

TAX AUTHORITY GUIDANCE ON NEW INVOICING RULES

Portugal

Dear Sir, Dear Madam,

As expected, the PT Tax Authorities issued **Circular Ruling no. 30213 of 01.10.2019**, with clarifications and interpretation on the new invoicing rules published by **Decree-Law 28/2019, February 15th**.

A new web page was also created with **FAQ's** on this matter.

We outline below the key points applicable to **non-established entities with VAT register in Portugal** (hereinafter "**non-established entities**") with a focus on invoices issued for VATable operations by software programs.



Catarina Mantero

What are the legal means to process invoices in Portugal under the new rules?

- Invoicing software programs;
- Other electronic means, namely register machines, electronic terminals or electronic scales;
- Pre-printed documents by authorized typography.

When is it mandatory to use invoicing software certified by the PT Tax Authority?

It was now clarified that the use of an invoicing programme certified by the PT Tax Authorities will be required for both **established** and **non-established entities** whenever **one** of the following conditions is met:

- (i) the entity reached, in the previous civil year, a turnover superior to € 50K (this limit is € 75K for 2019 regarding 2018 turnover);
or,
- (ii) the entity uses an invoicing software program; or,
- (iii) the entity has organized accounting in Portugal.

The use of certified software can be complied, without penalties, until January 1st, 2020, by established entities. **Non-established entities with VAT register in PT are only bound to this duty starting January 1st, 2021**, considering transposition, to Portuguese Law, of article 2 of Council Directive (UE) 2017/2455, of December 5, 2017, regarding electronic commerce.

What are the new invoice processing requisites which should concern non-established entities?

The Tax Authority's guidance identifies **3 specific processing requisites** with significant importance:

- Invoices (and national transport documents) must bear a **QR barcode and a unique document code** from January 1st, 2020.

In this respect, it remains doubtful if this obligation applies solely to invoices issued from certified invoicing software or to all invoices processed by software programs regardless of such programs being certified or not. The wording of the law seems to cover all invoices processed by software programs and electronic means (not limited to certified software) and the wording of the administrative guidance seems to further extend this obligation to paper invoices. Since this obligation is dependent on further regulation by governmental order, its scope may only be fully comprehended at time of publication of the new rules, but further clarifications should be sought on this by both tax advisors and economic operators.

- Invoices (and national transport documents) must be issued sequentially within one or more series and **each series must be kept by a minimum period of 1 year.**
- Invoices (and national transport documents) should be kept in a data base, including annulled documents.



Catarina Mantero

Means to prove e-invoices
authenticity and integrity

E-invoices must be accepted by the recipient and **ensure** the **authenticity of their origin** and the **integrity of their content**. The authenticity and integrity are presumed in case of use of a qualified electronic signature, qualified electronic stamp or European EDI Agreement, however, it is now clearly stated by Tax Authorities that taxable payers are free to use any other technologies provided they secure the authenticity of origin and integrity of content of e-invoices (many taxable persons avoided the use of other technologies and typically used either electronic signature or EDI as these were specifically addressed by the law as secure technologies).

Non-established entities can bookkeep paper and e-invoices and remaining support documents in any EU Member-State.

Starting January 1st, 2020, **authorization for non-established entities to archive paper or e-invoices outside the EU** needs to be obtained from the PT Tax Authorities by means of an online request in the Tax Portal. Previous authorizations can be kept for a 5-year period after the entry in force of the new legislation, i.e. 16.02.2019.

Non-established entities will also need to report the central place of storage of invoices either in the declaration of commencement of activities or by filing and amendment to this declaration. There is a 30 days deadline to comply with this obligation, but this deadline only starts counting on the date of publication of the government order which will change the declaration of commencement of activities form and respective amendment declaration form.

Archive of Invoices

Invoice digitization

This Decree-Law delivers **substantive changes** in this matter considering that it is now possible for the invoices in paper, issued before and after the entry into force of the Decree-Law, to go through the **procedure of invoice digitization** and, consequently, **archive** in electronic form. The invoices reproduced through print of an electronic copy have the **equivalent proof value of the originals**.



Catarina Mantero, Água Preta

Do you have doubts? Email us at communications@belim.pt.

Contributors:

Catarina Belim | Pedro Seabra Caeiro