

Value Added Tax

For our clients, business partners
and companies in the region

**SPECIAL
ISSUE**

TOPIC:

The Growth Opportunities Act
(Wachstumschancengesetz) –
New regulation for issuing
invoices from 1 January 2025

EDITORIAL



Dear Sir or Madam

The Growth Opportunities Act (Wachstum-schancengesetz) was passed this year with the aim of transforming the economy, increasing competitiveness and strengthening Germany as a business location. After months of intense debate, the German Bundesrat approved the outcome of these negotiations on 22 March 2024. This new legislation contains tax amendments and simplifications and is intended to promote tax fairness in Germany.

In addition to various tax amendments, the mandatory use of electronic invoices – so-called e-invoices – in business transactions has also been regulated. Accordingly, e-invoices must be used in the future for certain domestic transactions between domestic companies.

Germany is not alone in considering the introduction of electronic invoicing. Italy already introduced electronic invoicing in 2019. Other countries have followed suit or will do so in the next few years. However, much to the chagrin of many multinational corporate groups, each country is doing its own thing.

The European Commission's efforts to introduce a uniform regulation for electronic invoicing have also fallen short of expectations. The latest drafts of the directive only included standardisation for cross-border situations. However, no agreement has yet been reached.

Multinational companies therefore have to deal with any country-specific requirements. The good news is that many countries are now at least using the structured data format set out in EU Directive 2014/55/EU as a guide.

In Germany, the introduction of a mandatory requirement to use e-invoices will be implemented in several stages. The requirement to issue e-invoices will come into force on 1 January 2027, while entrepreneurs will need to be able to guarantee that they can receive e-invoices as early as from 1 January 2025.

Since mid-October 2024, the final letter from the Federal Ministry of Finance (BMF) on the topic of e-invoicing has been available. Additionally, there is an FAQ on the homepage. The BMF letter provides an outlook on the regulations in the area of electronic invoicing that will come into effect from 2025 and is intended to support companies in their implementation.

HLB Stückmann will assist you in the usual manner with up-to-date information throughout the implementation of e-invoices. Our VAT and IT specialists will be happy to assist you individually as a sparring partner during the introductory phase.

In this newsletter, we provide a rough overview of the new legal regulations and focus on the obligations that entrepreneurs must fulfil with regard to receiving electronic invoices by 1 January 2025. In further newsletters, we will address various aspects of invoicing and keep you informed of developments.

Please do not hesitate to contact us if you have any questions.

With best regards
Your VAT team

1. Status quo – current invoicing

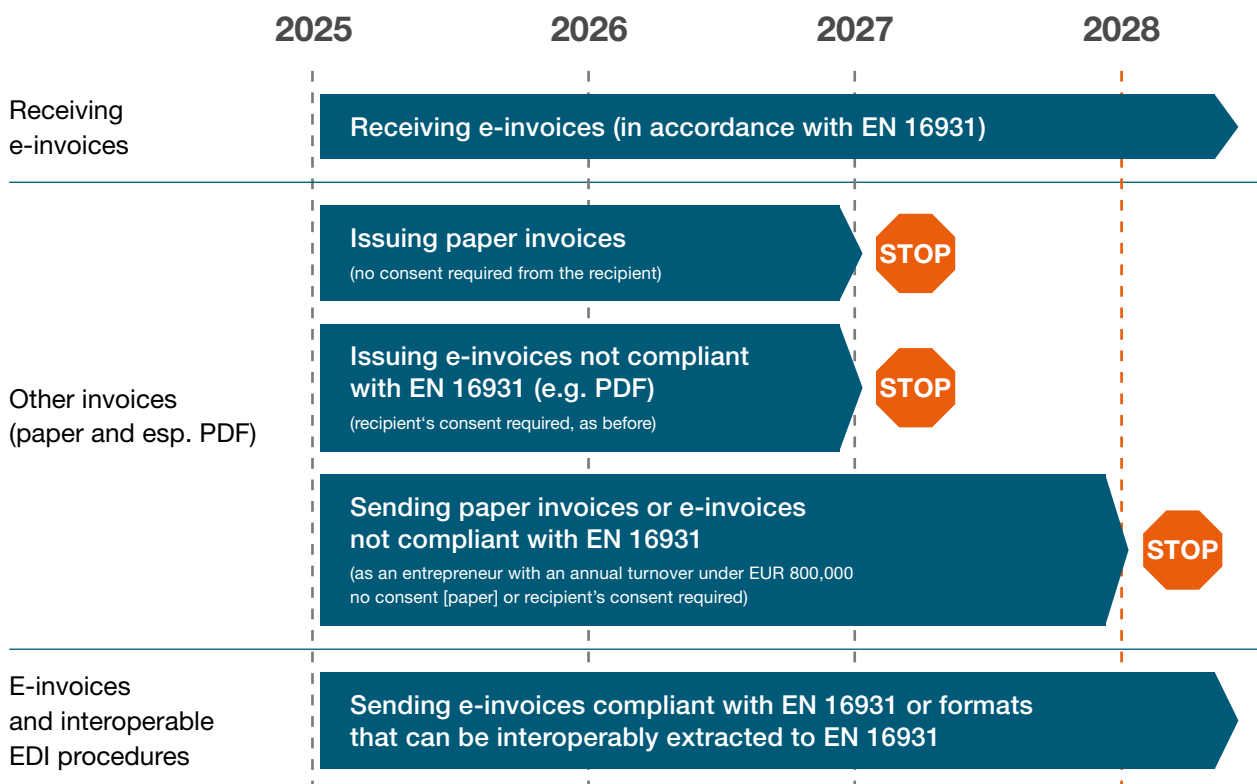
According to the current legal situation, which is valid until 31 December 2024, the term ‘invoice’ is broadly defined. An invoice can be issued as a physical document (paper invoice). Furthermore, an ‘electronic’ invoice is also permissible, whereby the former definition of an electronic invoice (e.g. PDF format) differs significantly from the new definition – more on this below. In the case of an electronic invoice, the consent of the invoice recipient was always required in the past, which could in some cases be tacitly granted. Entrepreneurs must ensure the authenticity of the origin of the invoice, the integrity of its content and its legibility. To do this, the entrepreneur can use any internal control procedure capable of creating a reliable audit trail between the invoice and the goods or services rendered. It should also be noted that procedural documentation must be drawn up for the electronic processing of invoices, and this must be made available to the tax office on request. This results from the circular of the Federal Ministry of Finance (BMF) on the principles for the proper management and storage of books, records and documents in electronic form and for data access (GoBD).

2. Timetable for electronic invoicing – From 1 January 2025 the gradual introduction of electronic invoicing in Germany

The gradual introduction of electronic invoicing in Germany will commence in January 2025. From **1 January 2025**, the requirements will be relatively straightforward. From the beginning of next year, companies based in Germany will be required to be able to receive e-invoices.

Entrepreneurs, on the other hand, still have a transitional period for invoicing. The obligation to issue and send e-invoices does not apply to most companies until **1 January 2027**. For companies whose turnover did not exceed EUR 800,000 in the previous year (2026), an extended transitional period applies until 1 January 2028.

Fig. 1: Timetable for electronic invoicing



3. The new regulation for electronic invoices from 2025

From 1 January 2025, the German VAT Act (UStG) differentiates between *electronic invoices* (e-invoices) and *other invoices*.

New definition of electronic invoices

An *electronic invoice* is only deemed to exist if the invoice is issued, transmitted and received in a structured electronic format and if electronic processing is possible.

All other invoices are to be categorised as *other invoices*. From 2025, the term 'other invoice' will therefore include all invoices in paper form or in other electronic formats (e.g. PDF).

Invoice format for electronic invoices

The European Committee for Standardisation has defined the technical requirements for e-invoices in the EN 16931 standard. In addition, the syntaxes of Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement are decisive. Formats that deviate from this are only permissible if the required information is correct and complete when extracted and corresponds to the aforementioned standard. Formats that are interoperable with the aforementioned standard are also permissible.

From 1 January 2025, e-invoices will be based on an XML format. The X-Rechnung and ZUGFeRD invoice (hybrid format) formats are well known and already frequently used in national practice. The X-Rechnung is a purely structured format and is basically not readable by the human eye. In addition to the structured format, the ZUGFeRD invoice also contains a visual part that can be read by the human eye. However, it is the structured electronic format that is relevant with regard to VAT. Both formats – in their most recent version – comply with the EN 16931 standard and can continue to be used in the future.

4. Prerequisites – Who is obliged and which types of turnover are affected?

The obligation to issue e-invoices applies to entrepreneurs based in this country for selected national B2B transactions. If the requirements are met, it will be mandatory to issue e-invoices from 1 January 2027 or 1 January 2028 – in these cases, the consent of the invoice recipient is not required.

4.1 Domestic domicile

Both the entrepreneur providing services and the recipient of the services must be based in Germany or in one of the territories specified in Section 1 paragraph 3 of the German VAT Act (UStG). A domestic domicile exists if an entrepreneur has either a registered office, management, a business establishment (for VAT purposes) that is associated with its turnover, or place of residence or usual abode in Germany.

4.2 National B2B turnover

The obligation to issue e-invoices exists provided that the turnover is not tax-exempt pursuant to Section 4 Number 8–29 of the German VAT Act (UStG). The obligation thus exists for a wide group of entrepreneurs, for example, also when applying the average rate taxation or differential taxation and for travel services. services and also for small businesses. Likewise, the obligation exists for turnover subject to the so-called reverse charge procedure.

The recipient of the service must procure the service for their company. The company's output transactions are irrelevant, so that, for example, landlords of a flat are to be taken into account.

4.3 Exceptions to the e-invoicing requirement

If one of the entrepreneurs involved is not based in the country, the requirement to issue and receive e-invoices does not apply. In this case, either paper invoices or, with the recipient's consent, other invoices in a different electronic format may be issued. Only if there is no requirement to issue e-invoices, but the invoicing party voluntarily issues an e-invoice, can the invoice recipient reject it.

Low-value invoices (total amount not exceeding EUR 250) and tickets can always be issued and transmitted as other invoices. In these cases, there is an exception to the e-invoicing requirement.

Additionally, an exception for small businesses (Kleinunternehmer) was created with the Annual Tax Act 2024. According to this, small businesses are not obligated to issue e-invoices. There is no exception from the obligation to issue an e-invoice in connection with final invoices (Endrechnungen), but rather a technical issue exists. Technically, a final invoice cannot yet be created, so in these cases, a remaining invoice (Restrechnung) will regularly need to be issued.

5. Action required by 1 January 2025

E-mail inbox

From 1 January 2025, domestic invoice recipients are not entitled to refuse e-invoices if there is an e-invoicing requirement. This applies regardless of the transition periods. This means that there is an urgent need for companies to take action, because entrepreneurs must be able to receive e-invoices from this point on. However, the preliminary circular of the Federal Ministry of Finance (BMF) does not see a major difficulty in meeting this requirement. From a VAT perspective, the requirement is already met by setting up an e-mail inbox for receiving e-invoices. It is now necessary to inform suppliers that digitally transmitted invoices will be sent exclusively to the corresponding e-mail address.

Archiving

Entrepreneurs must store all incoming invoices. In doing so, they must ensure the integrity of the contents and their legibility. The e-mail inbox should therefore be archived in an audit-proof manner, as this is how entrepreneurs can ensure seamless documentation from the moment the e-invoice is received by the company with relatively simple means.

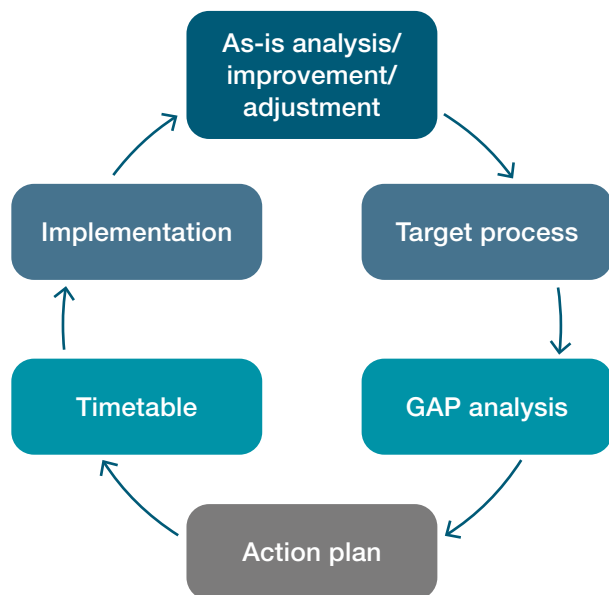
Revising incoming invoice processes

It is worthwhile for every entrepreneur to adjust and revise the incoming invoice process in connection with the introduction of e-invoicing. This in particular applies to companies that still receive a large proportion of paper invoices.

An inventory of the current invoice receipt process forms the basis for further process steps. For example, it is necessary to determine how suppliers issue invoices, how and with which IT systems invoices are recorded, checked and released, and which employees are responsible for this.

After that, the target process must be determined. It would be conceivable, for example, to aim for the

Fig. 2: Invoice receipt processes



digital processing of invoices, regardless of the format in which they are received.

After determining the target process, the so-called GAP analysis is carried out. At which points does the actual process not yet correspond to the target process?

The GAP analysis forms the basis for an action plan. This includes, for example, a project to identify the appropriate IT systems. Furthermore, responsibilities must be redefined. The process and procedure documentation also needs to be revised. Suppliers have to be informed, etc.!

Not everything has to be fully implemented by 1 January 2025. Realistic scheduling, together with the necessary provision of resources, ensures success in project implementation.

Once this has been implemented, it is worth checking at regular intervals to see whether the existing process is being followed and/or whether it can be improved. In addition, legal requirements may mean that adjustments are needed in the future.

Adjustment of outgoing invoice processes

Lessons learned from the adjustment of the incoming invoice process can certainly be applied to the necessary adjustment of the outgoing invoice process.

Companies should use the phase until the e-invoicing requirement comes into force (1 January 2027 or 1 January 2028) to further optimise their own processes and make the appropriate technical adjustments.

In particular, we recommend examining what the optimal target process should look like for each company. Especially for companies operating internationally, the e-invoicing obligation will also arise in the future for cross-border transactions. Multinational corporations must already be able to issue e-invoices in other countries.

Companies that fail to adapt their processes and software by the mandatory date risk serious cash flow problems if no outgoing e-invoices can be issued or if customers refuse to pay because the wrong invoice was issued and the right to deduct input tax is at stake.

Test runs, formats, master data

Test runs should be carried out for both receiving and sending e-invoices – before the respective mandatory date. This gives companies time to eliminate any weak points before e-invoicing becomes a reality. It may be necessary to adapt the software used to create e-invoices in advance, because if the existing software cannot create e-invoices, the sooner alternatives are sought, the better. Multinational companies may need to look into other formats and decide whether to choose formats that are standardised across the group or country-specific. In the international context, FatturaPA or Factur-X, for example, are known and comply with the EN 16931 standard.

The master data of debtors and creditors – an area that is sometimes overlooked – is now of great importance. Companies must store the correct e-mail address for sending their e-invoices in the system. At the latest, when they receive their first e-invoice, companies must communicate their (new) e-mail address to suppliers, etc., if they have not already done so (when updating their master data).

The big solution is worthwhile

Fortunately, not all processes have to be finalised by the beginning of 2025. However, companies now have the chance to digitise their incoming and outgoing invoice processes to make them more efficient. In the future, entrepreneurs will no longer be able to avoid this. We are sure that good digital processes will also pay off in the medium and long term with regard to tax audits – this includes a functioning tax compliance management system.

We will keep you up to date on the subject of 'e-invoices' with further newsletters and webinars and support you throughout the changeover processes. Our team of IT experts and VAT specialists will be happy to answer any questions you may have and to assist you with your projects.

6. FAQ

1. What measures do companies have to take to ensure readiness to receive e-invoices from 1 January 2025?

Should companies not yet have an e-mail inbox for receiving incoming invoices, this must be set up. Companies that already have an e-mail inbox are already ready to receive in accordance with the new regulation. Please note that archiving in accordance with the principles for the proper management and storage of books, records and documents in electronic form and for data access (GoBD) must also be ensured.

2. What are the possible transmission methods for e-invoices?

E-invoices are to be transmitted electronically. This includes sending them by e-mail. In addition, they can be provided by means of EDI or as a download via a customer portal. According to the final BMF letter, the transfer of an e-invoice is now also permitted using a USB stick.

3. What are the consequences if recipients of invoices refuse to accept e-invoices or are unable to receive them?

As long as service providers have made every effort to ensure that the e-invoice is sent properly, they have no further VAT obligations.

Invoice recipients must be ready to receive e-invoices from 1 January 2025. If a company is unable or unwilling to accept e-invoices, the invoice recipient is not entitled to be issued with another type of invoice.

4. Do the e-invoicing regulations have to be met by companies registered for VAT in Germany?

VAT registration does not necessarily lead to an obligation to comply with the e-invoicing regulations. All conditions must be cumulatively fulfilled. When foreign entrepreneurs are registered for VAT there is often a lack of a domestic domicile. We recommend checking this.

5. How should contracts be dealt with as invoices?

For contracts involving recurring obligations, such as rental agreements, it is sufficient to issue an e-invoice for the first partial performance period. However, the underlying contract, which indicates that this is a recurring invoice, must be attached, if invoice details change. Overall, the mandatory invoice details must be taken into account. If the continuous invoice was already issued as a regular invoice before January 1, 2027, there is only an obligation to create an e-invoice if invoice details change.

6. Is it still possible to settle by credit notes?

There are currently no discussions about abolishing settlement by credit note. In this respect, settlement by credit note is still allowed – the e-invoice regulations must be observed. So if there is an obligation to issue an e-invoice and settlement is to be carried out by credit note, an e-credit note must be issued.

7. How are invoice corrections to be made?

Invoices must also be corrected in electronic form. The same requirements for form and content apply as defined in Section 14 of the German VAT Act (UStG). It is not permissible to transmit the missing or incorrect information in any other form.

8. Does the EUR 800,000 limit apply to the entire group of companies with regard to the transitional regulation for VAT groups?

Yes – in the case of a VAT group, the limit is to be considered on the basis of the total group turnover.

9. Do the e-invoicing regulations also apply to legal entities under public law?

Legal entities under public law are also subject to the VAT obligation to issue and the necessity to receive e-invoices under the remaining conditions.

10. Do the e-invoicing regulations also apply to supervisory boards?

Supervisory boards must also be able to receive and issue e-invoices if they are entrepreneurs subject to VAT. The decisive factor is the VAT status. The decisive factor is the value added tax status. This is to be reviewed in line with the latest case law and viewpoint of the tax authorities.

11. Do the e-invoicing regulations also apply to landlords of real estate who only generate tax-exempt turnover?

Tax-free property rentals do not result in an obligation to issue e-invoices, because rental revenues do not fall within the scope of application as tax-free revenues. However, if the option to tax liability is taken up, landlords must also issue e-invoices in the future.

However, landlords will receive incoming invoices, for example from tradespeople and service providers (e.g. for utility cost statements), as e-invoices. In this respect, landlords must ensure that they are ready to receive invoices from 1 January 2025. This also applies if only tax-exempt output turnover is generated.

12. What needs to be considered with regard to deducting input tax if, despite the e-invoicing requirement, other invoices are issued?

In cases where there was an obligation to issue e-invoices, yet other invoices were issued instead, the invoices are not deemed to be properly issued. Consequently, these other invoices do not entitle the recipients to deduct input tax, at least not from 1 January 2027 or 1 January 2028.

However, the other invoices can be corrected by issuing e-invoices. The e-invoices must explicitly refer to the other invoices issued previously and state that these are corrected versions. Provided that all other requirements are met, input tax deduction is then possible with retroactive effect to the date of the invoice.

If no correction is made, it may still be possible to deduct input tax from other invoices. However, the tax authorities must have all the information at their disposal to be able to check the material conditions for the deduction of input tax. In the long term, however, disputes are likely to arise in these cases during tax audits.

If the invoice recipient assumes that the invoice issuer has made use of transitional arrangements (transitional arrangements for sending e-invoices, see Fig. 1), the deduction of input tax will not be objected to.

13. What do I need to bear in mind when it comes to storing e-invoices?

E-invoices must be stored in a structured format (in their original form). In addition, the requirements for immutability must be met. Furthermore, it must be possible for the tax authorities to process the data electronically.

If a document sent at a later date contains records that are relevant for taxation, e.g. accounting notes, these must also be stored in their original form and it must be possible to make them accessible to the respective tax office.

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