- Regarding notifications being sent by SMS/email, it was suggested that a notification should be sent both to the person listed in "my account" and the person appointed as tax representative as per the CFR03 form. It was also suggested that, when sending the SMS/e-mail notification, it should include the VAT registration number – in this way if the notification is sent to the tax practitioner for their client, the practitioner can identify who the notification relates to.
- Refund of overpaid VAT to persons registered under article 12 – there doesn't appear to be a specific procedure for claiming this refund.

## 2.3 Updates from the Office of the CfR

During the Forum, the following updates were provided:

- **Article 12 registration** – the article 12 platform is being revamped.
- **Adjustment forms** - when a correction is submitted, a risk management unit within the Office of the CfR reviews the application, and that causes delays. It was acknowledged that the process could be improved and that a review timeframe should be established.
- **Systems and processes are being reviewed** - the CfR has established a committee composed of representatives from MITA and the office of the CfR officers as well as from the private sector. The goal is to achieve quick fixes and eventually a total overhaul of certain systems and processes.
- **VAT Registration** - A new registration portal will be launched later this year. This will prompt users for all relevant information and will guide users as to what type of (tax) registrations are required. The plan is to launch this portal in Q3 of 2023.
- **"my account"** – with the removal of manual VAT returns, the notification of the VAT return due date is sent those listed on the "my account" section of the VAT registered person. It is important that the "my account" section of the portal is completed/updated with all information on the VAT registered person.



## 2.4 Some specific points raised

- A question was raised from the audience in relation to the recovery of VAT on costs which are both business and non-business related. One panellist mentioned that, in a similar scenario, this was discussed at length with the Office of the CfR in order to arrive at a fair mechanism for VAT recovery considering the specific circumstances. It was noted that the mechanism in the law is open ended – a system should be identified and applied in a consistent manner.
- It was suggested that the Office of the CfR should consider the possibility of reconciling the bad debts process for income tax and VAT purposes.
- Panelists questioned why there has been no change to the reporting obligations for article 10 and 12 registrations for decades – why cannot article 10 and 12 registered persons have the same VAT return?

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*Event Rapporteurs: Sarah Casolani & Sarah Cassar Torregiani*