

BENELUX VAT-GAP COLLOQUIUM

12/03/2024

BRIDGING THE VAT COMPLIANCE GAP: CONCRETE MEASURES

PRESENTATIONS



**VINCENT
VAN PETEGHEM**
Deputy Prime Minister and Minister of Finance,
in charge of the Coordination of the Fight against Fraud



Présidence belge
du Comité de Ministres
Belgisch Voorzitterschap van
het Comité van Ministers



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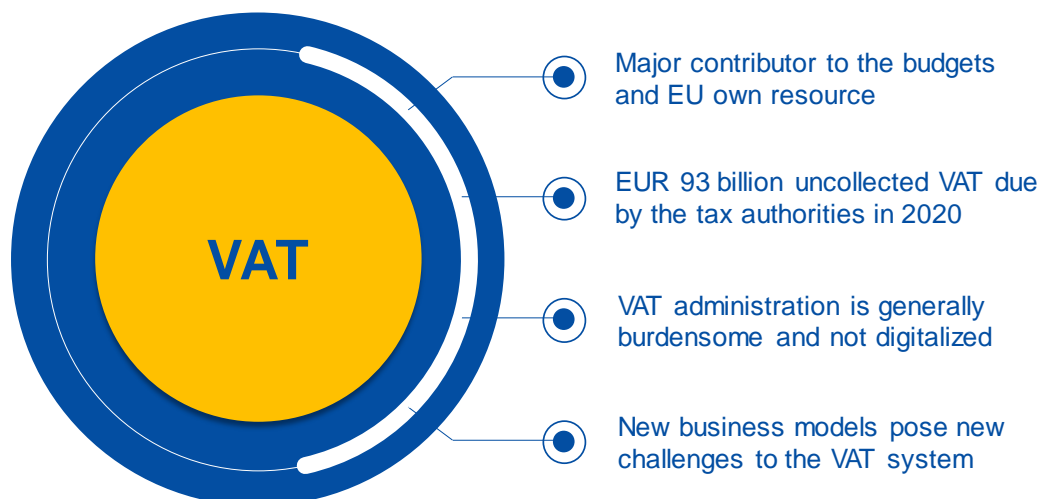
VAT in the Digital Age (ViDA)

2nd Benelux Colloquium “VAT GAP”

12 March 2024

Ludwig De Winter

Context



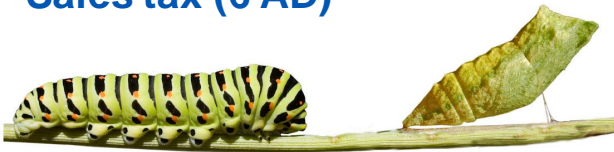
Why ViDA?

VAT in Digital Age (2022)

VAT in the Single Market (1993)

VAT (1954)

Sales tax (6 AD)



30 years

Photo from www.undp.org

Overview of ViDA proposal

Pillar 1

Introduction of Digital Reporting Requirement (DRR)

Introduction of DRR for intra-EU supplies and ensuring interoperability



Pillar 3

Single VAT Registration

Reducing the need for business to register in another Member State



Pillar 2

Platforms in transport and short-term accommodation sectors to account for the VAT rather than underlying supplier

Deemed supplier in Platform economy



Legislation

- VAT Directive
- Implementing Regulation
- Admin. Coop. Regulation

A legislative package with three parts



PILLAR 1:

Digital Reporting Requirement (DRR)

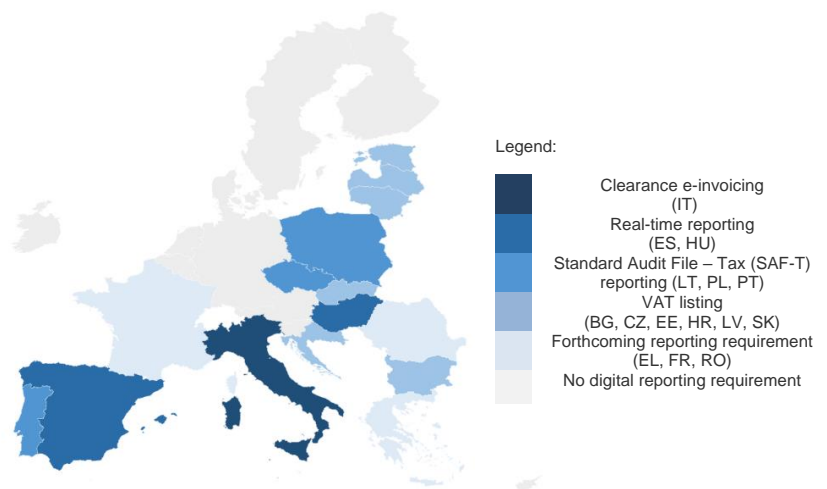
& e-invoicing

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Context – Reporting of domestic transactions

- Member States are **free to implement** reporting systems, without any guidance.
- Wide range of domestic DRR leads to **fragmentation** across the EU, translating into significant burden for businesses and inefficiency in cross-border controls.
- EU legislation prohibits Member States from applying mandatory e-invoicing, forcing MS to apply sub-optimal systems



Digital Reporting Requirements in the EU (2020)



Context – Reporting of Intra-Community transactions

- Same reporting system since 1 January 1993
- Data aggregated monthly or quarterly
- Reporting of acquisitions of goods optional for Member States
- Low quality of the data reported
- Difficulties to cross-check the data and perform risk analysis

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DRR – what does it do?

- Replacing recapitulative statements with mandatory transaction-based Digital Reporting Requirement (DRR) for intra-Community transactions
- Similar pattern for reporting of domestic transactions but optional for Member States
- E-invoicing becomes the default system for issuing invoices
- Central database for the exchange of information between Member States on intra-Community transactions (central VIES)

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DRR – intra-EU vs Domestic

Intra-EU as of 2028

- Replaces VIES – No overlapping of systems
- E-invoicing mandatory for transactions covered by the reporting obligation
- Same transactions and taxpayers that were covered by the VIES reporting
- Only a subset of data from the e-invoice to be reported
- Data format will be European standard or other interoperable formats
- Reporting by supplier and acquirer/customer

Domestic

- Optional for Member States
- New reporting requirements will have to follow the features of the DRR for intra-EU transactions
- Existing reporting requirements will converge to the EU DRR by 2028
- Data formats: European standard allowed in all reporting systems



DRR for intra-Community transactions Data and transmission

- Reporting transaction by transaction
- Same data as in recapitulative statements plus payment details and reference to invoice rectified
- The data to be reported will be the same in all Member States
- Up to two days for the transmission of the data by the taxable person
- Data format will be European standard or other interoperable formats



DRR for domestic transactions

- Optional for Member States
- New reporting requirements will have to follow the features of the EU DRR
- Existing reporting requirements will converge to the EU DRR by 2028
- Member States can decide taxpayers and transactions covered
- Data formats: European standard allowed in all reporting systems
- No other reporting obligations outside those allowed by the VAT Directive

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E-invoicing: situation from the date of entry into force of the Directive (2024)

- E-invoices need to be in a structured electronic format
- Member States will be able to impose mandatory e-invoicing
 - More flexibility for Member States
- The European standard will be accepted in all Member States

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E-invoicing: situation from 2028

- E-invoices need to be in a structured electronic format
- E-invoices mandatory for transactions covered by a reporting obligation
- Member States may impose e-invoicing for transactions not reported
- Acceptance of European standard
- Inclusion in invoice of payment details and identification of rectified invoice

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DRR for intra-Community transactions Administrative cooperation

- Creation of a new database: central VIES
- Taxable persons only report to their national tax administration
- National tax administrations send the data on intra-Community transactions to the central VIES
- Data format based on European standard
- Cross-checking of reported supplies and acquisitions

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Digital Reporting Requirements - impact

Implementation costs of DRR: EUR 11,3 billion (businesses) and EUR 2,2 billion (tax administrations)



EUR 139 billion net benefits (2023-2032)



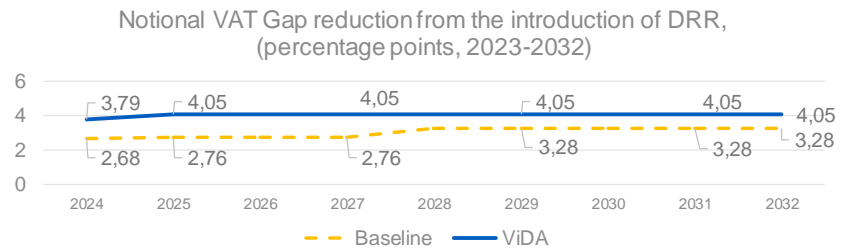
EUR 111 billion additional VAT revenue (2023-2032), also contributing to the VAT Gap reduction



EUR 41,4 billion savings (pre-filled VAT returns, fragmentation, recapitulative statements, e-invoicing)



Other benefits: e.g. optimised value chains, quicker invoicing processes, and business automation



Points for discussion

- Way of transmitting information and checks to be carried out
- Summary invoices
- Invoice issuance/reporting deadline (2 days – 10 days)
- Acceptance invoice
- Acquirer reporting
- Date of implementation

Thank you

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E-INVOICING



DOMESTIC B2B E-INVOICING IN BELGIUM



1.200.000 (99,5% of total)



1/1/2026

WHAT IS E-INVOICING?

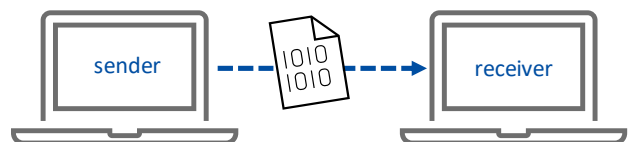
~~PDF~~



WHAT IS E-INVOICING?



Structured
Electronic
Invoice

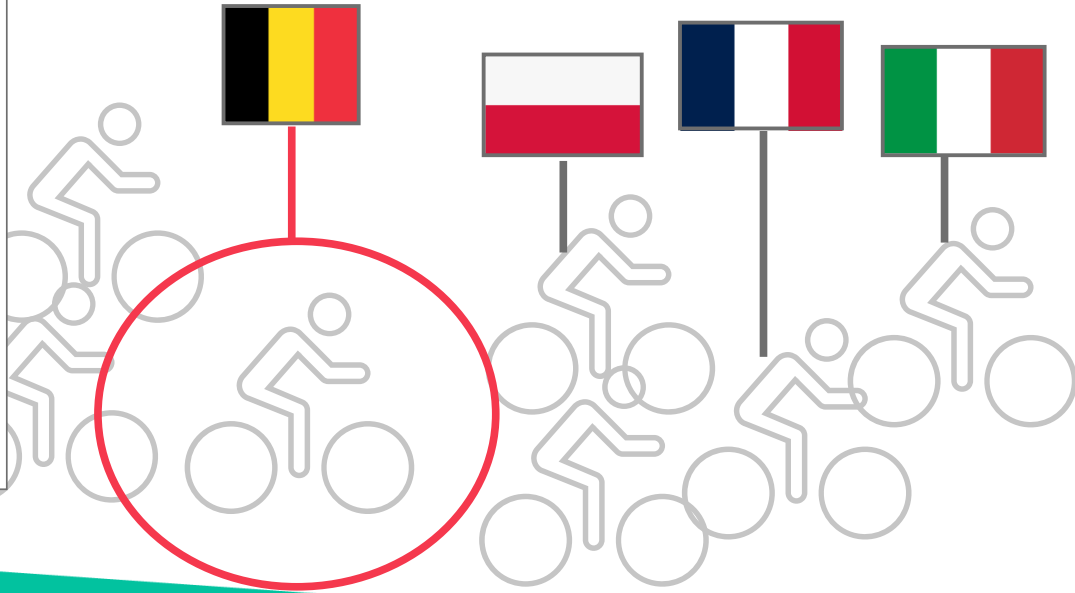




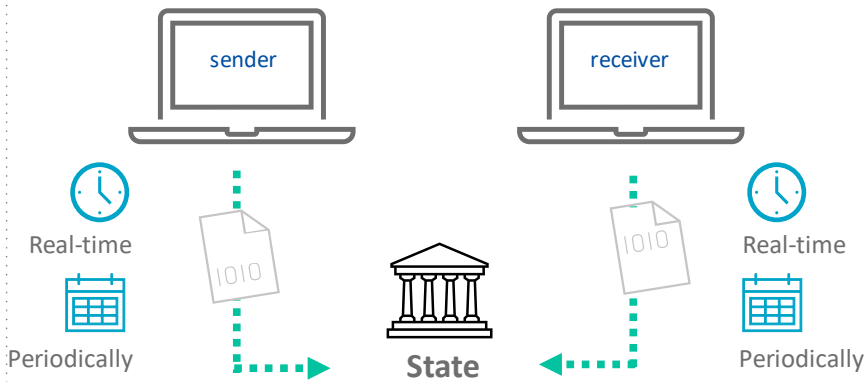
E-INVOICING IN EUROPE

Countries in Europe

- ✓ Approval required by European Commission
- ✓ Objective = Simplifying VAT collection
- ✓ Objective = Avoiding tax fraud or tax evasion



WHAT IS E-REPORTING?



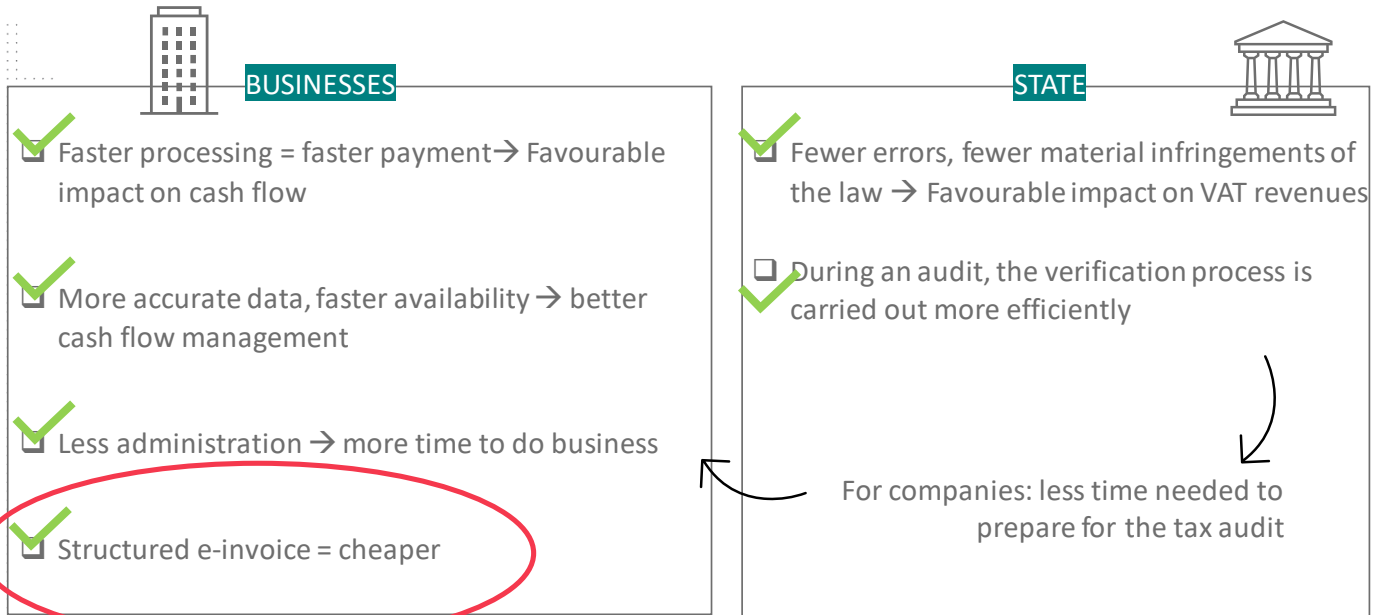
Obligation e-Reporting

~~✓~~ Approval required by European Commission

✓ Can be implemented separately from e-invoicing

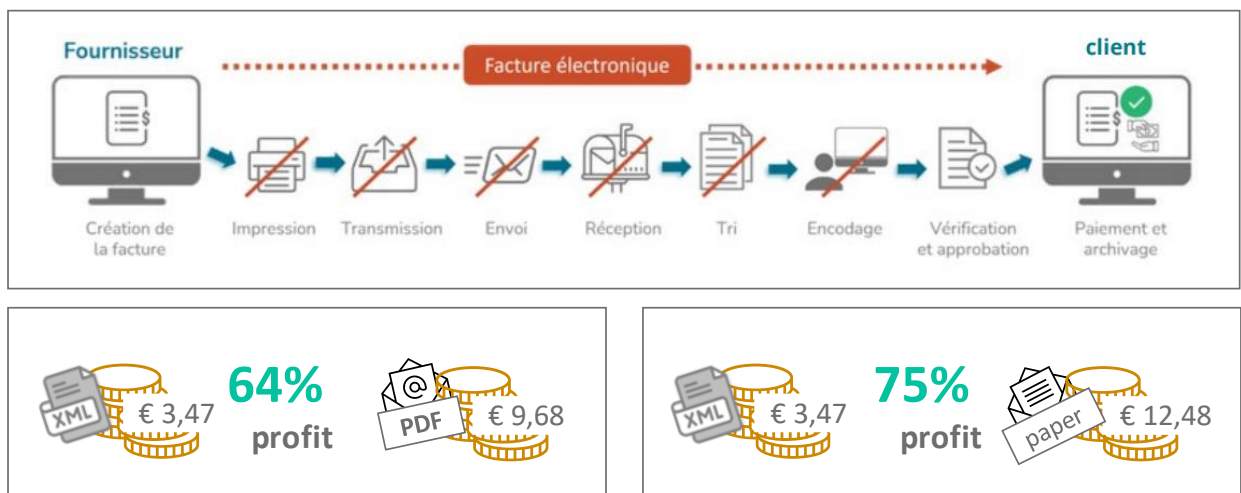
Without e-invoicing at the core, e-reporting increases the administrative burden on companies !

WHAT ARE THE BENEFITS OF E-INVOICING?

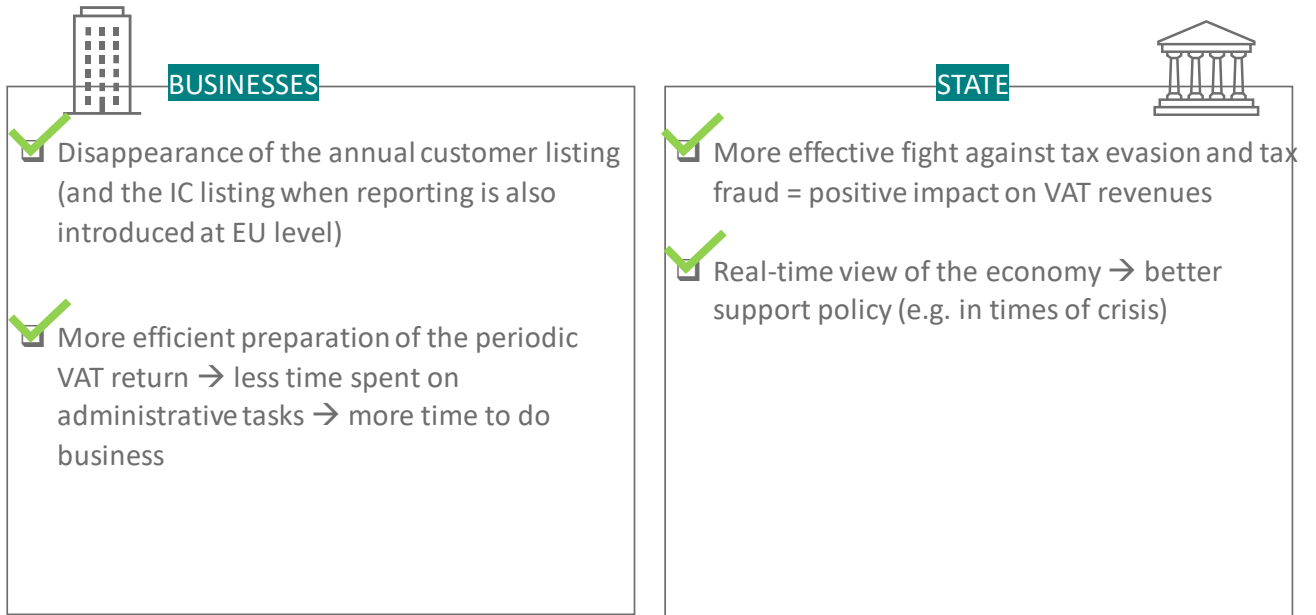


A STRUCTURED E-INVOICE IS CHEAPER

AUTOMATION from START to FINISH

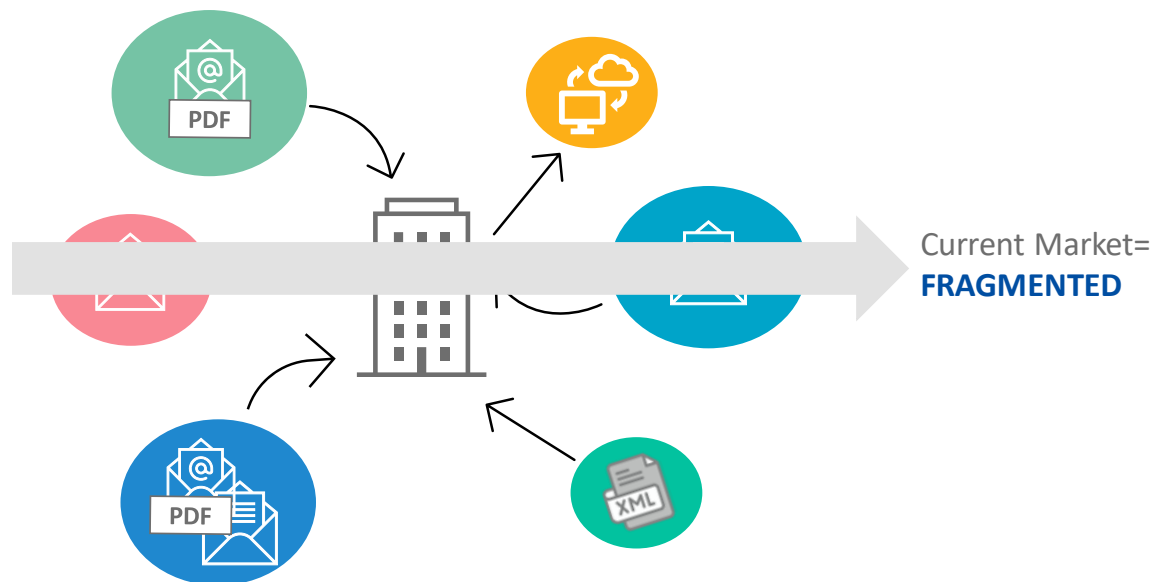


WHAT ARE THE BENEFITS OF E-REPORTING?



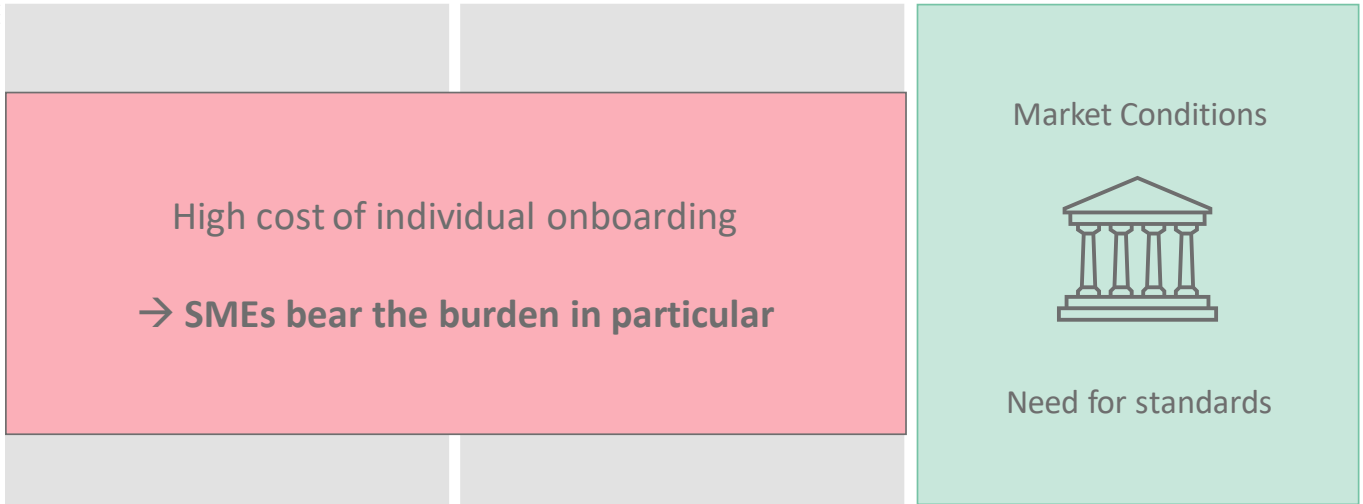
HOW WILL E-INVOICING WORK IN PRACTICE?

DIGITALISATION
= simplify





ROLE OF THE STATE



EUROPEAN STANDARDS

Layer	Content	Comparison	EU Standard
Semantics	Meaning of Words + Validation Rules	Vocabulary + grammatical rules	EN16931
Technical	Specifications for linking systems	Telecom network	eDelivery

WHY NOT E-MAIL?

Several vulnerabilities exist within email systems:

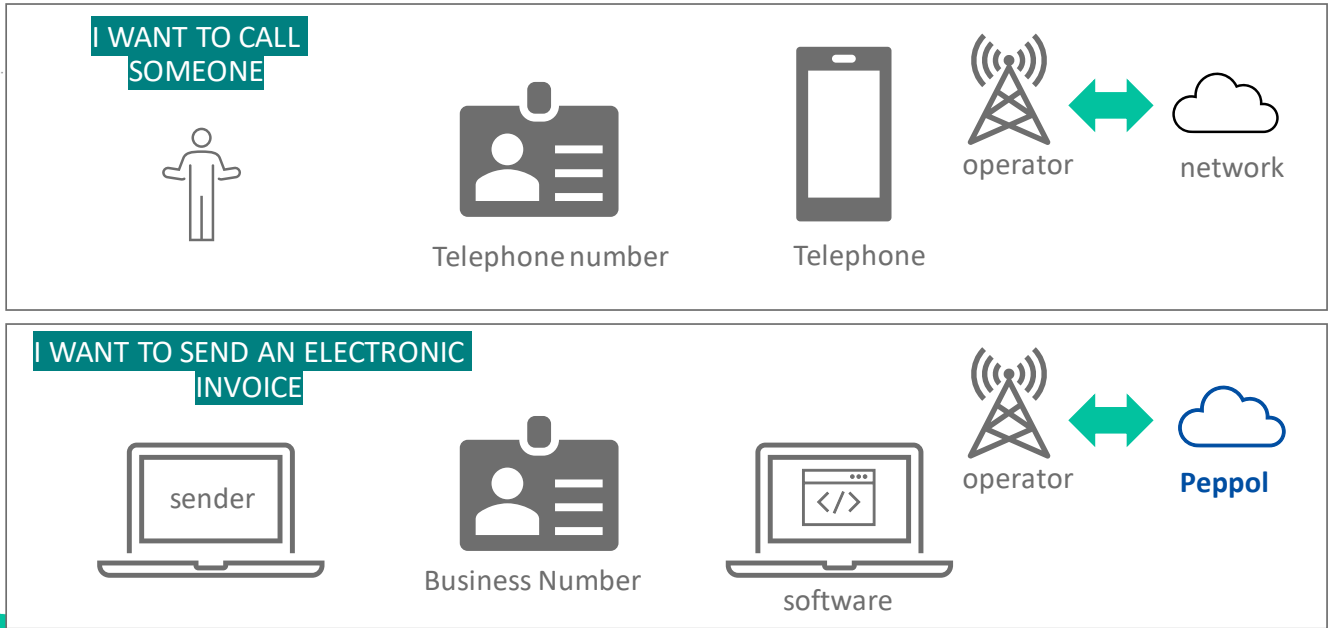
- **Phishing**
- **Spoofing**
- **Man-in-the-Middle Attacks**
- **Weak Authentication**

→ Flexible, but vulnerable

HANDLING TRANSMISSION

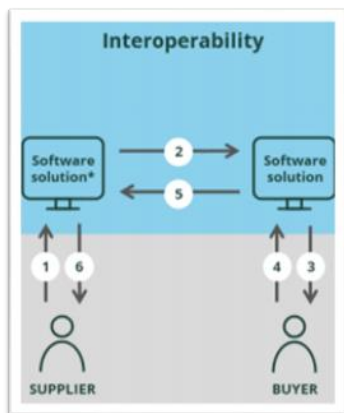
- Objective: no party can impose its own system/platform to the other party
- To fulfil that objective, we need to agree on a common denominator
- Preference for open, international standards, instead of closed networks/ecosystems
- Belgium has chosen the Peppol Network as common denominator for domestic transactions (B2B + B2G)
 - Peppol BIS format is fully compliant with EN16931
 - Peppol is an eDelivery network

PEPPOL NETWORK



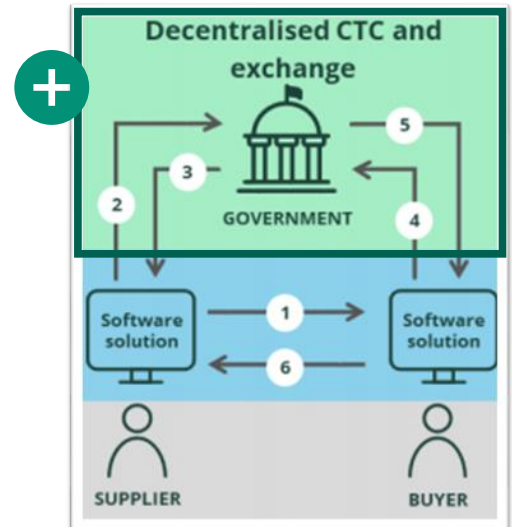
SHORT-TERM AND LONG-TERM

2026



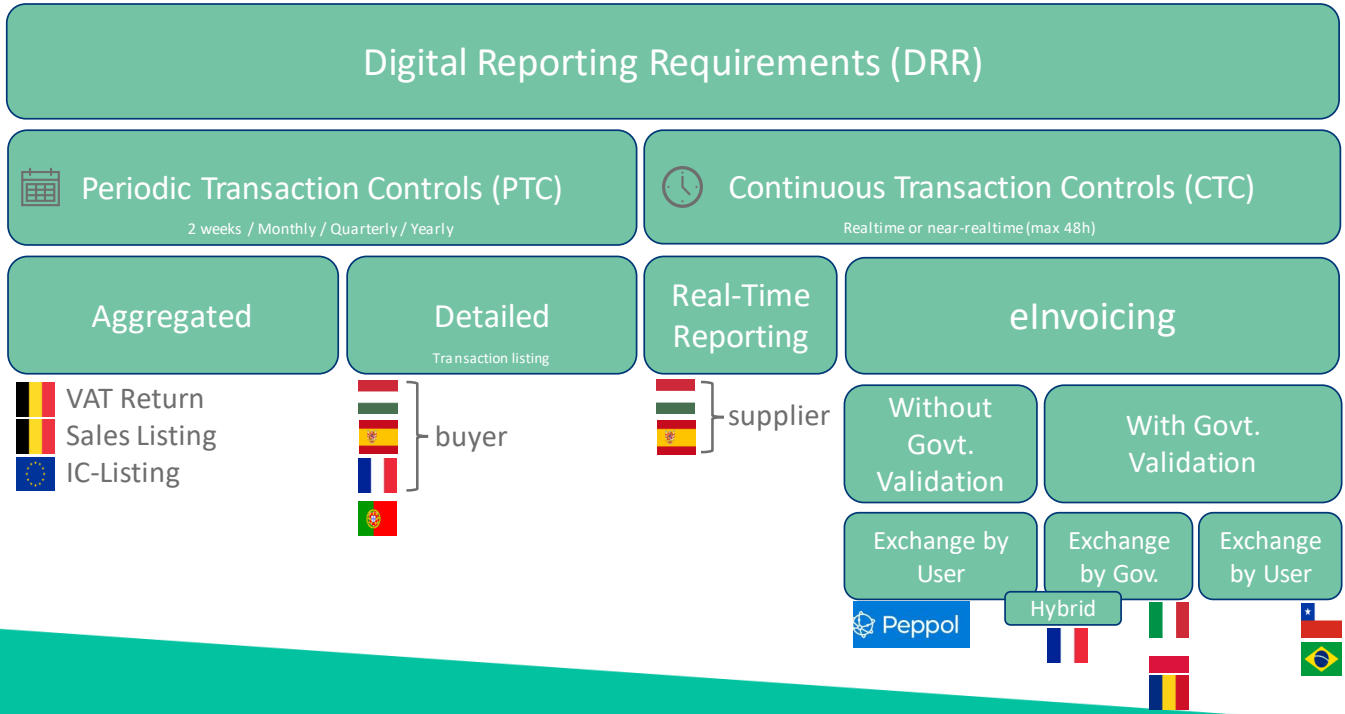
ELECTRONIC
INVOICING

2e phase

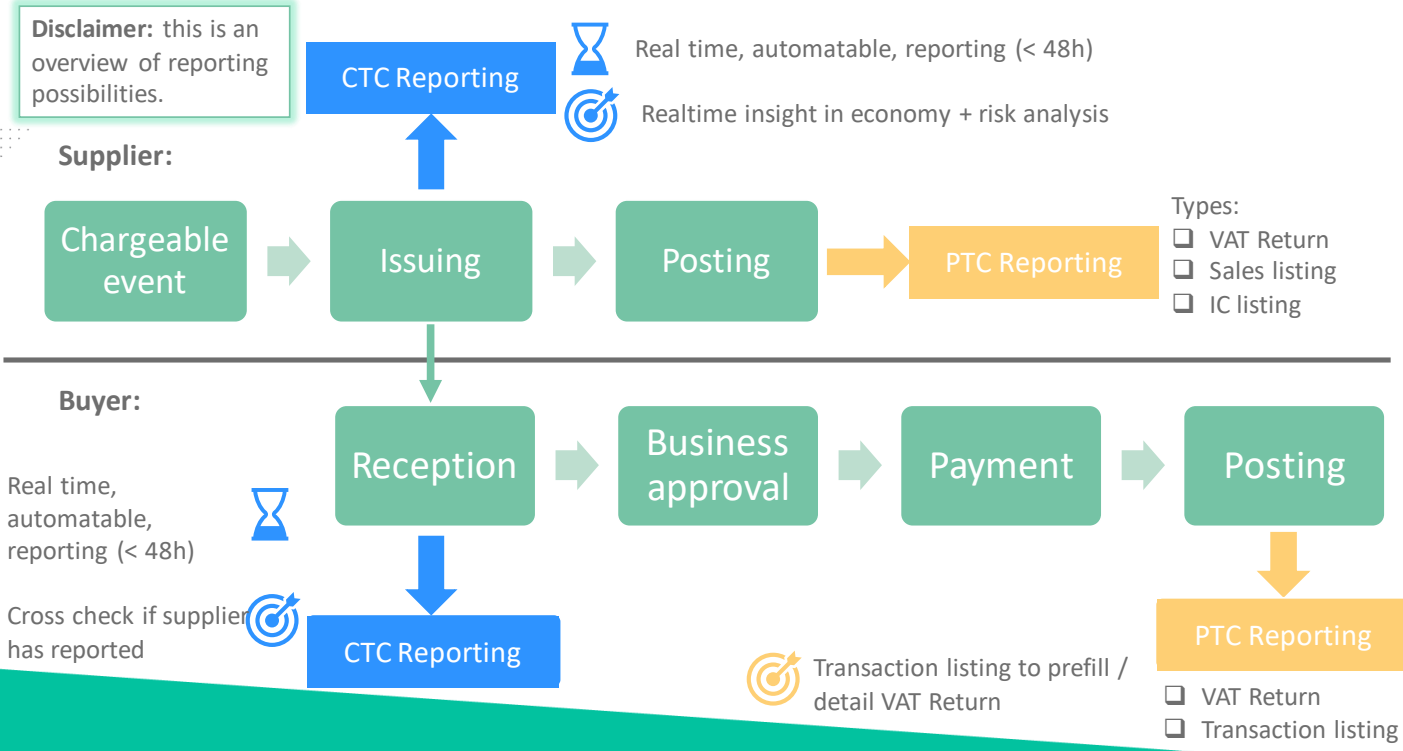


ELECTRONIC INVOICING
+ E-REPORTING

E-REPORTING



LIFECYCLE OF AN E-INVOICE (MAIN MILESTONES)





Service Public
Fédéral
FINANCES

FISCALITÉ

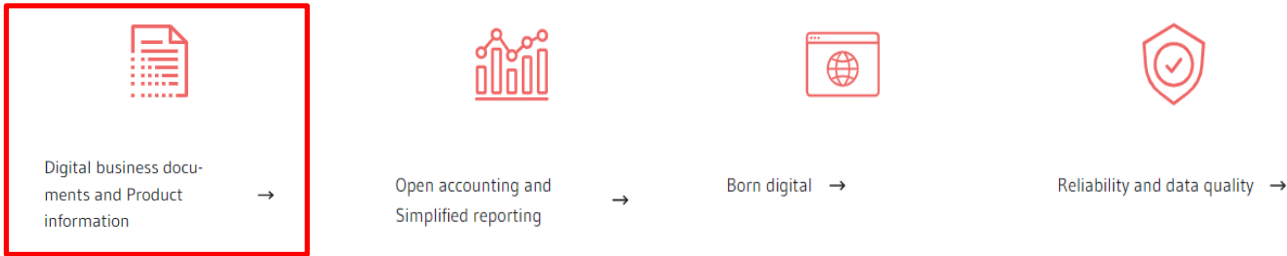
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FISCALITÉ • SERVICE PUBLIC FÉDÉRAL FINANCES

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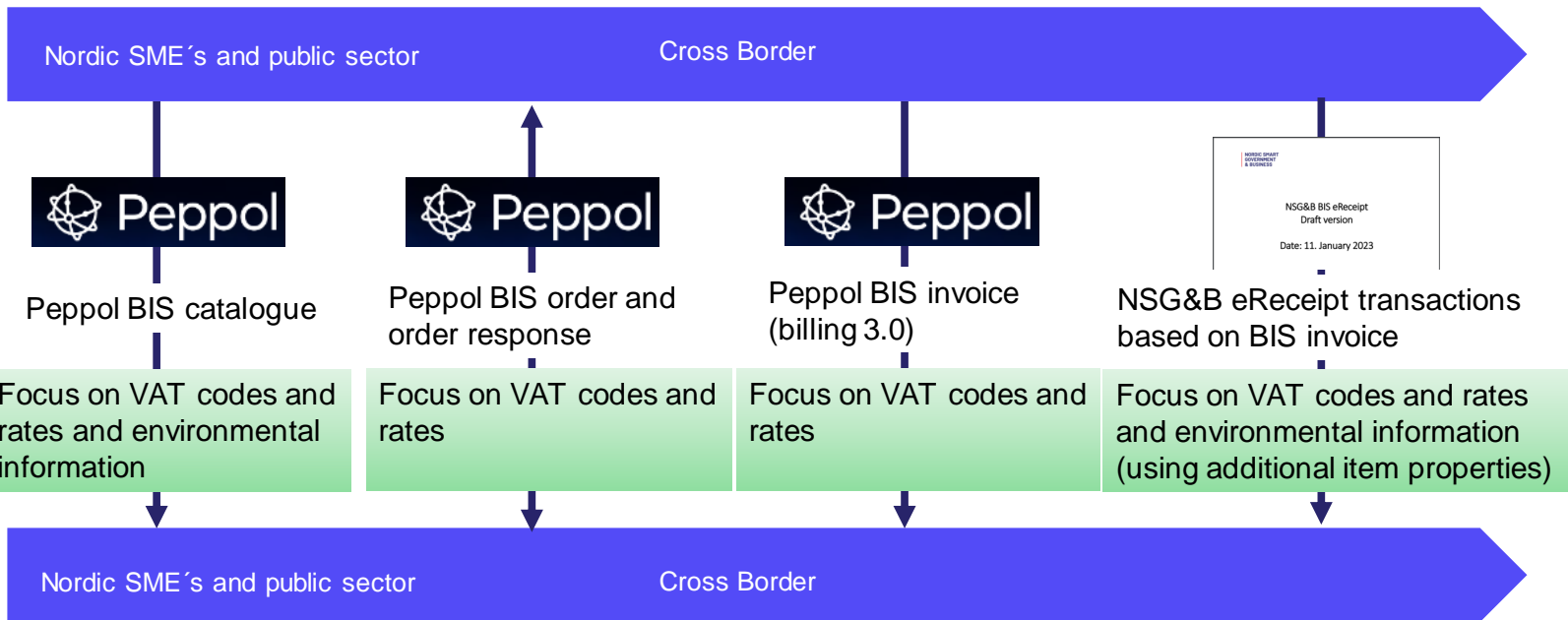
Nordic Smart Government and Business

The vision of NSG&B is to create value for the SMEs by making real time business data accessible and usable for innovation and growth across the region, in an automatic, consent based and secure manner.



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SA-A Digital Business Documents & Product Information

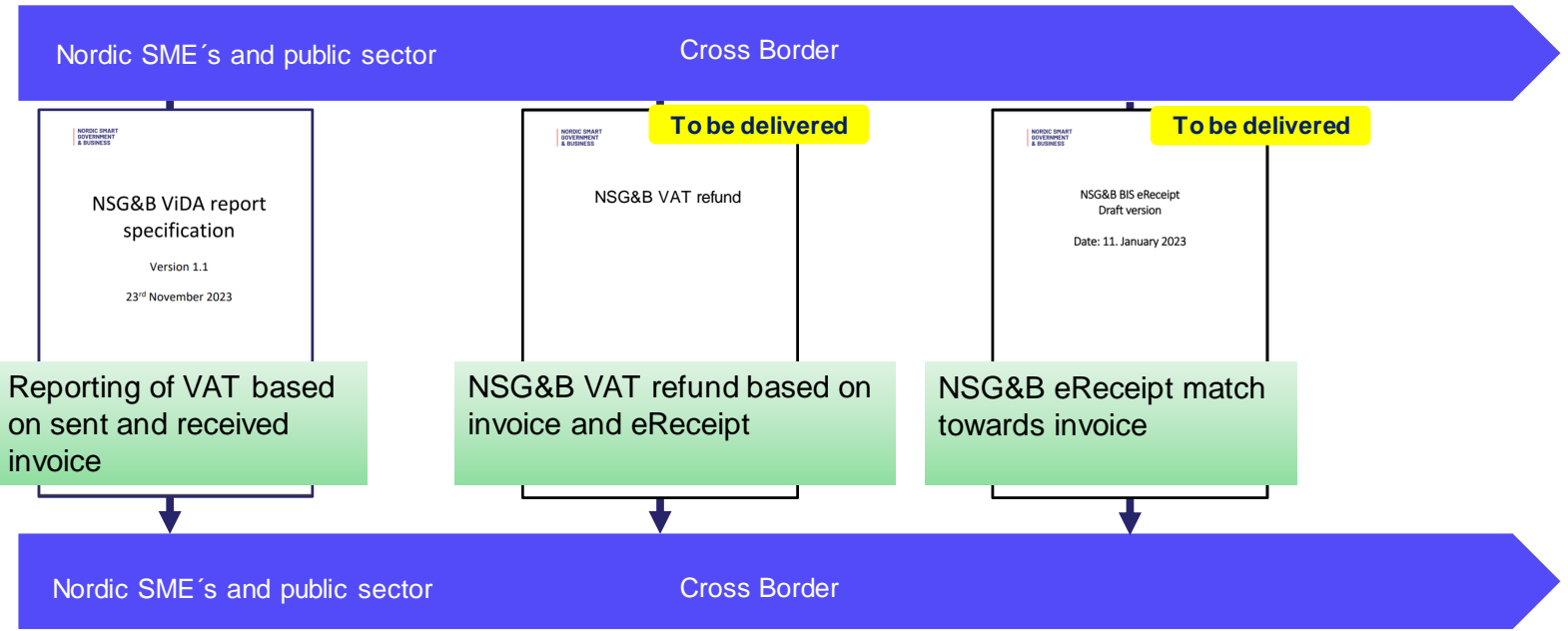


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Based on the findings, SA-A has produced a paper as a guide on cross border VAT codes and rates

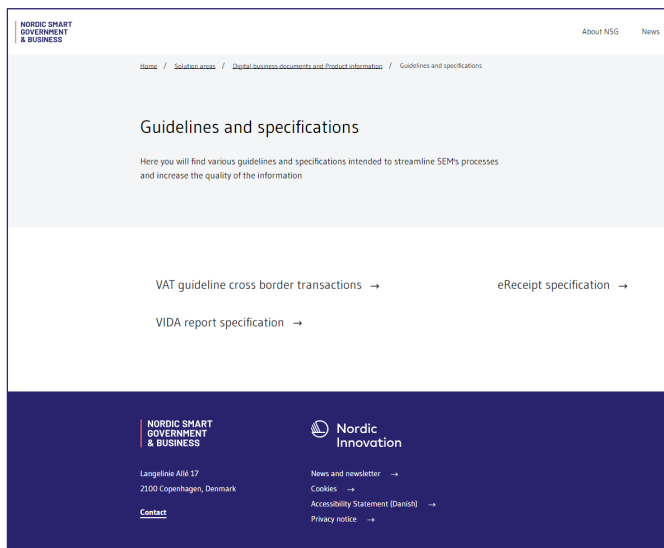
Have started work on a matrix, as a service to SMEs, based on standard product classification and VAT codes and rates (national and cross border)

SA-A Digital Business Documents & Product Information

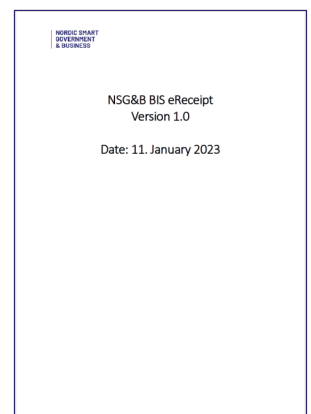
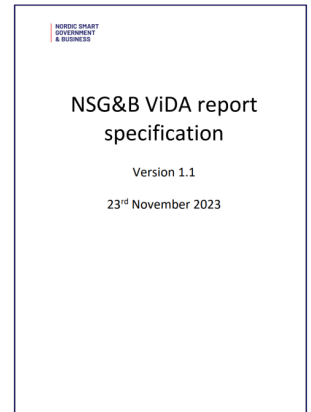
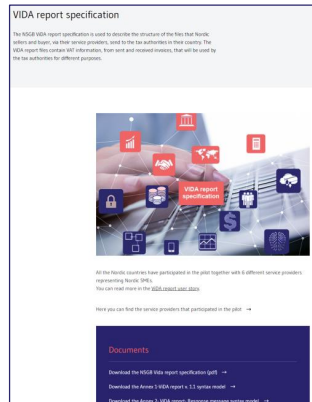


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NSG&B specifications created and used by SA-A in the pilots



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NSG&B user stories, guideline based on findings in the pilots and service provider list, so SMEs find services provided in the marked

Get started – use digital solutions based on standard e-documents

It's about simplifying and streamlining your business. Make time and create space for what you love to do and do best – developing your business and business relationships.

Digital solutions and e-documents give you as a business owner many advantages. They create the opportunity for efficient internal processes that increase your competitiveness and raise the digital ability and level of your business.

Below we go through four different user stories – eInvoice, eCatalogue and eReceipt – and describe how your business can take advantage of the opportunities that exist and create a more efficient and smoother everyday business life.


If you do not currently use a digital business solution, it's our strong recommendation that you start! Hopefully, these examples will inspire you to get started.

User stories

- VIDA report - user story
- Catalogue - user story
- Order and order response - user story

VAT guideline cross border transactions

The VAT guidelines demonstrates for SMEs and for accountants how Peppol-documents and a more accurate and precise use of VAT add value. It's important for sellers, buyers or an accountants to know how cross-border sales should be indicated - and the VAT-guidelines suggests a more precise and accurate use of these VAT-codes in the future.



The VAT-guidelines can be used by operators and solution providers and demonstrates how to improve services in order to benefit from a more accurate and precise use of existing VAT codes.

1. Introduction
2. Proposal - Between EU member states
3. Proposal - Between EU member states and EFTA/EØS:
4. Proposal - VAT in special situations

SENDING e-documents across the Nordic borders

The list below shows service providers (procurement systems) that have services that support different processes using Peppol BIS and Peppol Network for cross border transactions in NSG&B pilot activities using NSG&B specifications.

Purpose of the list

The purpose of the list is to show service providers that have services that cover directly or indirectly the processes for Nordic buyers and sellers. The list makes it easier for Nordic SMEs to find and use services that will streamline their internal processes. All service providers (procurement system providers) can be added to the list if they are compliant with Peppol BIS using Peppol Network to send and receive transactions. NSG assumes that service providers who wish to be registered in the list can offer services that are in accordance with these requirements.

Name Service provider (procurement system)	Operating in	Peppol BIS Catalogue	Peppol BIS ordering	Peppol BIS order only	Peppol BIS billing and create	Completed NSG&B pilot eReceipt	Completed NSG&B VIDA report pilot
SDMarket (Invoiced Systems) Phone: SE: +46 76232032 Mail: commercial@sdmarket.com Web: www.sdmarket.se For automatic issuing invoice service use eSender and for automatic receiving invoice service eReceiver to send/receive Peppol transactions through a procurement system. For users who don't integrate with their ERP the on-line platform can be used for handling send/receiving invoices.	Operating in: SE	Send and Receive	Send and Receive	Send and Receive	Send and Receive		
Credflow AB Customer service Phone: +46 8 578 604 00 Mail: sales@credflow.se Web: www.credflow.se Credflow AB needs to be connected to a procurement system, which we can help with.	Operating in: NO, SE, FI, DK	Under development	Send and Receive	Send and Receive	Send and Receive		
D&E Core Oy Mika Lamm Phone: +358 40 5026375 Mail: mika.lamm@decore.com Web: www.decore.com	Operating in: Originally Finland, but we provide services to all Nordic countries.	Send and Receive	Send and Receive	Send and Receive	Send and Receive		

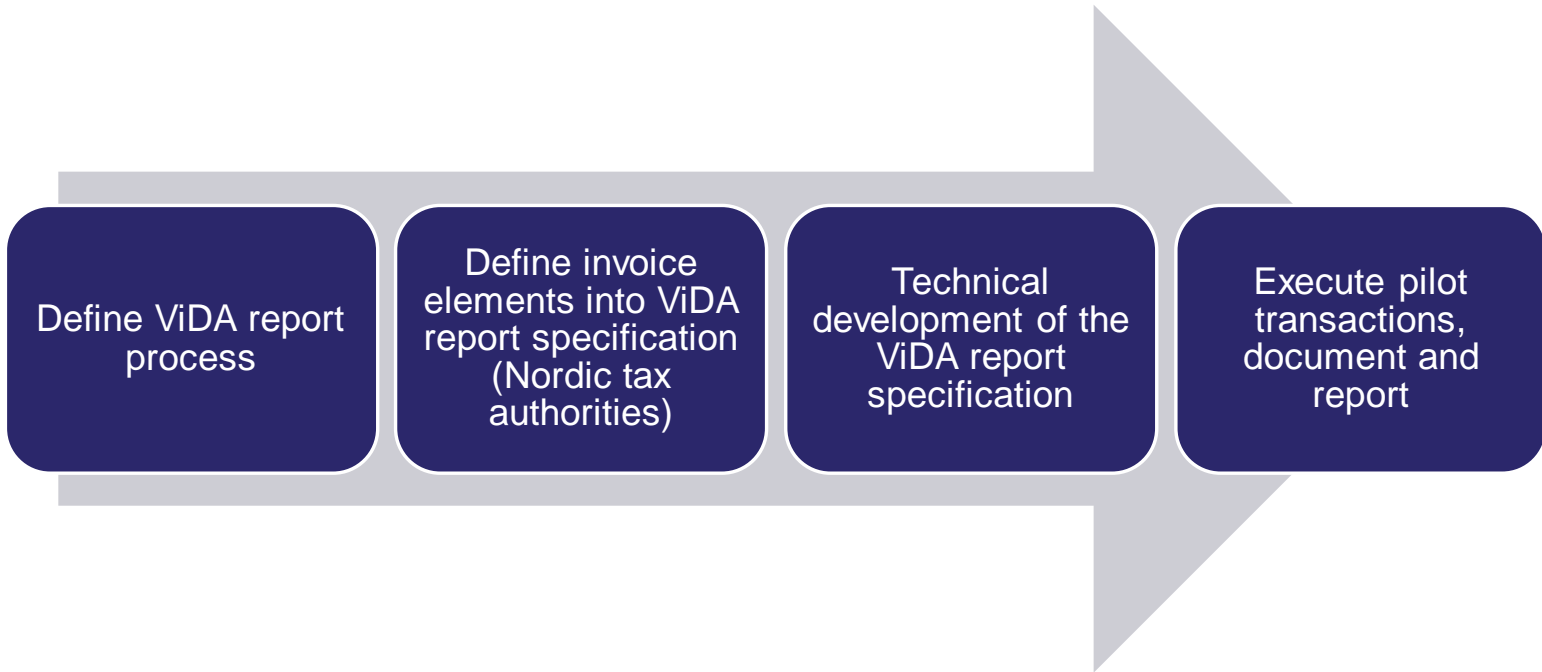


SA-A Digital Business Documents & Product Information

ViDA report pilot

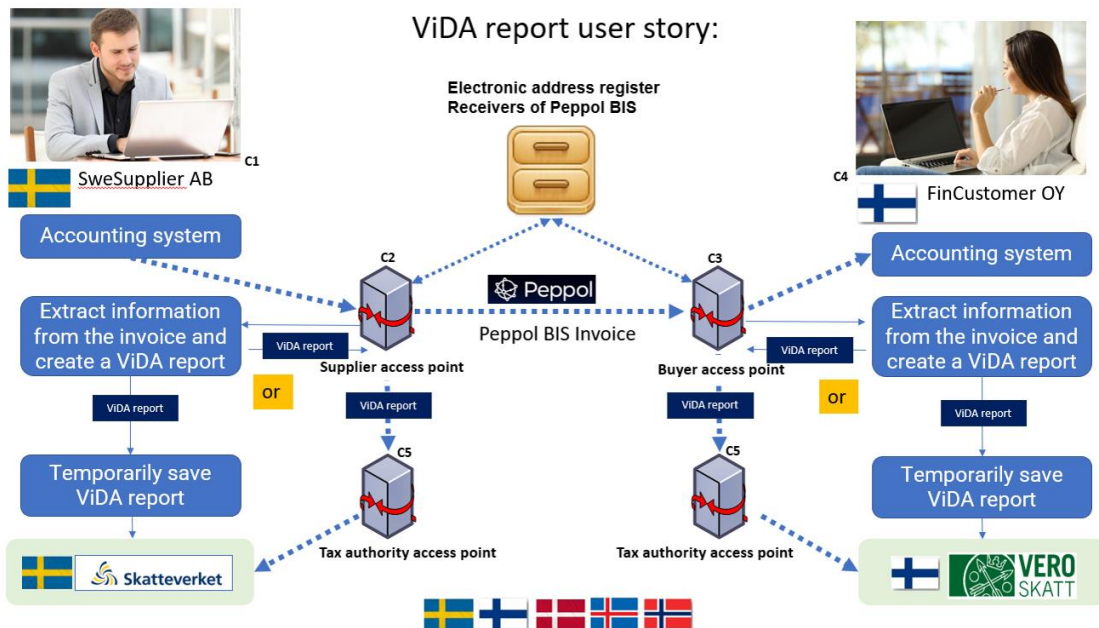


NSG&B ViDA report pilot



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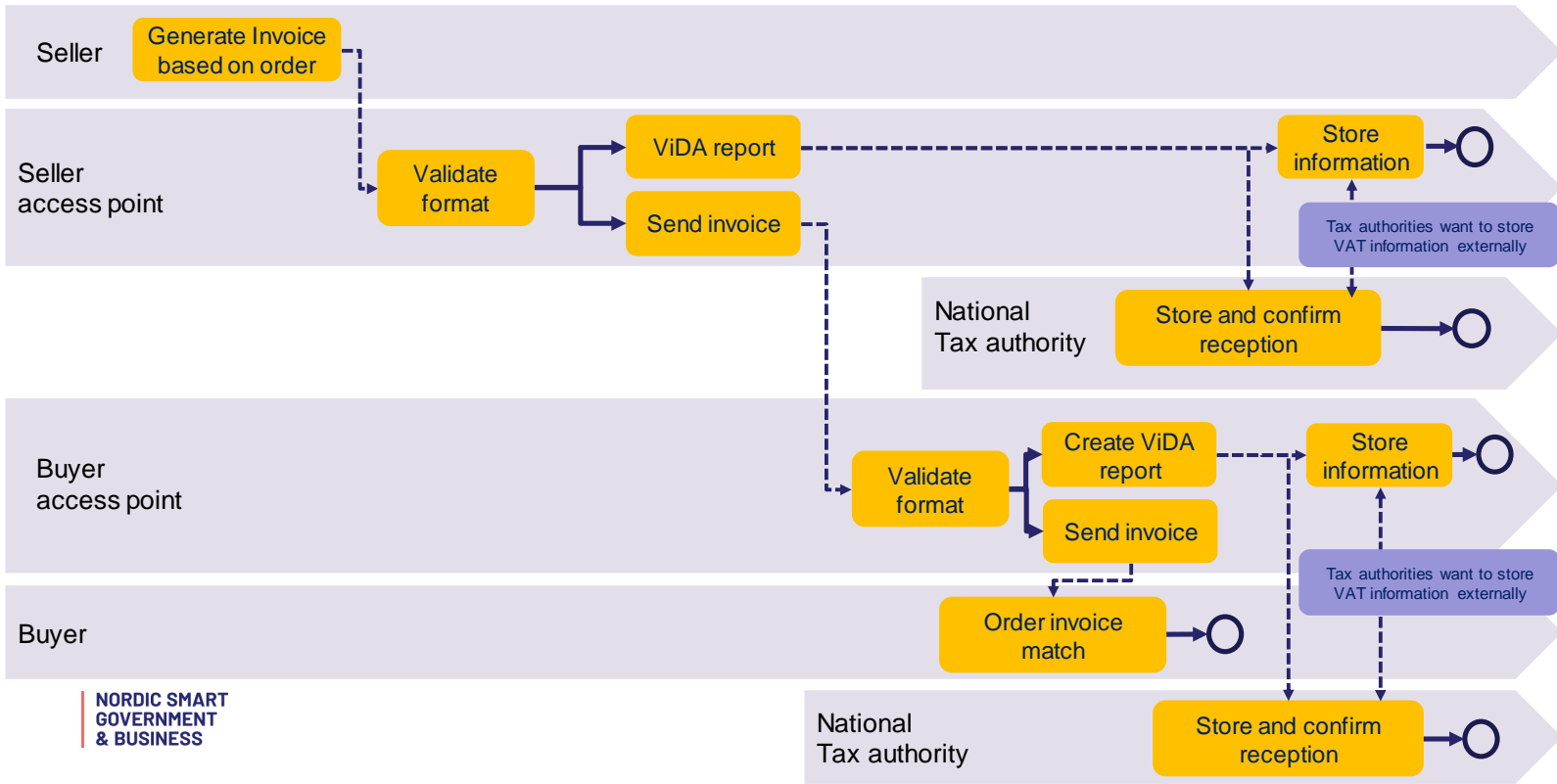
ViDA report pilot- picture from user story



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<https://nordicsmartgovernment.org/vida-report>

SA-A ViDA report pilot process



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Define elements in ViDA report specification from BIS invoice

SA-A has, in collaboration with Nordic tax authorities, statistics authorities and service providers, identified elements from invoice that are according to ViDA and useful for increased quality of financial information and control.

Nordic tax authorities have carried out a review and given their comments.

Line Nr.	Level	Cardinality	Element	Name	Description	Include/Exclude	ViDA requirements	Comments	Is report include?	Is report (to DRI requirement)	Is report Tax relevant	Is report Comments	Is report include?	Is report Comments	Is report include?	Is report Comments	Is report include?	Is report Comments	Is report include?	Is report Comments
0	g	1..1	ViDACustomizationID	ViDA Tax report header	ViDA Tax report header	NEW														
0	o	1..1	ViDAProfileID	ViDA Tax report header	ViDA Tax report header	NEW														
0	o	1..1	ViDAID	Identifies the ViDA Tax report	Identifies the ViDA Tax report	NEW														
1	+	1..1	cbcCustomizationID	Specification identifier	An identification of the specification containing the total set of rules regarding semantic context, cardinalities and business rules to which the data contained in the instance document conforms.	YES		Concat of four fields from the original invoice cbcCustomizationID cbcProfileID cbcID cbcIssueDate												
2	+	1..1	cbcProfileID	Business process type	Identifies the business process context in which the transaction appears, to enable the Buyer to process the invoice in an appropriate way.	YES														
3	+	1..1	cbcID	Invoice number	A unique identification of the Invoice. The sequential number required in Article 236(2) of the directive 2006/112/EC, to uniquely identify the invoice within the business context, time frame, operating systems and records of the Seller. No identification scheme is to	YES	Article 228 (1)(2)	cbcID cbcIssueDate cbcDueDate cbcInvoiceTypeCode cbcNote cbcTaxPointDate					Yes							
4	+	1..1	cbcIssueDate	Invoice issue date	The date when the invoice was issued. Format "YYYY-MM-DD"	YES	Article 228 (1)(1)						Yes							
5	+	0..1	cbcDueDate	Payment due date	The date when the payment is due. Format "YYYY-MM-DD". In case the Amount due for payment (BT-E15) is positive, other the Payment due date (BT-E16) or the Payment terms (BT-20) shall be present.	YES	New added 226 (1)(18)						Yes							
6	+	1..1	cbcInvoiceTypeCode	Invoice type code	A code specifying the functional type of the Invoice.	YES							Yes							
7	+	0..1	cbcNote	Invoice note	A textual note that gives unstructured information that is relevant to the Invoice as a whole such as the reason for any correction or assignment note in case the invoice has been factored.	NO														
8	+	0..1	cbcTaxPointDate	Value added tax point date	The date when the VAT becomes accountable for the Seller and for the Buyer in so far as that date can be determined and differs from the date of issue of the invoice, according to the VAT directive. This element is	YES	228 (1)(1) rule to prioritise cbcID						Yes							

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Pilot plan

TEST DESCRIPTION:

Test Case	Data/system Preconditions	Steps	Expected result
Information related to VAT is communicated from the sending and receiving access point to the tax authorities	<ol style="list-style-type: none"> 1. Profile IDs for Peppol BIS invoice (billing 3.0) are registered in SMP 2. Buyer is registered in SMP, as receiver, with Profile ID for Peppol BIS billing 3.0. 3. The technical specification for the ViDa report is known by the access point and mapping functionality is established 4. If response message for received ViDa report from tax authorities via access point, profile IDs for response message is registered in SMP (optional) 5. Receiver of ViDa report are registered in SMP 6. If the tax authority is to retrieve the ViDa report from the access point's database or xml files, this database or xml files must be created and available to the tax authority of the ViDa report 7. The parties ERPs and access points are up and running 	<ol style="list-style-type: none"> 1. A Peppol BIS billing is created in the sending system (seller), according to standard, or sent in native format with or without help from its SP. 2. The invoice is transferred to the sender's access point (if native format map to standard format). C2 validate the xml file. If not compliant return to C1. 3a. Sending access point C2 does a lookup and send the invoice to the recipient's access point C3 3b. Sending access point maps information from the invoice to the ViDa report according to NSGB specification (based on Peppol CTC) 4a. Sending access point sends a ViDa report to the tax authority's access point (possible C5) or 4b. Sending access point stores the ViDa report in its database so that the tax authority can access the data. 5. The receiving access point C3 receives the invoice via the Peppol Network 6. The receiving access point sends the invoice to the buyer's ERP system C4 7. The receiving access point maps information from the invoice to the ViDa report according to NSGB specification 8a. Receiving access point C3 point does a lookup and send ViDa report to tax authorities access point C5. or 8b. Receiving access point stores the ViDa report in its database so that the tax authority (C5) can access the data. 	<ol style="list-style-type: none"> 1. VAT information in compliance with ViDa report has been received by the tax authority from the seller access point. 2. VAT information in compliance with ViDa report has been received by the tax authority from the buyers access point. 3. It has been verified that it is possible to uniquely identify and match VAT-message with the respective business document. (Nazars comment)

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SA-A Digital Business Documents & Product Information

Participation and findings

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Pilot matrix- Participation

Every Nordic tax authority received ViDA report with VAT information

Compilation of results

Country	Participant	Receiving Peppol-ID	C1/C2 (Seller/Sender) Create and send Peppol BIS billing 3.0 representing your own Nordic country	C2 (Sender) AP sender of invoicedata. Map VAT information into ViDA-Report and send to TA. The invoice is sent to C3.	C3/C4 (Receiver/Buyer) AP receiver of invoicedata. Map VAT information into ViDA-Report and send to TA / Proxy.	C5 (Proxy TA) Tax authority received ViDA report	C6 to C2 Responsmessage Yes/No Response message sent after receiving the ViDA Report from C2?	C5 to C3 Responsmessage Yes/No Response message sent after receiving the ViDA Report from C3?
Iceland	Unimize Iceland	SMK - 0196:550403000	-	-	-	-	-	-
Iceland	Advania Iceland	0196:590269000	Advania	-	-	-	-	-
Iceland	TA Iceland	N.A	-	-	-	My Supply (TA Iceland)	Y	Y
Iceland	TietoEvry testcompany Iceland	SMK 0196:4208023099	TietoEvry ICE	-	-	-	-	-
Sweden	Pagero Sweden	SMK 0007:5544335511	Pagero	-	-	-	-	-
Sweden	TA Sweden	N.A	-	-	-	My Supply (TA Sweden)	Y	Y
Sweden	TietoEvry testcompany Sweden	SMK 0007:2211221144	TietoEvry SWE	-	-	-	-	-
Finland	Posti Messaging Finland	SMK 0216:003702454401	Posti	-	-	-	-	-
Finland	TA Finland	N.A	-	-	-	Posti (TA Finland)- by mail	N	N
Finland	TietoEvry testcompany Finland	SMK 0216:003701011999	TietoEvry FIN	-	-	-	-	-
Denmark	My Supply Denmark	SMK 0088:555555575558	MySupply	-	-	-	-	-
Denmark	TA Denmark	N.A	-	-	-	Fyrtårn (TA Denmark)	Y	Y
Denmark	Fyrtårn SML Denmark	C5 - SML 0088:5798009882806	-	-	-	-	-	-
Denmark	TietoEvry testcompany Denmark	SMK 0184:32554999	TietoEvry DEN	-	-	-	-	-
Norway	TietoEvry testcompany Norway NEW PEPPOL ID	SMK 0192:789778949	TietoEvry NOR	-	-	-	-	-
Norway	TA Norway	N.A	-	-	-	My Supply (TA Norway)	Y	Y
Norway	My Supply Norway	0192:258943759	MySupply	-	-	-	-	-

TA=Tax Authority
AP=Access point

NORDIC SMART GOVERNMENT & BUSINESS

Pilot matrix- Participation

Number of transactions= 172

Participant matrix for SENDING and RECEIVING invoices. For every invoice a ViDA-Report should be sent to Proxy TA both as SENDER and RECEIVER.

Company in column A will SEND INVOICE TO													Number of transactions
Company	Unimize Iceland	Advania Iceland	TietoEvry Iceland	Pagero Sweden	TietoEvry Sweden	Posti Messaging Finland	TietoEvry Finland	My Supply Denmark	TietoEvry Denmark	TietoEvry Norway	My Supply Norway		
Unimize Iceland	0	0	0	1	0	0	1	0	0	0	0	0	2
Advania Iceland	0	0	0	1	0	0	1	0	0	0	0	0	2
TietoEvry Iceland	0	0	0	1	0	1	0	0	0	0	0	0	2
Pagero Sweden	0	1	0	0	0	1	1	1	0	0	0	0	4
TietoEvry Sweden	0	0	0	0	0	1	0	0	0	0	1	0	2
Posti Messaging Finland	1	0	1	0	1	0	0	1	0	1	0	0	5
TietoEvry Finland	0	0	0	1	0	0	0	0	0	0	0	0	1
My Supply Denmark	0	1	0	0	1	1	1	0	0	0	1	0	6
TietoEvry Denmark	0	0	0	1	0	0	0	0	0	0	0	0	2
TietoEvry Norway	0	0	0	0	1	0	0	1	0	0	0	0	2
My Supply Norway	0	0	0	1	1	0	0	1	0	1	0	0	3
Number of transactions	1	2	1	7	2	5	3	4	1	2	3	0	31

Company in column A will RECEIVE INVOICE FROM													Number of transactions
Company	Unimize Iceland	Advania Iceland	TietoEvry Iceland	Pagero Sweden	TietoEvry Sweden	Posti Messaging Finland	TietoEvry Finland	My Supply Denmark	TietoEvry Denmark	TietoEvry Norway	My Supply Norway		
Unimize Iceland	0	0	0	0	0	1	0	0	0	0	0	0	1
Advania Iceland	0	0	0	1	0	0	0	1	0	0	0	0	2
TietoEvry Iceland	0	0	0	1	0	1	0	0	0	0	0	0	1
Pagero Sweden	1	1	1	0	0	1	1	1	1	0	1	0	7
TietoEvry Sweden	0	0	0	0	0	1	0	0	0	0	1	0	2
Posti Messaging Finland	0	0	1	1	1	0	0	1	0	1	0	0	5
TietoEvry Finland	1	0	0	1	1	0	0	1	0	0	0	0	3
My Supply Denmark	0	1	0	0	1	1	1	0	0	1	0	0	4
TietoEvry Denmark	0	0	0	1	0	0	0	0	0	0	1	0	1
TietoEvry Norway	0	0	0	0	1	0	0	1	0	0	0	0	2
My Supply Norway	0	0	0	1	1	0	0	1	1	1	0	0	3
Number of transactions	2	2	2	4	2	5	1	6	2	2	3	0	31

TOTAL	Invoices involving Iceland	10
	Invoices involving Sweden	15
	Invoices involving Finland	14
	Invoices involving Denmark	13
	Invoices involving Norway	10
	Total invoice transactions	62
	Transactions ViDA-Reports	62
	Response messages	48
	Total number of transactions	172

NORDIC SMART GOVERNMENT & BUSINESS

Pilot matrix- Findings

- NSG&B SA-A Digital Business Documents & Product Information:
 - Good cooperation between private and public enterprises across the Nordic region.
 - The quality of VAT codes and rates in cross border transactions must be increased (see [NSG&B guideline](#)).
 - The ViDA report specification provided good guidance in the pilot (content determined by all Nordic tax authorities based on the EHF/BIS invoice).
 - Good cooperation between the various system suppliers across the Nordic region.
- Tax authorities in the Nordic countries
 - Content from the ViDA report can in future be used for reporting to the EU.
 - Requirements from the EU to split reporting for services and products can be automated more easily by using standard classification e.g. UNSPSC per line in ViDA report (mapped from the Invoice)
 - Supports the new pilot with a deeper dive into the reception processes of the ViDA report and looks at opportunities to use the data for increased quality control. Supports the use of standardized VAT categories and VATEX Reason codes.
 - Explore how content in the ViDA report can be used in combination with e.g. SAF-T
- Service providers
 - Good organization of the pilot and good cooperation between all parties.
 - An advantage of a specification ([NSGB ViDA report](#)) and a standard method of exchange that creates security for all systems involved. In the long run, this will also reduce costs for all parties.

Request for more pilots from tax authorities

The Nordic tax authorities want to pilot other processes to increase knowledge about the area of VAT reporting.

NSG&B is working on new use cases now

Questions:
Jan Mærøe
janandre.maeoroe@dfo.no
Solution Area manager SA-A

NORDIC SMART
GOVERNMENT
& BUSINESS

eDelivery and TBR, a milestone for TA 3.0

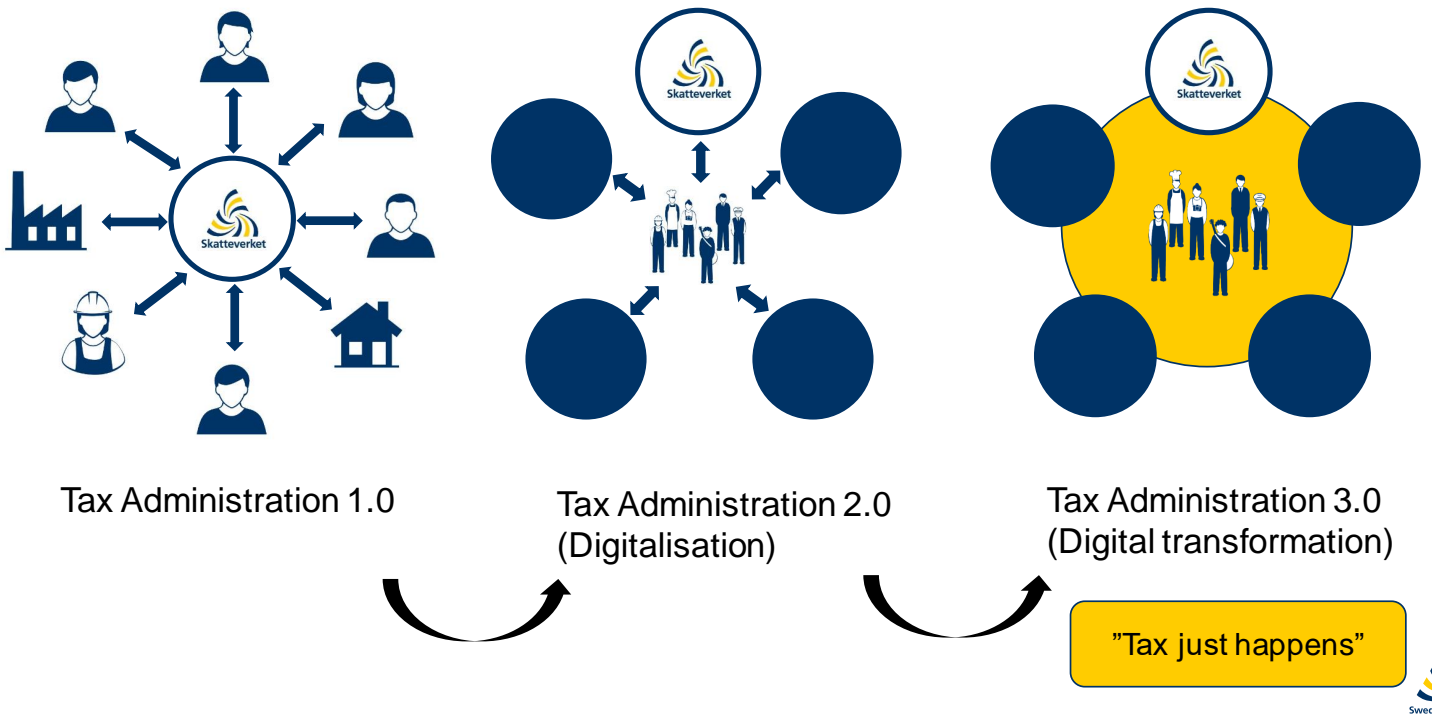
2nd BENELUX COLLOQUIUM “VAT GAP”
12.03.2024
Magnus Kempe, Swedish Tax Agency

OECD-report “Tax Administration 3.0”

- Published by OECD:s Forum on Tax Administration
- A vision for future tax administration by digital transformation
 - “Tax Just Happens”
 - Future scenarios for individuals, SMEs and MNEs
- Building blocks needed to reach the vision
- Stimulate strategic development and dialogue among tax administrations around the world
 - “Talk of the town”



Tax Administration 3.0 – no cost for tax administration



A framework

Digital transformation...

is a change at the organizational level where adaptation is directed towards achieving the vision and objectives in a future digital context. Digital transformation includes a broad set of areas like governance, people, information and processes.

Digitalisation

New context and new uncertainties

Why are there no deepfake Word documents?

The starting point is that we do not know anything about digital information

- In a digital world we don't know:
 - When it was created
 - By whom it was created
 - If it has been changed – intentionally or accidentally
 - If there are other versions
 - If data has been maculated, credited, reversed
 - If there are copies
- ...unless there is a third party involved in the process of handling the information



We need to secure attributes of data

- Data integrity – no manipulation
- Data traceability – origin, sender/issuer, holder et.
- Data security – data security, privacy, risk minimization

"Information used to be private by default and public by effort. Now information is public by default and private by effort."

Dannah Boyd



Digitalisation in three parts

Infrastructure

- Internet penetration
- Technical infrastructure fiber/5G/etc
- Education level
- Smart phone use
- Digital payments

Alternatives in regulation and technology

- Identities
- Security and integrity
- Communication and interfaces
- Traceability
- Standards
- Archiving

Change management

- Design thinking
- Skills and Competencies
- SAFe
- Lean
- Organizational Policies



Digitalization in three parts

Infrastructure

- Internet penetration
- Technical infrastructure fiber/5G/etc
- Education level
- Smart phone use
- Digital payments

Long term investments

Alternatives in regulation and technology

- Identities
- Security and integrity
- Communication and interfaces
- Traceability
- Standards
- Archiving

Strategic areas with large value from cooperation and coordination

Change management

- Design thinking
- Skills and Competencies
- SAFe
- Lean
- Organizational Policies

Continuous improvement and learning from best practice



Making "Tax just happen" actually happen

What was the value of?

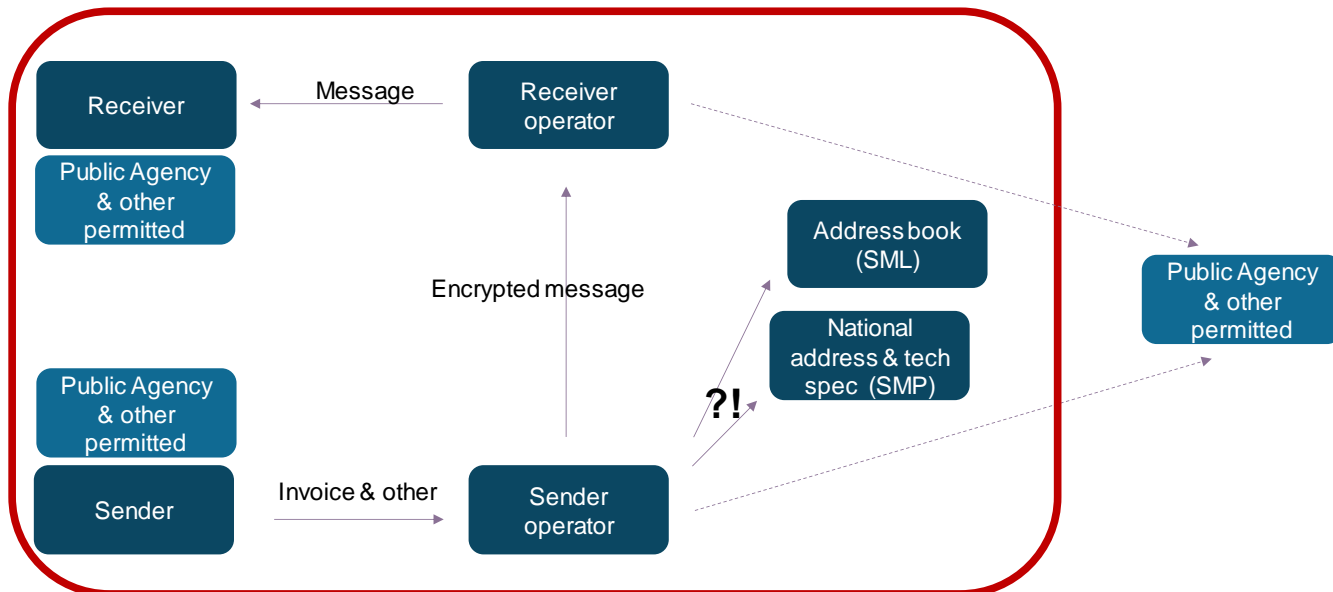
- Regular mail in....
- The Internet in...
- Facebook in...

What will be the value of?

- Insecure digital communication of unstructured data (e-mail)
- Secure digital communication of structured and unstructured data (eDelivery)
- Most recent estimate today 6,7 Billion Euro per year



eDelivery could be a standard for communication to all businesses within the EU – the preferred solution by GENA those who own all other standards and integrations

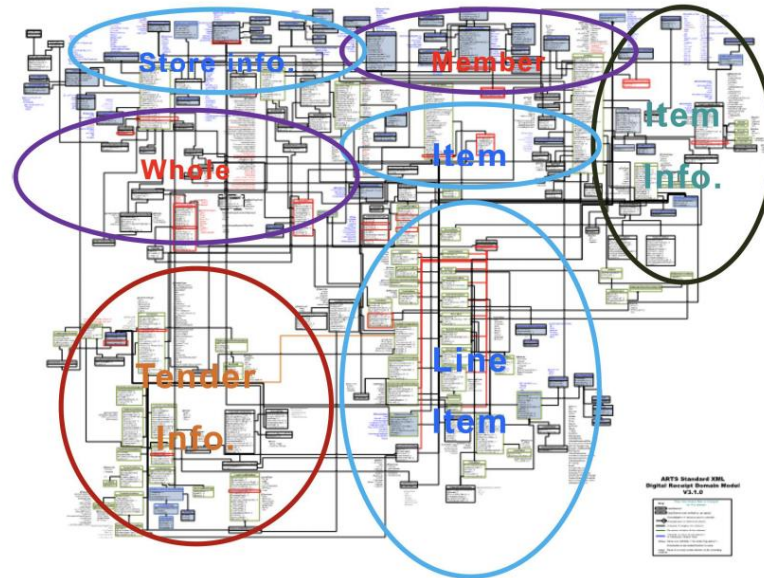


A standard is not formed spontaneously in the digital world – there has to be strong incentives to agree

OMG eReceipt

Fiscal
Solutions

Data Model used in ARTS Digital Receipt standard v 3.1.0



7



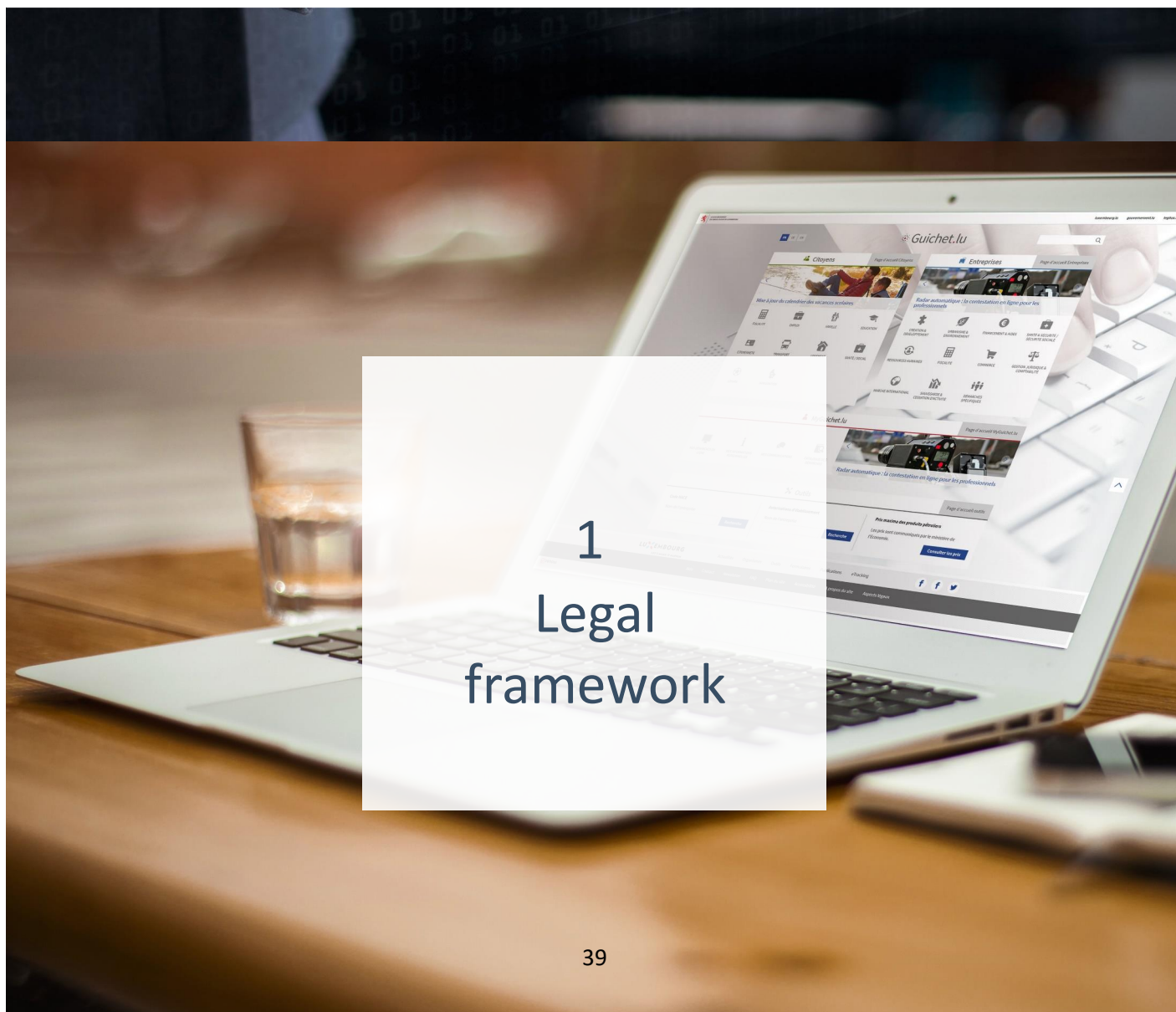
What tax gaps will be reduced with...

- Mandatory Digital secure communication of structured and unstructured data with all EU companies
- Mandatory e-invoicing with eDelivery/Peppol or B2B integrations
- Mandatory TBR for B2B, B2G, G2B





eInvoicing in Luxembourg: Legal framework and strategic outlook



1

Legal
framework



Modified law of 16 May 2019 on electronic invoicing

- Transposition of Directive 2014/55/EU of 16 April 2014 on electronic invoicing via the ***Law of 16 May 2019 on electronic invoicing in public procurement and concession contracts***
- Modification of this law via the ***Law of 13 December 2021 modifying the law of 16 May 2019 on electronic invoicing in public procurement and concession contracts*** and its ***Grand-Ducal Regulation of 13 December 2021 fixing the common delivery network and alternative technical solutions used for electronic invoicing in public procurement and concession contracts***



Legal obligations

- For all public sector bodies, i. e. contracting authorities and entities :
 - **Receiving and processing** all compliant electronic invoices;
 - Being **connected**, for the reception of electronic invoices, **to the common eDelivery network Peppol** ;
 - Using, as long as they are not connected by their own means to Peppol, the Peppol access point of the Luxembourg Government IT Centre.
- For the ministries and administrations of the central government:
 - Using the Peppol access point of the Luxembourg Government IT Centre.
- For the economic operators (last deadline: 18.03.2023):
 - **Emitting and transmitting only compliant electronic invoices** for public procurement and concession contracts;
 - Using for the transmission **either Peppol or 1 of the 2 types of web forms** on MyGuichet.lu (manual entry or upload).



Compliant electronic invoice

- **Electronic invoice**
A structured electronic document that is machine readable, i. e. in practice a XML file or a file containing XML
- An electronic invoice is **compliant** if it conforms to
 - It conforms to the European standard on electronic invoicing EN 16931-1:2017; and
 - Uses 1 of the 2 allowed syntaxes, i.e. XML formats :
 - XML in UBL (Universal Business Language) format; or
 - XML UN/CEFACT CII (Cross Industry Invoice).



2

Policy &
strategy



Political and strategic objectives

- Huge opportunities: lower costs, faster and largely automated processes, increased efficiency;
- eInvoicing (B2G, B2B or even B2C) already mandatory in many other countries;
- No spontaneous take-up of eInvoicing of any kind in the private sector;
- **Main objective** of the law: increasing the productivity and the competitiveness of the private sector by using eInvoicing as a trigger to push the enterprises not only to start to use electronic invoicing, but also to digitalise progressively to a maximum all the related back office processes;
- **Secondary objective**: pushing the public sector bodies to digitalise and automatise to a maximum their back office processes regarding processing of incoming invoices in particular and accounting in general.



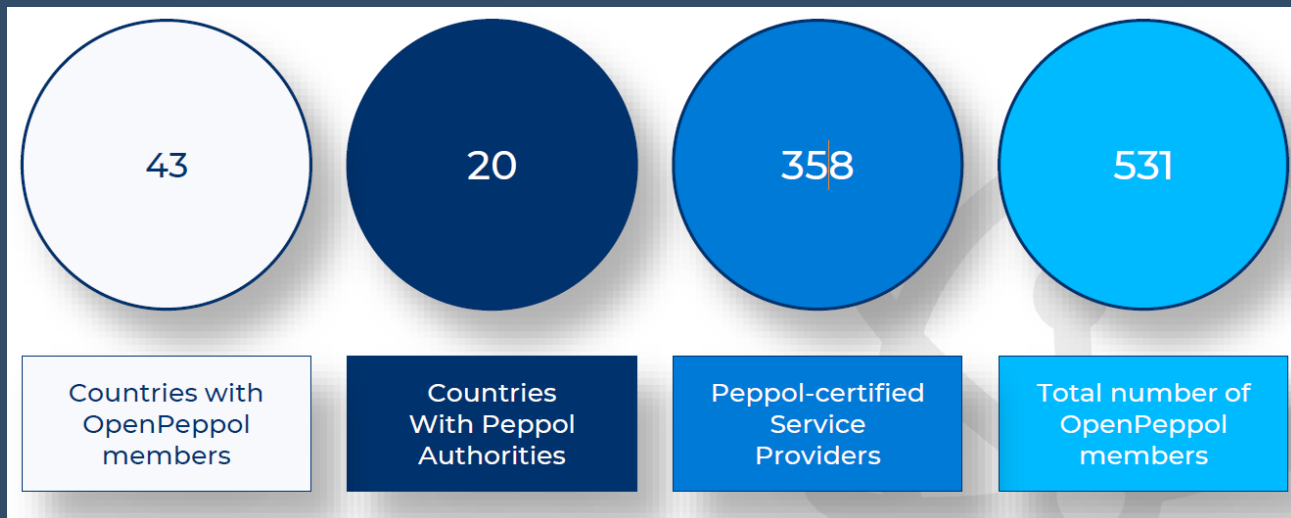
Necessary conditions to achieve the objectives

- Fast and efficient implementation
- Limited costs
- Avoiding fragmentation of the market to a maximum
- Need for standardisation also of the transmission channel, i.e. need of 1 common delivery network
- Closing the email transmission channel!
- Using an approach and solution that would not only allow for B2G, but also for B2B and B2C eInvoicing
- Openness and interoperability, especially also cross-border interoperability by default



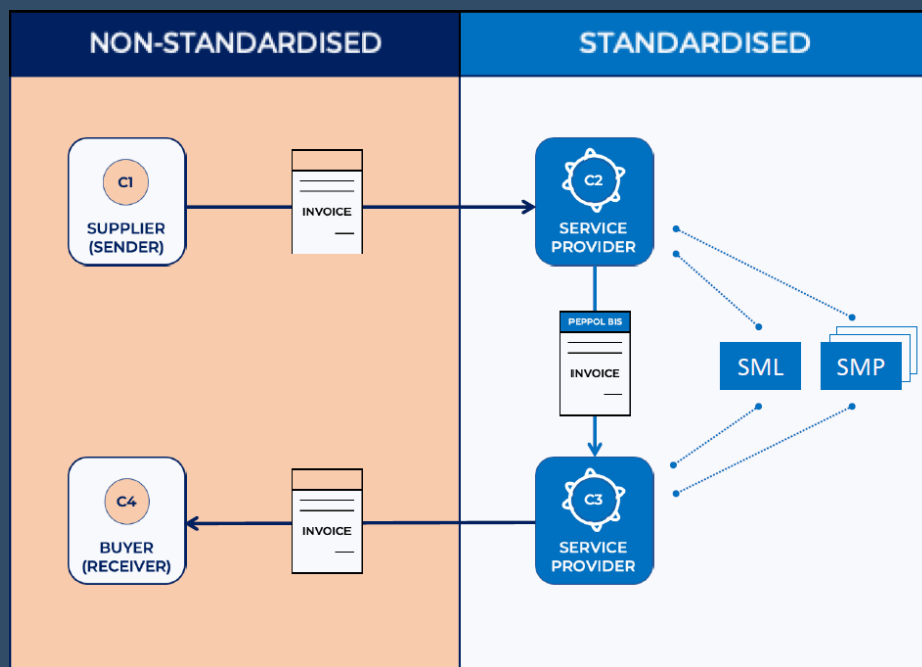
LE GOUVERNEMENT
DU GRAND-DUCHÉ DE LUXEMBOURG
Ministère de la Digitalisation

OpenPeppol members (October 2023)





Peppol's « 4-corner model »



Advantages of Peppol

- Open and interoperable
- Secure and reliable
- The most largely used network at European and international level for eInvoicing
- By default bi-directional B2G and B2B exchange possible
- By default cross-border interoperable
- Allows also for exchange of many other electronic documents beyond invoices
- By default compliant to the European norm EN 16931 and to the 2 prescribed syntaxes
- 4 corner model allowing for a decentralised network
- Dynamic discovery and addressing of the network members without any need of one to one connection or of onboarding



LE GOUVERNEMENT
DU GRAND-DUCHÉ DE LUXEMBOURG
Ministère de la Digitalisation

Outcomes

- Huge increase in electronic invoices: from nearly 0 in 2021 to around 1 million in 2023
- Around 750 public sector bodies connected to Peppol
- A large majority of the Luxembourg economic operators connected to Peppol
- Significant increase in companies using back office software allowing for the generation of electronic invoices
- 10 Peppol service providers in Luxembourg
- A growing number of software editors connecting their software by default to Peppol
- Development of a back office solution allowing for the electronic processing of the incoming electronic invoices that will be used by nearly all ministries and other public sector bodies of the central government
- Luxembourg Ministry for Digitalisation is now Luxembourg's Peppol authority



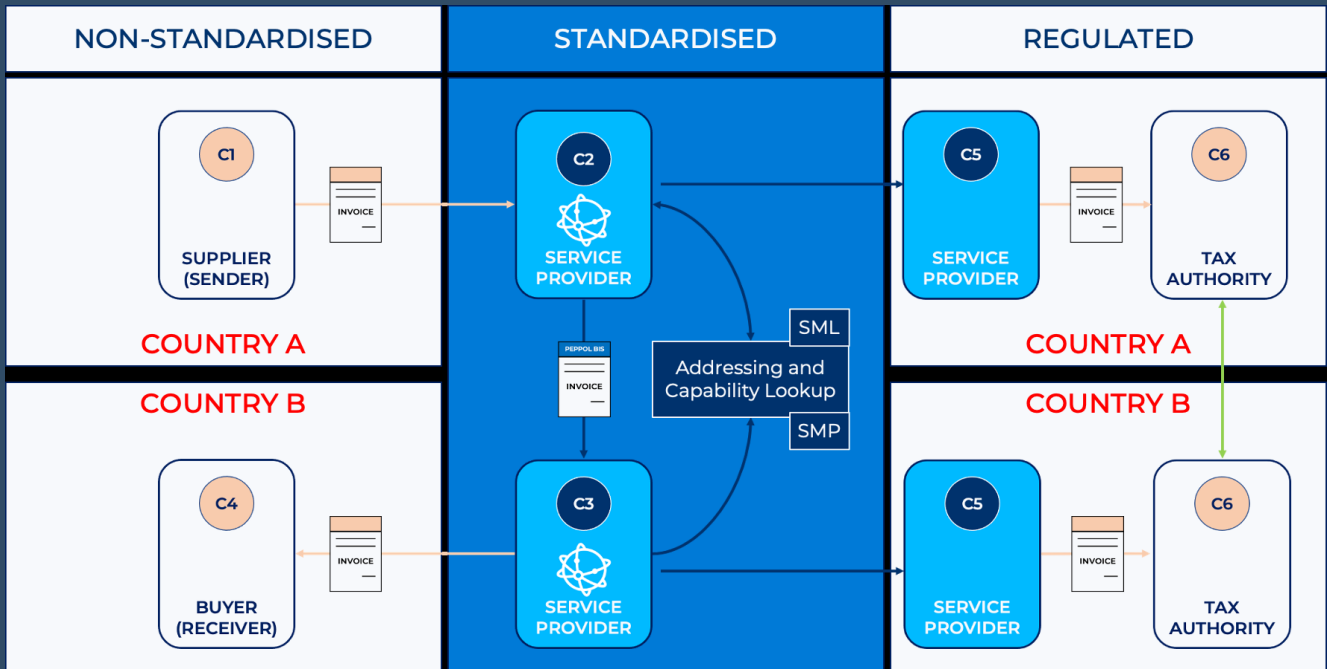
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Ministère de la Digitalisation

Outlook

- **Extended use of Peppol** by using it progressively as the default eDelivery network for more and more structured electronic documents:
 - eOrders;
 - Reminders;
 - Pro forma invoices;
 - Acknowledgment or rejection messages;
 - Invoice responses;
 - eFTI ?;
 - Etc.
- **Directive “VIDA” (VAT in the Digital Age):**
 - Proposal of the Commission aiming at making B2B cross-border eInvoicing mandatory in the EU in order to achieve digital VAT reporting via eInvoicing;
 - No plan in Luxembourg for the moment to mandate B2B eInvoicing on a national level before it will become mandatory on a cross-border level.



Potential of Peppol for Digital VAT Reporting: Peppol CTC



6

Main links



Main websites on eInvoicing in Luxembourg

- Luxembourg eInvoicing portal:
<https://efacturation.public.lu/en.html>
- Dossier on eInvoicing on the website of the Luxembourg Ministry for Digitalisation:
<https://digital.gouvernement.lu/en/dossiers/2021/facturation-electronique.html>
- Luxembourg eInvoicing country factsheet on the website of the European Commission:
<https://ec.europa.eu/digital-building-blocks/wikis/display/DIGITAL/eInvoicing+in+Luxembourg>
- Consolidated version of the modified law of 16 May 2019 on electronic invoicing in public procurement and concession contracts:
<https://legilux.public.lu/eli/etat/leg/loi/2019/05/16/a345/jo>

Questions?

GOVERNMENT OF THE GRAND-DUCHY OF LUXEMBOURG

Gérard SOISSON
Ministry for Digitalisation
4, rue de la Congrégation
L-1352 Luxembourg

Phone: (+352) 247-72124
Email : gerard.soisson@digital.etat.lu
www.digitalisation.lu



DIGITAL CONTINUOUS TRANSACTION REPORTING

Potential considerations for design & implementation

Benelux 2nd VAT Gap Colloquium – Brussels 12 March 2024
Stéphane Buydens VAT Policy Advisor, OECD



OECD work and standards on the application of VAT to digital trade

Addressing the Tax Challenges of the Digital Economy, Action 1 – Final Report

Presents solutions for the efficient collection of VAT on digital trade.



2015

Mechanisms for the Effective Collection of VAT/GST

Detailed guidance on the design and operation of a simplified VAT compliance and collection regime for non-resident online sellers.



2017

The Impact of the Growth of the Sharing and Gig Economy on VAT/GST Policy and Administration

Guidance on the design and implementation of an effective VAT policy response to the growth of the sharing and gig economy.



2021

Tax administration 3.0

Focus on digital continuous transaction reporting



2023...

The International VAT/GST Guidelines

Global standard for the application of VAT to international trade in services and intangibles.



The Role of Digital Platforms in the Collection of VAT/GST on Online Sales

Including the design of platform liability for collecting and remitting the VAT on the transactions that they facilitate.



Work on VAT enforcement



Work on VAT enforcement

Focus on VAT fraud and non-compliance in [genuine economic activity](#) rather than on criminal attacks against VAT systems

1. [Share expertise and experience](#) to enhance tax authorities' capacity to tackle VAT fraud and non-compliance, particularly in digital trade
 - Further facilitate the [sharing of intelligence](#)
 - Support tax administrations' "[follow-the-money](#)" strategies
2. Identify opportunities to [strengthen international administrative cooperation](#)
3. Analyse the design and operation of [digital transactional reporting regimes](#)

3



1. Share expertise and experience

- Further facilitate the [sharing of intelligence](#)
 - Detection/treatment strategies
 - VAT fraud and non-compliance schemes
- Survey on "[Follow-the-money](#)" strategies
 - [Available sources of payment related data](#) and their role to tackle VAT fraud and non-compliance; incl. available legal bases to access this data and factors that determine its usability.
 - [Key design features of payment data reporting obligations](#) (both on request + automatic) on financial institutions and other Payment Service Providers (PSPs).
 - Focusing on [available follow-the-money strategies that build on the prevalent payment methods](#) used by consumers in the surveyed jurisdictions (i.e. digital wallets, payment cards and direct bank transfers).



2. Identify opportunities to strengthen international administrative cooperation

➤ Promote a greater awareness of existing legal bases and enhance their use in practice:

- Encourage interested jurisdictions to review their existing VAT-related reservations in the existing legal instruments
- Ensure awareness and knowledge of the potential use of the existing instruments and the role of competent authorities
- Improve the quality of information requests, promote harmonised formats and use of Common Transmission System

➤ Explore the potential to access VAT registration and/or payment data for unidentified (groups of) taxpayers, including through exchange of information.

- Facilitate the sharing of lists of VAT-registrants
- Facilitate the sharing of data on recipients of payments abroad

5



Existing legal bases for the administrative cooperation in VAT matters

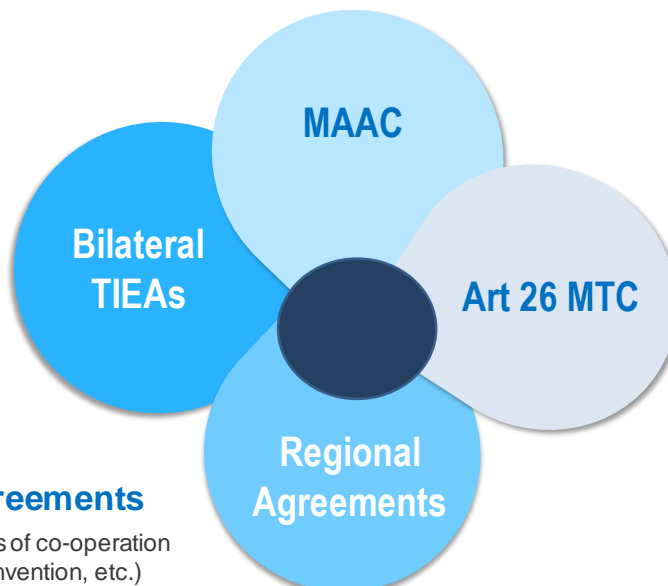
TIEA

- Bilateral/Multilateral Tax Information Exchange Agreements
- Often based on the OECD model TIEA

OECD Model Reporting Rules for Digital Platforms

Regional Agreements

- Various degrees of co-operation (EU, Nordic Convention, etc.)



MAAC

- Multilateral Convention on Mutual Administrative Assistance in Tax Matters
- > 140 jurisdictions
- All forms of administrative cooperation
- Some reservations on VAT

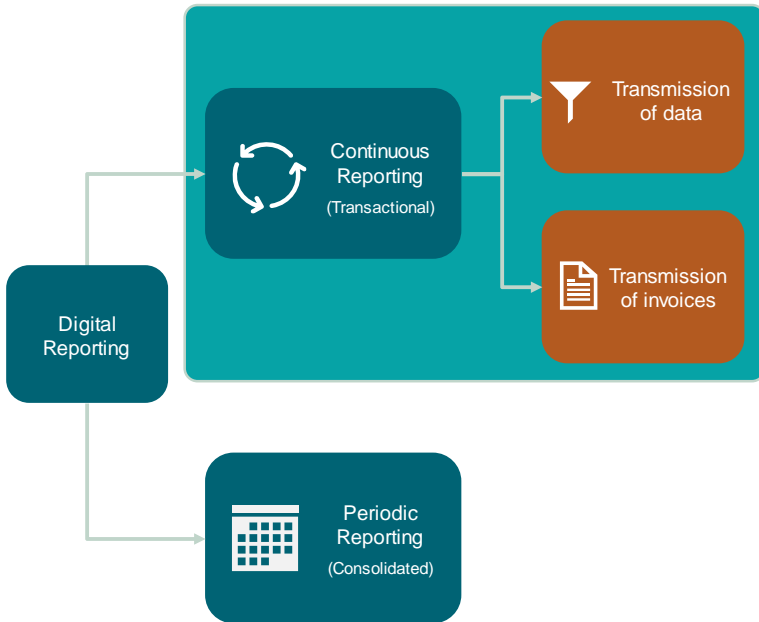
Bilateral treaties based on Art 26 MTC

- Model Tax Convention (OECD, UN) – Post 2000 model includes VAT by default
- Bilateral treaties

No need for a specific legal instrument for administrative cooperation in VAT matters



3. Design and operation of Digital Continuous Transaction Reporting (DCTR) regimes – General overview

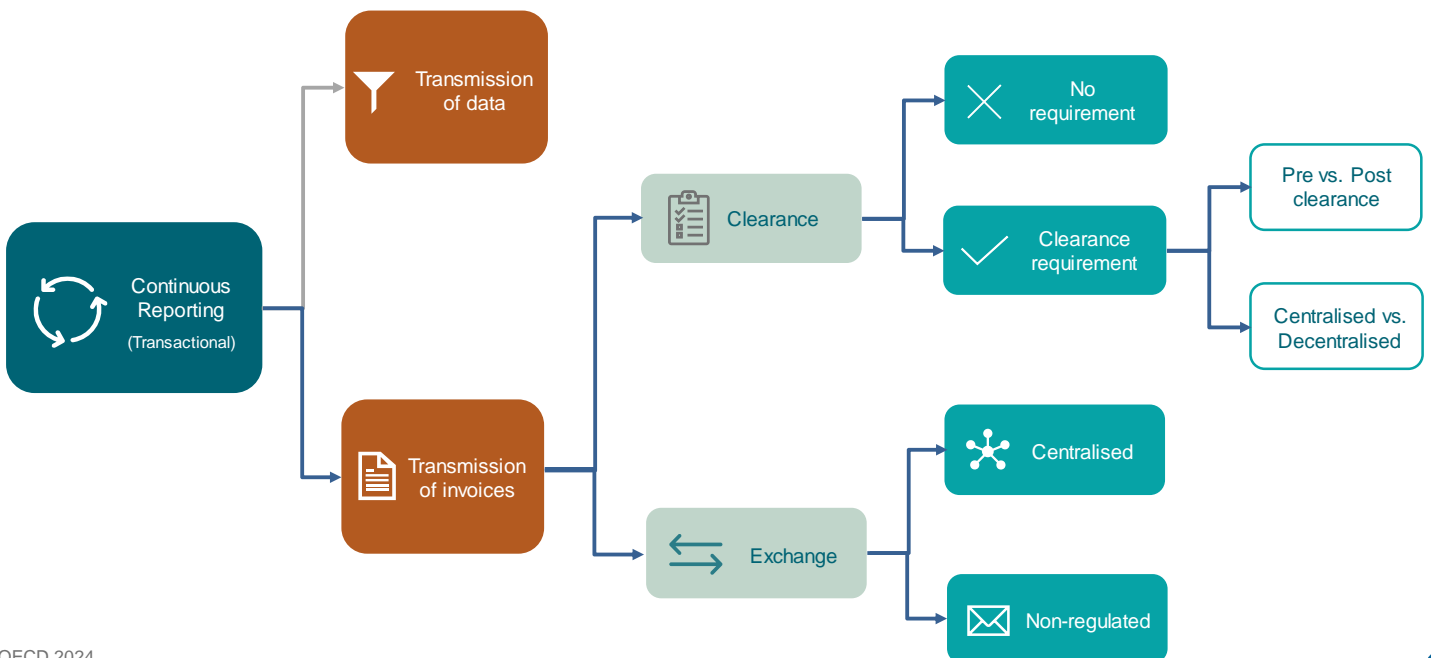


- Data collected are likely to increase a tax administration’s capacity for early detection of VAT fraud and non-compliance and allow for more rapid and effective intervention
- Opportunities for influencing firm behaviour towards greater voluntary compliance
- Help to reduce the informal economy and broaden the tax base

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Design and operation of DCTRs – Continuous reporting

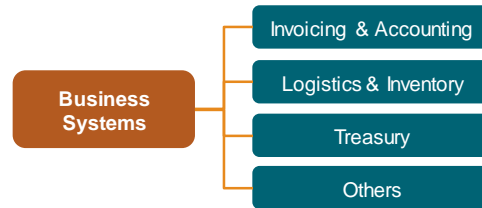


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Designing DTCR's: enhancing and facilitating compliance through design

- Focus on options to **minimise compliance costs**
- Strive for alignment with **business natural systems**
 - Minimising complexity of data requirements
 - Enable some flexibility in electronic invoicing requirements as part of DCTR

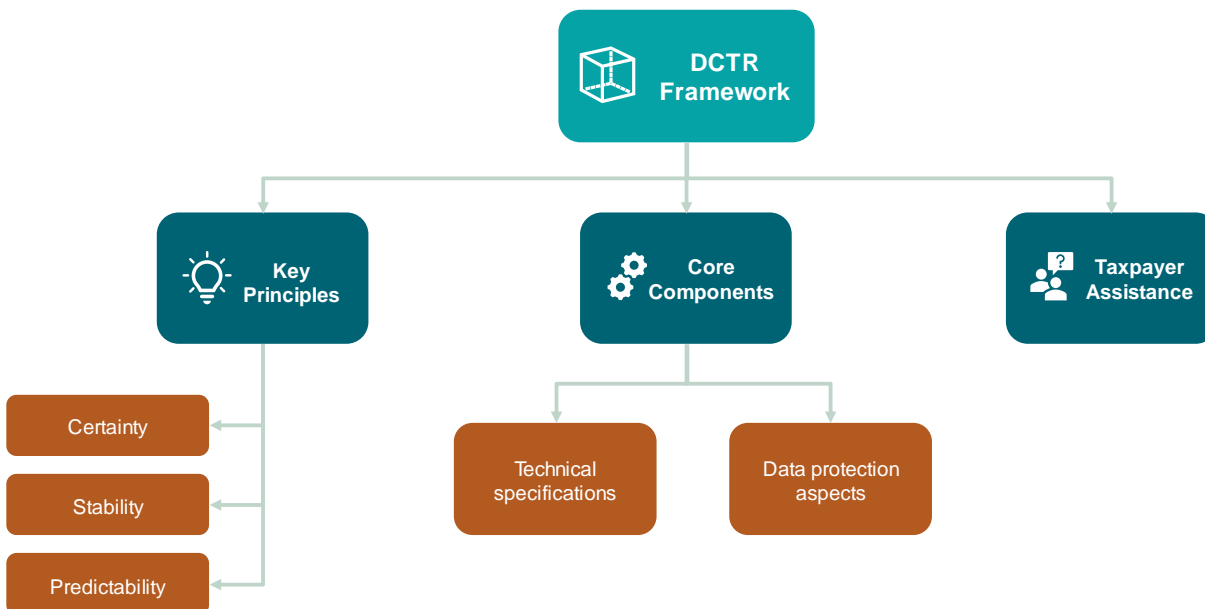


- Minimising the risk of **business operational disruptions**
 - Ensuring system resilience and continuity
 - Preserving operational autonomy for businesses
 - Robust data protection



Implementing DTCR's: facilitating business implementation

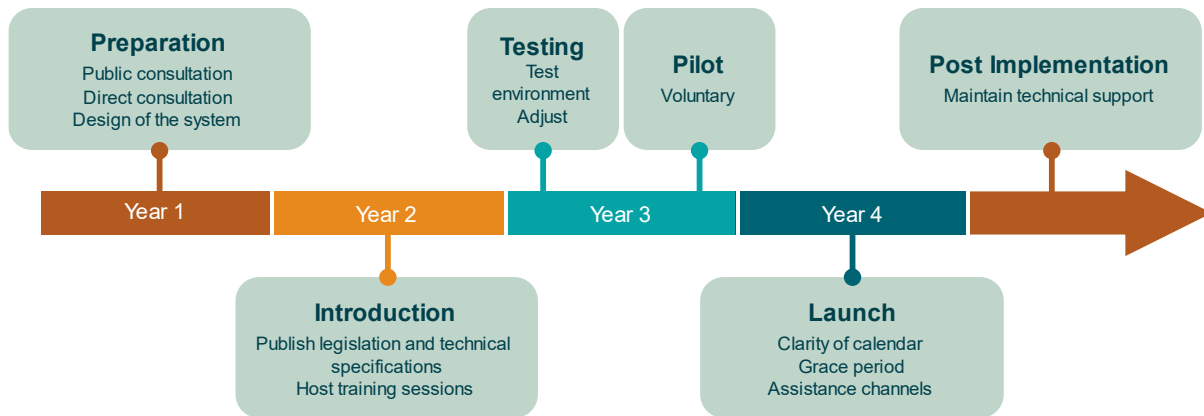
Creating the conditions to enable project-based implementation





Facilitating business implementation

Tentative roadmap for implementation



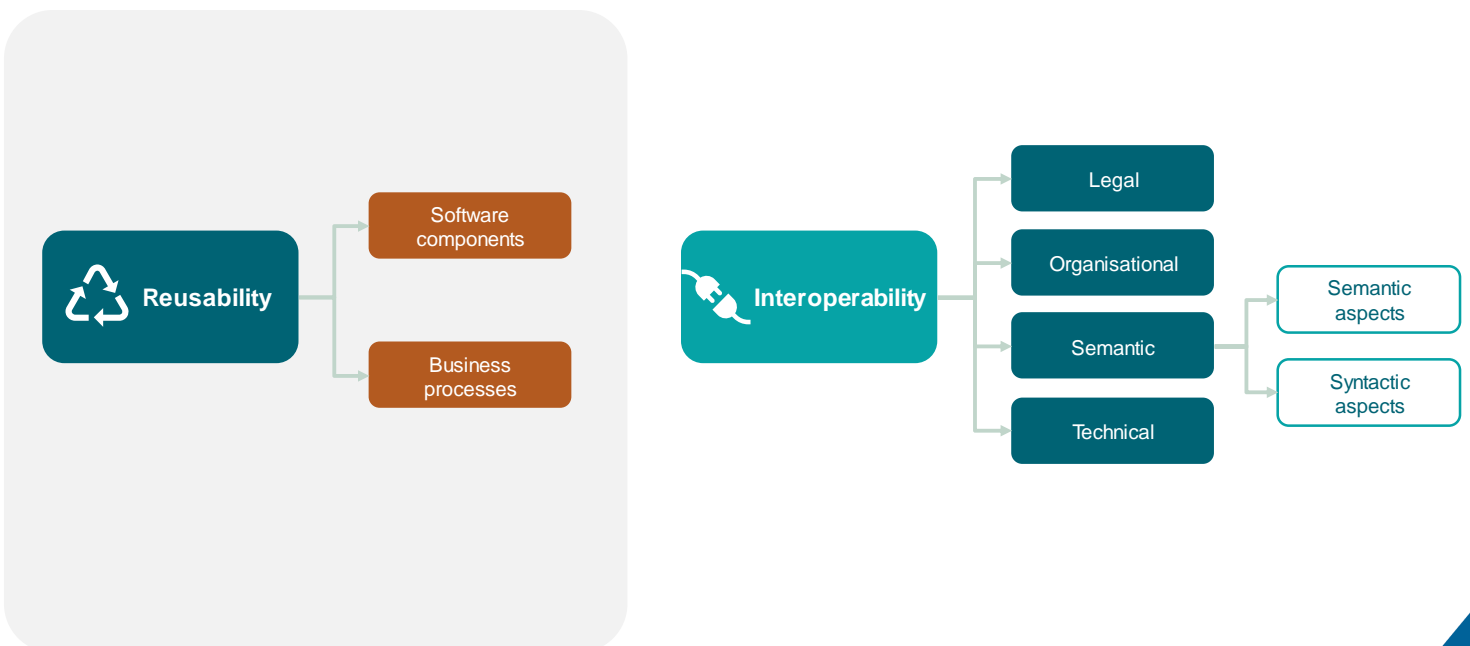
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11



Mitigating the adverse effects of heterogeneity

Reusability and interoperability



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12



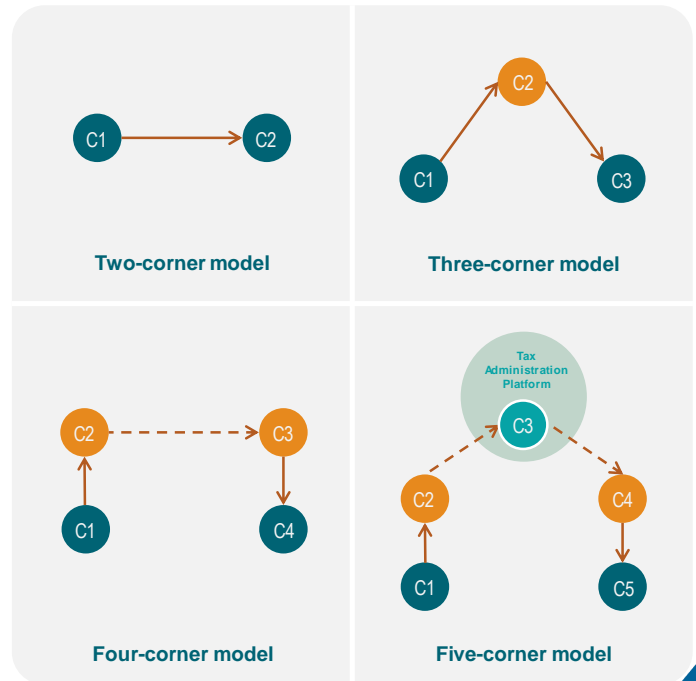
Mitigating the adverse effects of heterogeneity

An exploration into semantic and technical interoperability

- Importance of uniform standards – but limited effect from an international perspective
- Use of translators/mappers?
- Separation between semantic model and specific syntax



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13



Thank you!





USEFUL READING



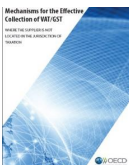
OECD leads the international work on standards and guidance to address VAT/GST challenges of the digital economy



The International VAT/GST Guidelines

Global standard for the application of VAT/GST to international trade in services and intangibles:

- **Soft law. Not legally binding / Not detailed legislation** > guidance for countries for collecting the VAT on inbound supplies of services and intangibles
- **Adopted by OECD / G20** countries and endorsed by 100+ jurisdictions and international organisations in 2015
- Adopted by the OECD Council as **OECD Council Recommendation C(2016)120** of 27 September 2016



Mechanisms for the Effective Collection of VAT/GST

- Guidance for governments
 - Focus on digital sales by **non-resident sellers**
 - Key policy and design challenges and solutions
 - Design and operation of a **simplified, web-based compliance and collection regime**



The Role of Digital Platforms in the Collection of VAT/GST on Online Sales

- Guidance for governments
 - Increase the effectiveness and the efficiency of VAT/GST collection on online sales by **enlisting "online marketplaces" and other digital platforms** in the collection process
 - Encompasses supplies of services, goods (incl. importation) and digital products from online sales
 - Focus on (1) **making platforms liable** for collecting/remitting the VAT and (2) **data sharing**



The Impact of the Growth of the Sharing and Gig Economy on VAT/GST Policy and Administration

- **Key challenges and opportunities** from sharing/gig economy growth for VAT policy and administration
- Potential **policy responses** for tax authorities to consider:
 - Focus on **role of digital platforms**, plus other possible options for policy and administration
 - Accommodation and transportation sectors used as pilot cases



VAT/GST taxation of digital trade: capacity building activities

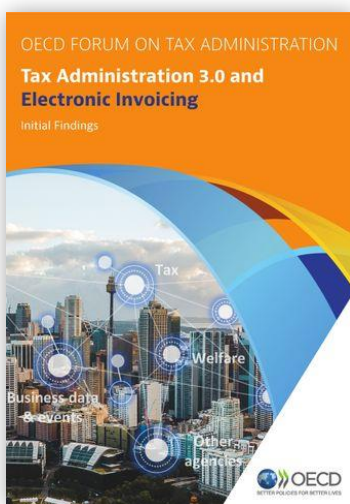


- Detailed manual covering all aspects of a successful VAT strategy targeted at e-commerce
 - Legislative design
 - Administrative and operational implementation
 - Compliance management and enforcement strategies
 - Checklist to assist implementation
- Targeted at trade in
 - Services and intangibles
 - Low-value imported goods
 - Sharing and gig economy
- Based on OECD guidance and international “best practices”

17



Background – FTA research conclusions



- The **key outcomes** of the FTA report “*Tax Administration 3.0 and Electronic Invoicing: Initial Findings*” were presented by the FTA Secretariat at the meeting of WP9 in **November 2022**
- Considerable and increasing **heterogeneity** of DCTR regimes
- **Growing complexity and rising compliance costs**, in particular for businesses with cross-border activities
- Can **hamper international trade and investment**
- It calls for the development of a set of **considerations** that tax administrations may wish to take into account when exploring the introduction or reform of these regimes, in order to help mitigate some of the issues arising from different implementation choices



Trends in VAT bases, rates and revenue in OECD countries: Consumption Tax Trends

- Biennial publication
- Covers the 38 OECD member countries
- Provides information on:
 - VAT rates, revenue, policies and administration
 - Excise duties on tobacco and alcohol
 - Taxes on vehicles





Federal
Public Service
FINANCE

CERTIFIED CASH REGISTER SYSTEM HOSPITALITY SECTOR

INTRODUCING HORIZONTAL MONITORING ON 'LIVE' POS DATA



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TODAY

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2010 - 2024

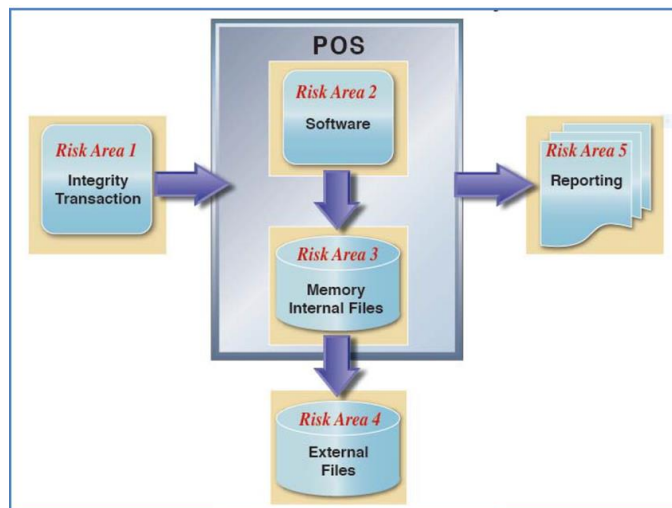
LEGISLATION - MANDATORY USE IN HOSPITALITY SECTOR

- In exchange for lower vat rate (21 → 12 %)
- Limited to business with sales turnover > € 25,000 (on 'meals' consumed in the premise)
- Mandatory use of 'a' cash register

➔ Introduction 'registered cash register system'

2010 - 2024

WHY?



OECD Report
Electronicsales suppression: a threat to tax revenues

WHY TECHNICAL SPECS, CERTIFICATION & REGISTRATION

- Risk 1: protection from the input, digital signature
- Risk 2: ensuring exact clones are installed in the field & limits to certain functionalities
- Risk 3: making sure sufficient storage is available
- Risk 4: trying to avoid loss of data
- Risk 5: ensuring sufficiently detailed reporting

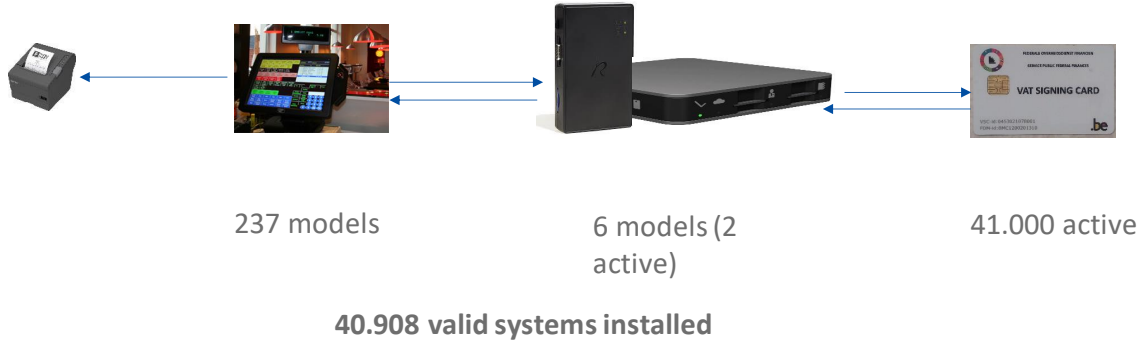


WHY TECHNICAL SPECS, CERTIFICATION & REGISTRATION

- With **registration** of devices uses
- With **technical** specifications for devices
- With **certification** of device models

2010 - 2024

CONCEPT



2010 - 2024

ISSUES – LESSONS LEARNED

- Need to audit in the premises
 - Active
 - Correct use
 - Data copy
 - Search for '2nd till' ...
- Signing procedure too slow for fast food
- Restrictions to 'serial communication'
- **Data not available**

ISSUES – LESSONS LEARNED

- Electronic journal on POS 'readable'
- VAT signing card 100 % secure, but ... high cost

IMPACT

- Companies using RCRS correctly where much more 'covid-proof'
- Declared sales turnover in target group went up
> 10.000 companies, in target group since beginning





TOMORROW – HORIZONTAL MONITORING



LET'S MAKE DATA WORK FOR ALL

MODERNISATION

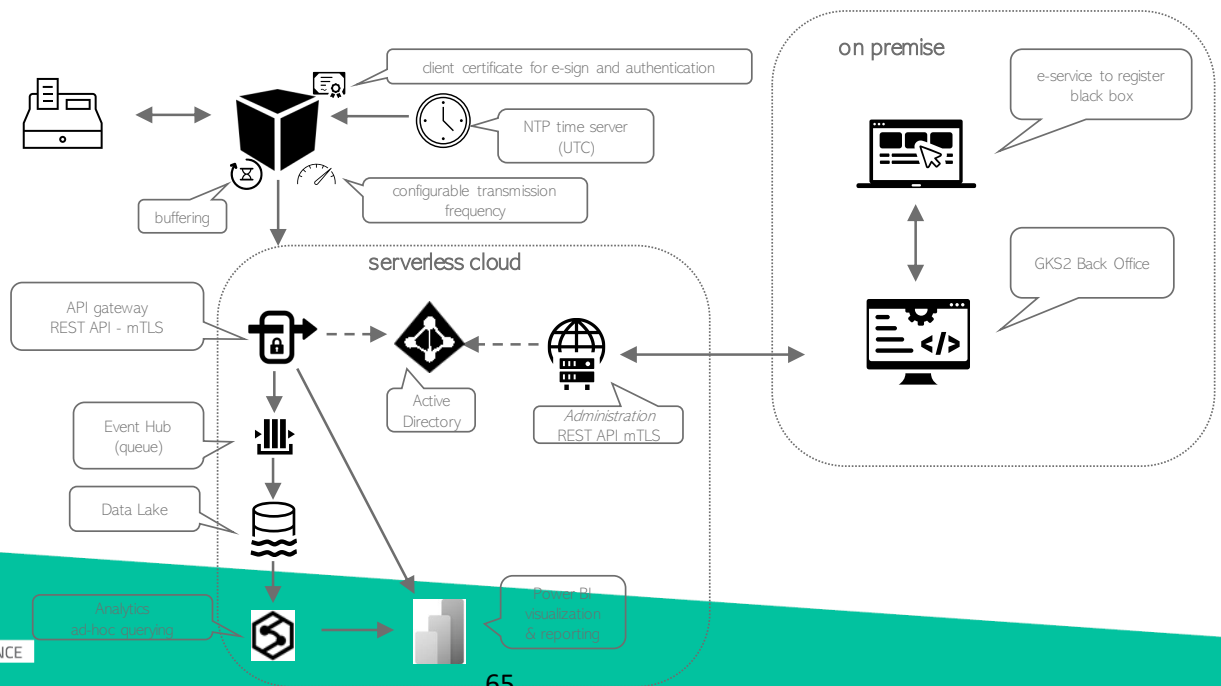
- Hi-speed **signing**
- **Online** gathering data **Future proof** communication protocol
- **Full detail** journal available in FPS cloud (respect GDPR)
- Introducing **horizontal monitoring** (BI, machine learning, 'AI')
- **Decreasing** drastically number of (non productive) **audits**
- **Increasing** compliance 'the gentle way'

LET'S MAKE DATA WORK FOR ALL

MODERNISATION

- **Vat rates** from FPSFIN, vat calculation on FDM
- **Introducing social event**

LET'S MAKE DATA WORK FOR ALL



LET'S MAKE DATA WORK FOR ALL

FIRST STEPS

- Nearly real-time data collection
 - Who's using it ... or not
 - Who's using 'risky' functionalities
 - Who's abusing the system (provisional bill, refund, vat rate, ...)
- Real-time data collection
 - Specific cases
 - Limited

LET'S MAKE DATA WORK FOR ALL

NEXT STEPS

- Making specific data available
 - For specific topics: e.g. social security, access to staff registration
 - For customers: e.g. electronic wallet with VAT receipts (costs)
 - For tax payers/accountants: e.g. sales turnover
 - For statistics: e.g. price observation FPS Economy
- Creating fraud detection algorithms
 - Based on millions of transactions

CHALLENGES

- Having all business to switch within the expected timeline
- Managing data flow, storage & CPU time
 - Acceptable price
 - Maximum monitoring result
- Encouraging customers to ask the fiscal receipt

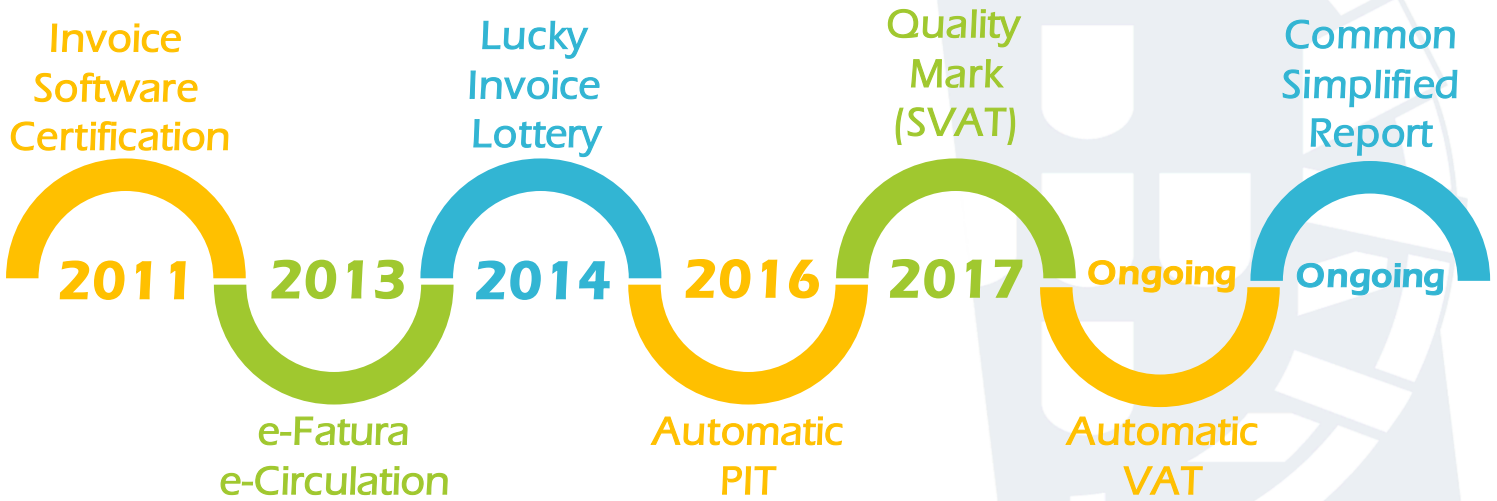
The Portuguese experience on the e-Fatura system particularly regarding B2C solutions

2nd Benelux Colloquium VAT GAP

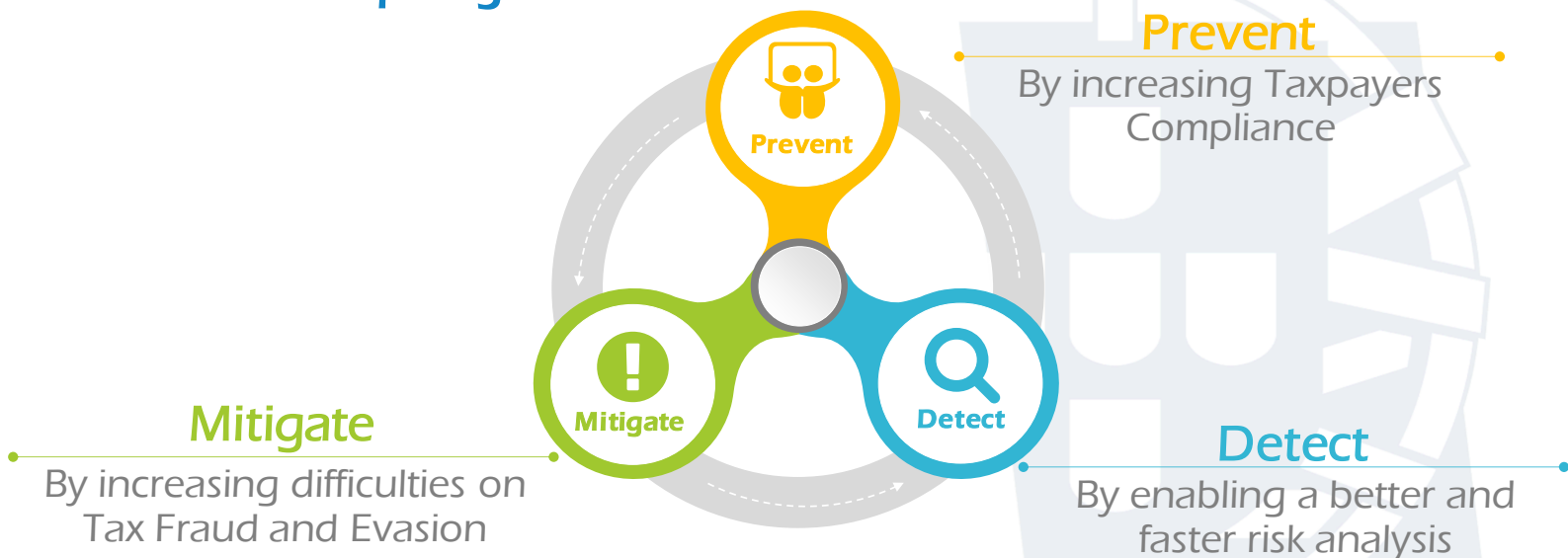
Brussels, 12th March 2024



the projects based on SAF-T (2008)



aim of the projects





There is software able to produce a SAF-T, available in most of the countries



All taxpayers with a turnover over € 50.000 on the previous year are required to use Certified Invoice Software



Tax Authority certifies (free of charge) software compliant with a set of rules, namely, to export correctly a SAF-T and to sign/encrypt documents

Extremely Important to ensure SAF-T data quality and accuracy



There are over 3.000 different certified invoice software from all over the world – all are able to produce SAF-T!!!

the context (2012)

Mandatory

SAF-T
Data Standard

Invoice Software
Certification

Data Quality

Issue invoice for
any transaction

Data Completeness



Economic Crisis

Invoice Software
Certification
vs
Non registering of
transactions

Invoices were “useless”
for Final Consumers

e-Fatura System (2013)



Regardless the way invoices are issued
It's mandatory to send to the Tax Authority any invoice regardless the way it is issued – electronic, POS, cash register, paper...



B2B and B2C Invoices
It's mandatory to send to the Tax Authority any invoice issued - Business to Business or Business to Consumer



Incentives to Final Consumers
Final consumers are encouraged to ask for invoice – Fiscal Benefits and Automatic PIT



Supports Voluntary Compliance
Supports Business voluntary compliance by helping to identify mismatches and promoting voluntary correction

(*) National Data Protection Body didn't allow to receive invoice details regarding goods or services

It's mandatory to issue invoice for any single transaction



Taxpayers subject to VAT have to submit some (*) information regarding each document issued



Real Time, via web service or **Monthly**, until the day 5 of the month after by:

- Submitting a file based on SAF-T
- Manual insertion on the TA Web Portal



Increases the Voluntary Compliance

- incentives for final consumers who provide TIN.
- compliance mechanism in place reports mismatches to taxpayers. Assessment with adjustments is issued if there's no reaction.



Allows a **better and faster risk analysis and fraud detection** (Ex: MTIC Fraud)

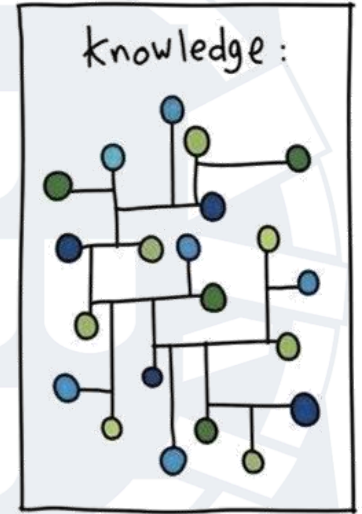
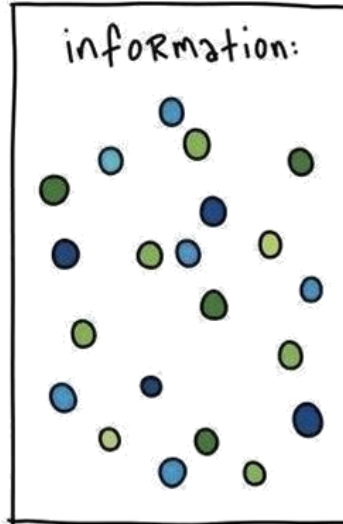
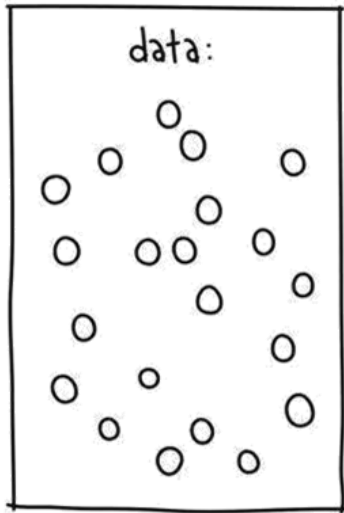
a way to approach...



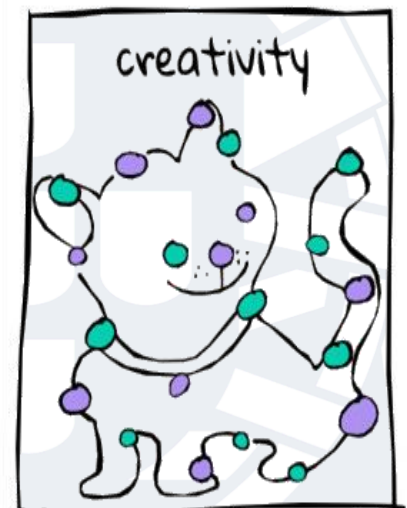
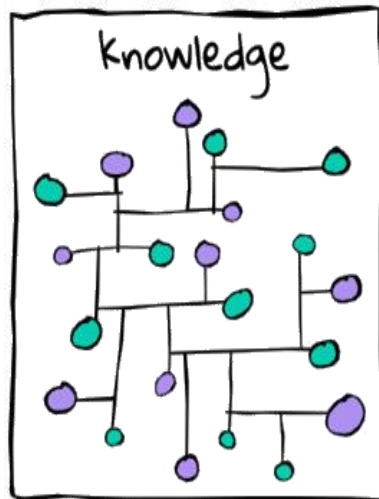
mandatory fields

Tax ID number of the issuer	Invoice or document number	Date of issue	Document type	Tax ID number of the buyer
Taxable amount of the service or goods	Applicable VAT rates	Justification for VAT exemption/non-application of the tax, if applicable	Paid VAT amount	The expression 'VAT - cash basis', if applicable
Software certificate number	Source Document ID	Reference (Rectified Document ID)	Tax Country Region	Unique Document Code

a new paradigm...



a new paradigm...



final consumer – tax id number – B2C

Tax Benefit

15% of supported VAT in some Activity Sectors

2013



PIT Deductible expenses

2015



Lucky Invoice Lottery



2014

- 1 weekly draw - Treasury Bonds € 35.000
- 2 semi-annual draws - 3 x Treasury Bonds € 50.000

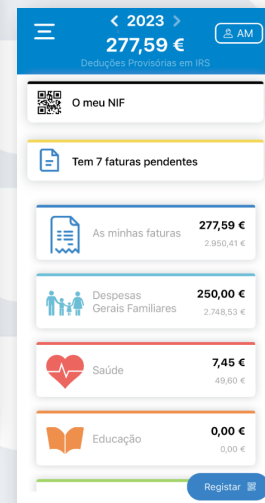


Automatic PIT Declaration

2016

final consumer – check and insert - B2C

Sector	Tax Id Number and Business Name	Invoice Type	Invoice Situation	Invoice Number	Hash	Issue Date	VAT	Total Amount	Registered by Business	Registered by Consumer
	Tax ID Number – Business Name	Fatura	Registada	FCL FCL/1998529	eZc	2019-10-05	48,32 €	317,50 €		
Outros	Tax ID Number – Business Name	Fatura	Registada	FT 201990/1321276		2019-10-05	7,24 €	38,73 €		
Outros	Tax ID Number – Business Name	Fatura	Registada	FT A/9003	aQ3M	2019-10-01	3,74 €	34,99 €		
	Tax ID Number – Business Name	Fatura	Registada	FQ 2019/463123		2019-10-01	0,00 €	12,00 €		
	Tax ID Number – Business Name	Fatura-recibo	Registada	FR GB/2019/652897	ODuM	2019-09-30	0,00 €	2,58 €		
	Tax ID Number – Business Name	Fatura simplificada	Registada	FS 002/95436	SOOW	2019-09-30	1,47 €	11,20 €		
	Tax ID Number – Business Name	Fatura-recibo	Registada	FR LS2019/003635746	xJMJ	2019-09-30	0,43 €	7,55 €		
	Tax ID Number – Business Name	Fatura-recibo	Registada	FR VG2019/000429868	VE9N	2019-09-30	0,49 €	2,60 €		
	Tax ID Number – Business Name	Fatura	Registada	FT PTCGDFL2019B1/0021229996	Hd/T	2019-09-30	0,00 €	2,91 €		



how is TA using the collected data?

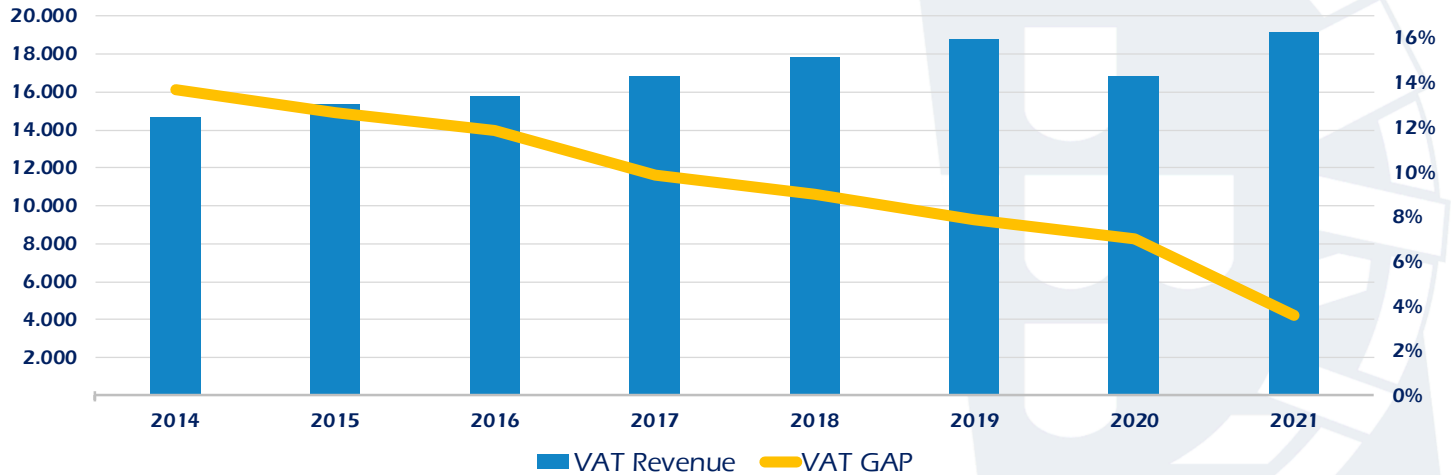


key success factors



some results...

VAT revenue and VAT GAP in Portugal



Source: EU Study and Reports on the VAT Gap in the EU-28 Member States

Thank you for your attention!!!

Ana Mascarenhas



CP 42 - BELGIAN TAX ADMINISTRATION'S PERSPECTIVE

2nd BENELUX COLLOQUIUM "VAT GAP"

12.03.2024

RESIDENCE PALACE, WETSTRAAT 155, 1040 BRUSSEL
RÉSIDENCE PALACE, RUE DE LA LOI 155, 1040 BRUXELLES



PROCEDURE 42: ONE REPORT - TWO CHARGEABLE EVENTS

One customs declaration – 2 VAT chargeable events

The (customs) procedure 42 covers two chargeable events for VAT purposes: an import and a sale, both of which are considered to have taken place in Belgium and are therefore subject to Belgian VAT.

Both chargeable events are exempt from VAT if the following conditions are met:

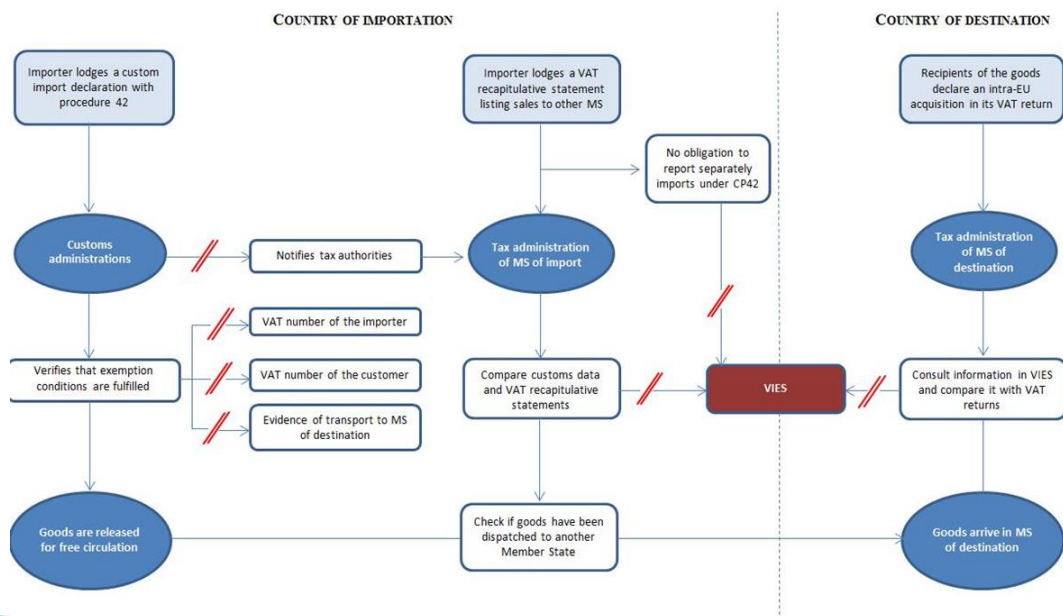
the import is exempt from VAT on the basis of Article 40, § 1, 1^o d) of the VAT Code (transposition of Article 143, § 1 d) of Directive 2006/112/EC (known as the "VAT Directive");

the sale is exempt from VAT on the basis of Article 39 bis of the VAT Code (transposition of Article 138 of the VAT Directive).

WHO CONTROLS WHAT?

- The General Administration of Customs and Excise (AGDA) is responsible for verifying the import exemption (more specifically, the verification of VAT identification numbers, the codes and particulars that must be indicated on the customs declaration, as well as the documents that prove that the goods are transported to another Member State and, if applicable, to charge import VAT where the exemption has been applied incorrectly).
- The General Administration of Taxation (AGFisc) is responsible for the control relating to the sale. (Subsequent ICD)
- (Comment: and therefore in terms of fraud, AGISI) – (See Art 5 of the Royal Decree of 3/12/2009 of the Operational Services of the FPS Finance).

PROCEDURE 42 – A PROCEDURE THAT IS VERY (TOO) EASY TO CIRCUMVENT





TAX ADMINISTRATION APPROACH (TASK FORCE):

1. PREVENTION



“TO PREVENT IS BETTER THAN CURE” – THE GLOBAL REPRESENTATIVE ISSUE

Global (Fiscal) Representatives – BE 0796.5XX.XXX (Specific additional VAT Number

–

Used only for representation

- Insufficient bank guarantee (deposit of 7.500 EUR)
- Access to global representation far too easy in Belgium. Removal of solvability check in 2021. Why?
- Too often based in shared offices or even mailboxes! While obligation to be established in Belgium

Systematic control before activation of the global VAT number by anti-fraud unit:
Joint venture – AGFISC (Local service) - AGISI (Anti fraud unit)



«PLACE OF ESTABLISHMENT OF BUSINESS»

- The issue “the place of establishment of a business”:
 - Most often, stakeholders are foreign citizens, no address in Belgium, no ties but set up companies and house companies in shared office, business centra or simple “mailboxes”
 - Importance of the on the spot visit – To determine with certainty, the place where essential decisions concerning the general management of the business are taken,
 - Refer to the EU Regulation 282/2011 to deny VAT registration: *“The mere presence of a postal address may not be taken to be the place of establishment of a business of a taxable person.*
 - Legal condition for global tax representative: to be established in Belgium (Art 55 of the Belgian VAT Code),

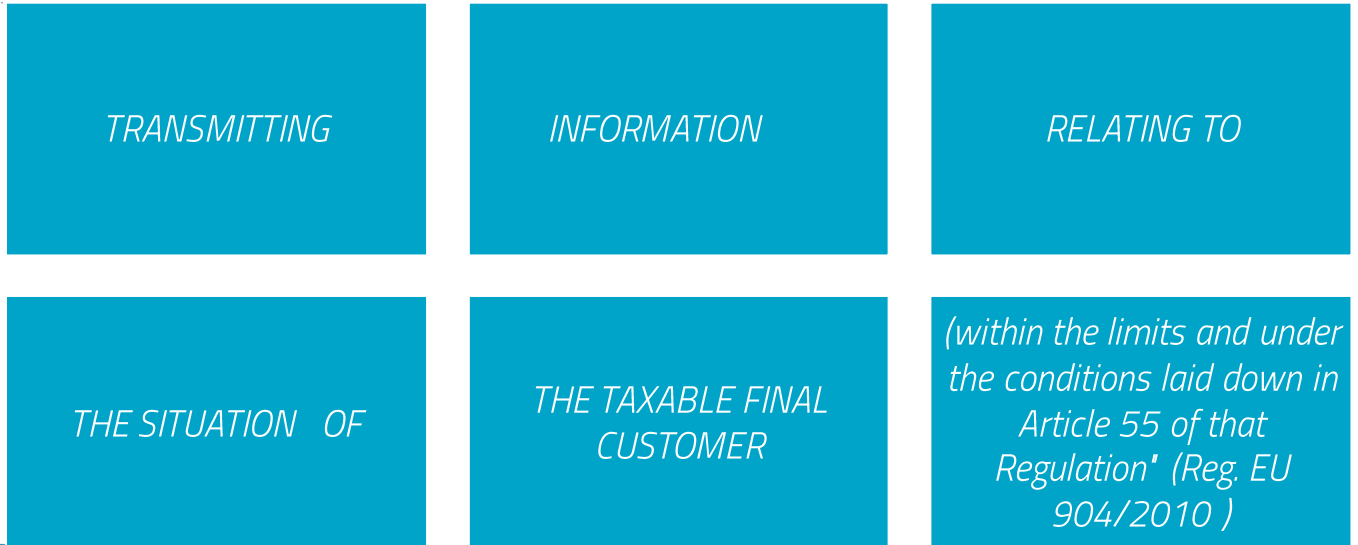


TAX ADMINISTRATION APPROACH (TASK FORCE):

WARNING LETTERS TO PREVENT CP42 FRAUD



TO PREVENT IS BETTER THAN CURE – WARNING LETTERS



WHAT SPECIFIC SITUATION?

The situation of a taxable person qualified as a MISSING TRADER in the Member State of destination in TNA (Eurofisc network), but whose VAT number is still valid in VIES.

Very variable from one member state to another and also depends on national regulations regarding the VAT registration number clearance.

Harmonization (VRN Clearance) in progress at EU level

WARNING LETTERS – MAIN EFFECTS



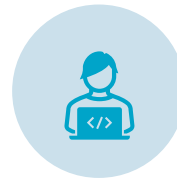
Making the best and fastest use of SURV3 DATA (Commission) / TNA (Eurofisc) (Cross-check)



Break the fraudulent chain as soon as possible



Activation of the concept of *knew or should have known* - > reversal of the burden of proof



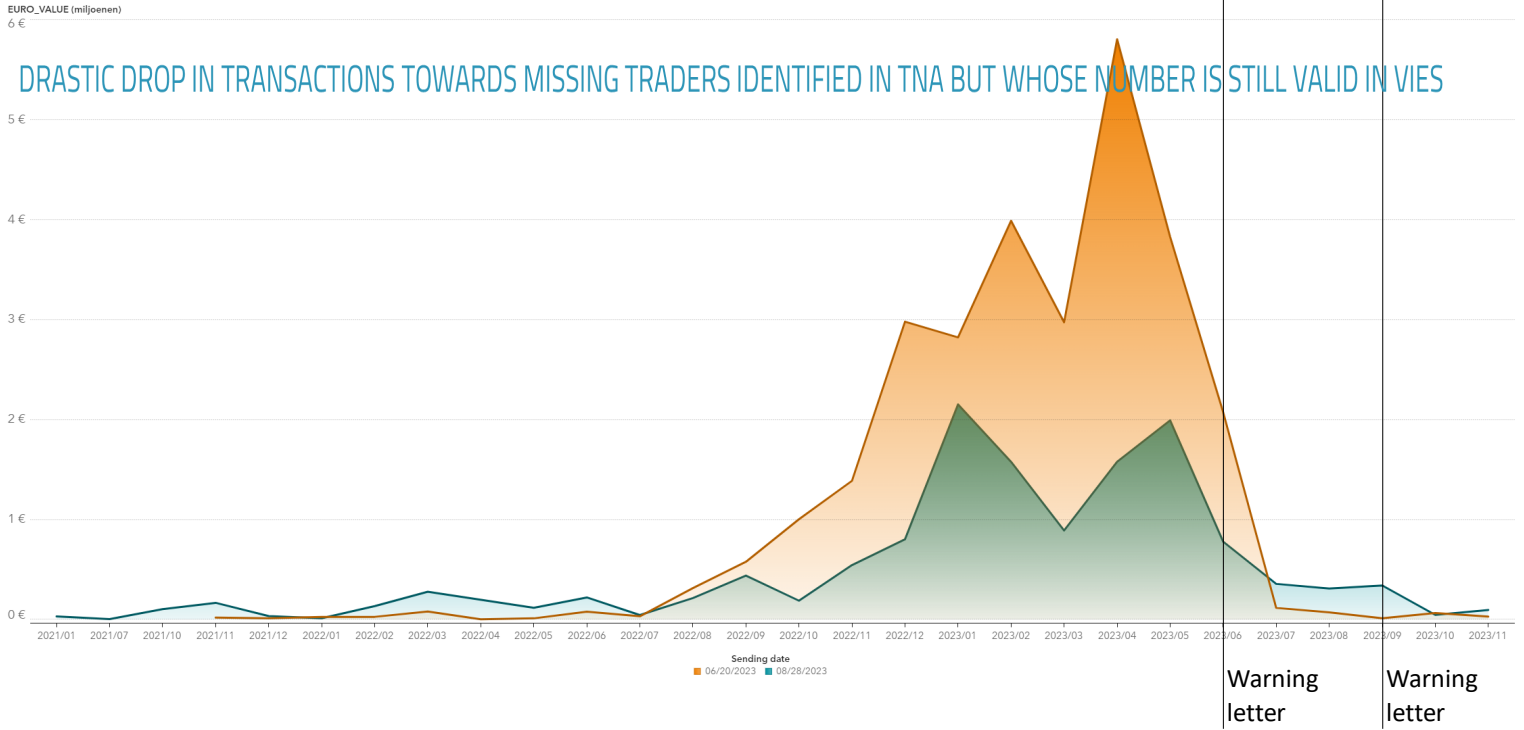
Show business stakeholders that we monitor, analyze & control transactions and react quickly,

IN PRACTICE, HERE IS WHAT THIS RESULTED IN :

IMAGE RATHER THEN SPEECH:

Globaal

warning letters 20/06: 12 importers/54 missing traders
warning letters 28/08: 25 importers/27 missing traders/defaulters



TAX ADMINISTRATION APPROACH (TASK FORCE):
RESTORE TRUST

BY PROFESSIONALS FOR PROFESSIONALS

1. Cleaning the sector

Discouraging amateurs, negligent, unserious, uncompliant operators.

Identify and put out of action fraudsters and/or gross negligence (Quick cancellation of the Global representative VAT number).+

Is good for business and for the compliant operators - Avoid unfair competition between fraudsters and compliant operators,

2. Collaboration / trust

- Climate of mutual trust (Tax administration, Customs, Global representatives)
- Avoid unpleasant surprises and problems during CP42 checks(
- Warning letters: from this point of view = tool to avoid problems, the administration shares useful information in order to avoid repressive /penalizing measures . Win-win situation

TAX ADMINISTRATION APPROACH (TASK FORCE):

3. FRAUD DETECTION & FIGHT AGAINST FRAUD



DETECTION TOOLS

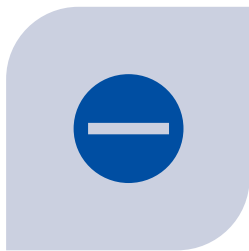
TNA/ SURV 3 – Top
importers file -(see
further presentation
- Eurofisc)

Customs
Applications (PLDA
– COCY 2 – soon
IDMS)

- Local Tax office
warnings –
Foreigners Team
Management



FIGHT AGAINST FRAUD



CANCELLATION OF VAT NUMBER



ROBUST AND TIMELY TAXATION, CORRECT AND
FAST TAXATION, RATHER THAN CORRECT AND
COMPLETE.

THE FACTS ESTABLISHED ARE ALREADY OF
SUCH MAGNITUDE THAT THE TAXABLE PERSON
WILL NOT BE ABLE TO BEAR THE BURDEN
ANYWAY,



WARNING LETTER = A VALUABLE TOOL FOR
PROOF OF NON-COMPLIANCE,



Service Public
Fédéral
FINANCES

THANK YOU FOR YOUR ATTENTION
THE FLOOR IS YOURS – QUESTIONS ?

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Deferment of VAT on importation in the Netherlands

Anti-fraud unit
FIOD

Carla van Rijn



Cross border vat-fraud causes part of the VAT-GAP



1993 NL



IC transactions:
No borders since 1993

Import/export: customs check

Netherlands uses **CP40**: taxable importation (no CP42)

Licence needed for the deferment



Advantages CP40 with deferment



Licence is needed: **Tax Administration** can check the company in advance and set conditions like:

- taxable person is located in NL **or** needs a fiscal representative
- there needs to be import on a **regular** base
- bookkeeping needs to be **well-organized**
- show to customs a copy of the invoice proving the goods are destined for you e.g. a copy of the invoice and freight and cargo papers
- all documents need the VAT-ID number of the company
- a fiscal representative needs papers that show the goods are destined for the foreign entrepreneur they represent

3

Advantages CP40 with deferment:



- Customs can check the licence via the VAT number
- If the licence is **abused** we can withdraw the licence
- We can assess the company for the VAT that should have been paid for the importation
- If the import is followed by an ICD we can refuse zero rate when there is an abuse of the zero rate (e.g knowledge of fraud)

- Low costs for the **business**, this is good for bonafide companies

4



If a company is not located in the Netherlands he is obliged to have a fiscal representative.

This fiscal representative will have the licence for deferment.

Fiscal representative must post a deposit and can be held liable for a tax loss caused by his client/the foreign company

*Two types of fiscal representative: the **general** representing only one company that needs to have a Dutch VAT identification number
Limited fiscal representative that can represent many clients, only import and the following delivery. No NL number needed for the clients, collected recapitulative statement*

5

Does this mean we don't have fraud?



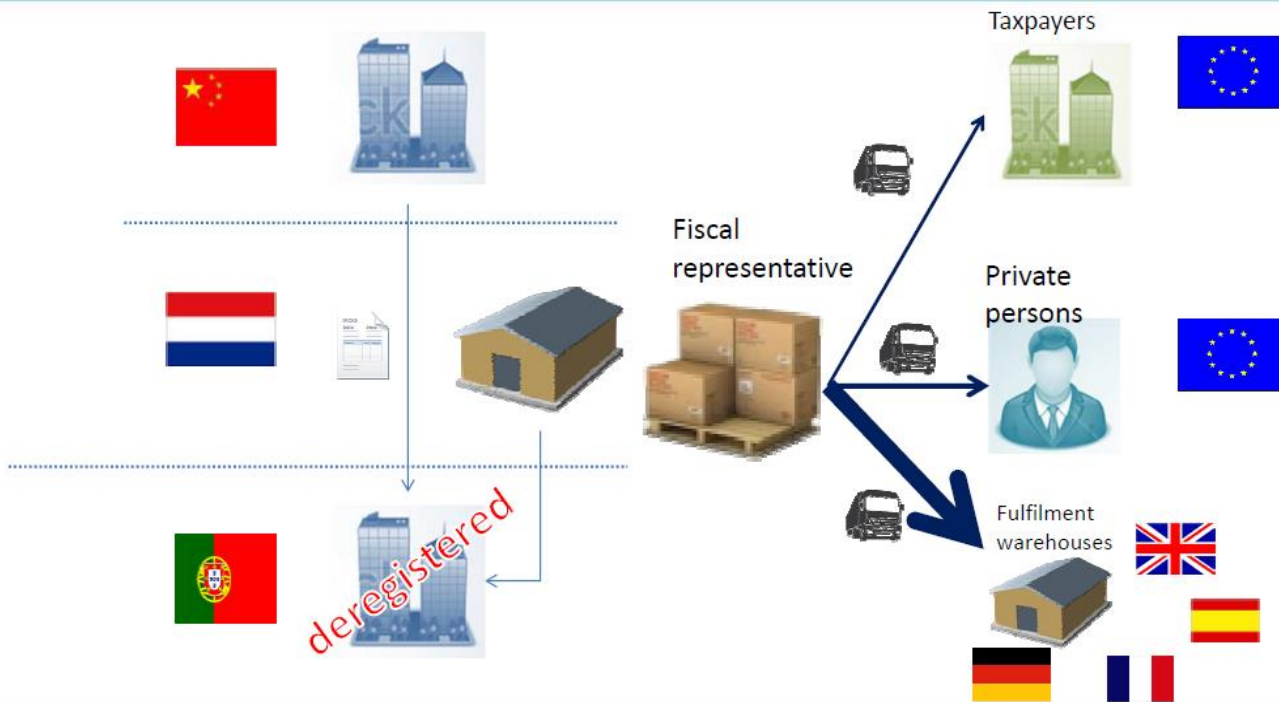
Sadly to say we do have fraud:

The licence number can be abused: VAT will not be paid at the tax return of the recipient of the goods

Fiscal representative can be used by missing traders: he will be responsible

6

Example 1



7

Example 2



Limited fiscal representative for Chinese companies:

- Import via Netherlands with CP40/deferment
- Direct ICL to another MS: Chinese companies had a valid VAT number in that MS (fictious ICD)
- Fiscal representative sends in the recapitulative statement
- Companies don't send in their tax returns and commit fraud in the other MSs
- Fiscal representative is responsible for applying the zero rate
- Fiscal representative is held liable for these assessments
- Licences withdrawn (for deferment and fiscal representative)

8

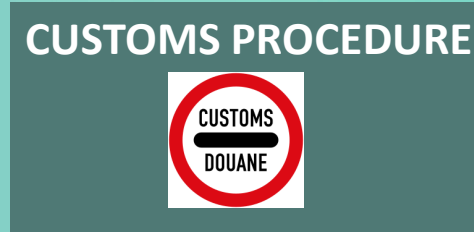


Cooperation between Customs and Tax administration is crucial in fighting cross-border MTIC fraud when goods come from outside EU

Regardless if CP42 or the deferment is used

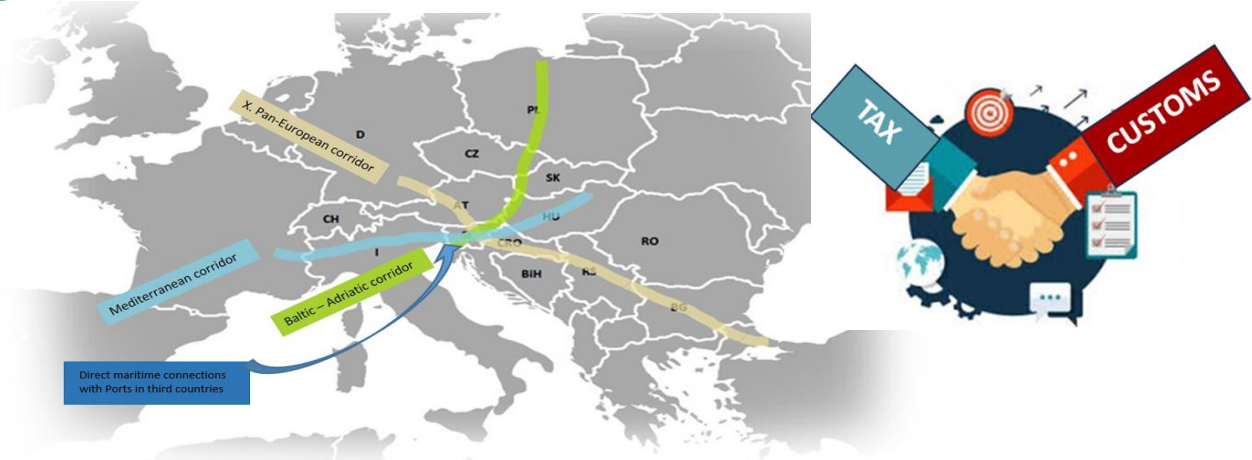


Risk management in the field of customs procedure 42



2nd BENELUX COLLOQUIUM "VAT GAP": March 12, 2024

CP42 in Slovenia



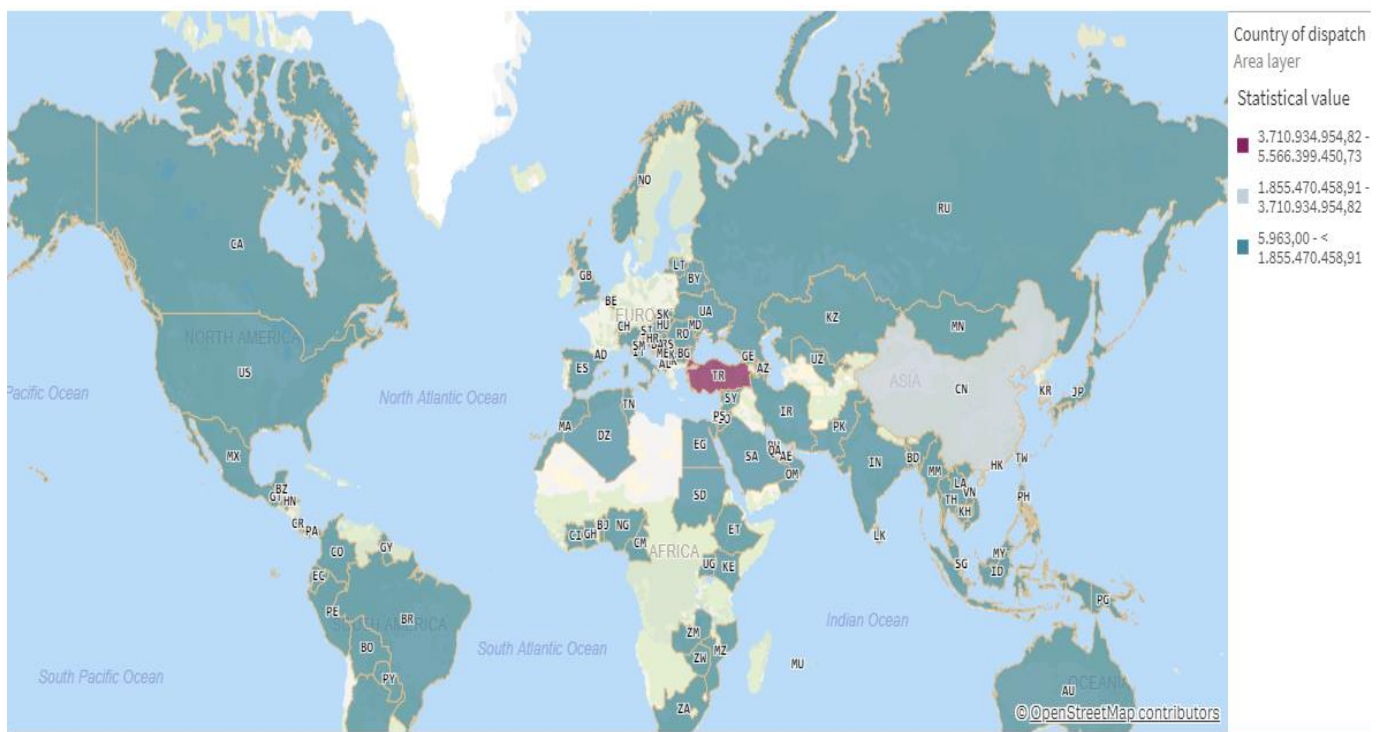
- ranks 4th in the EU in terms of the use of CP42 and CP42 presented more than 50% of all importation (the ratio increases in favor CP42 - 2023)
- from 2013 strict preventive measures were taken on the customs and tax side

Type of Importers 2023	Statistical value	Percent of total Statistical value	Number of Importers	Percent of total Importers	Number of importers with tax representative in SI	Number of importers with SI VAT number
TOTAL	7.057.983.518	100,00%	2.496	100,00%	2.412	94
Importers from another MS	6.797.758.984	96,31%	2.444	97,92%	2.412	42
SI Importers	226.396.947	3,21%	45	1,80%	0	45
Importers from third countries	33.827.587	0,48%	7	0,28%	0	7

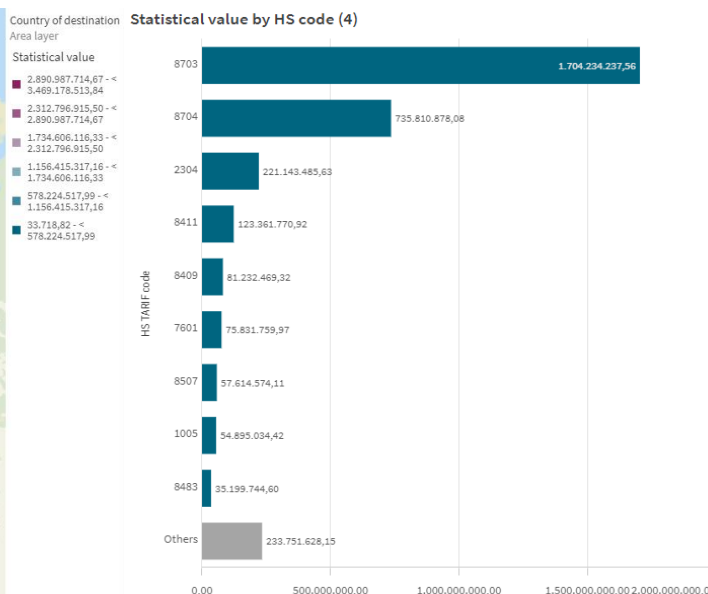
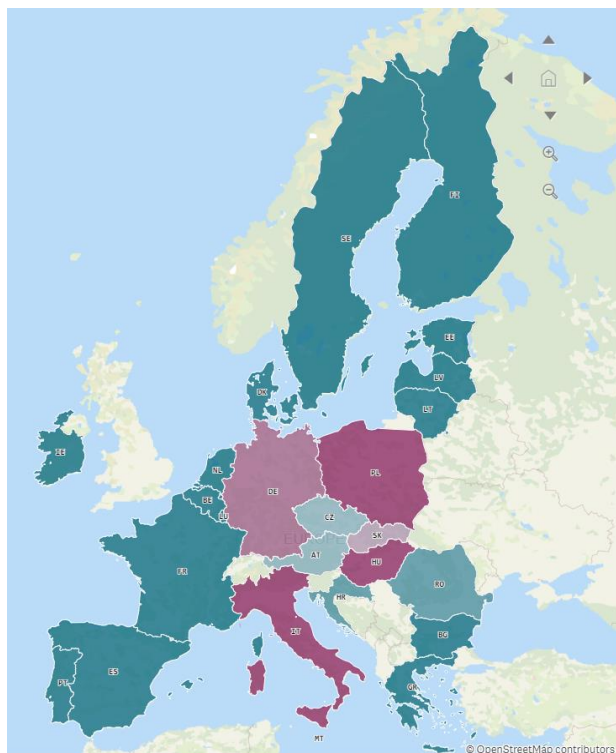
CP42 in Slovenia (comparison CP42 and CP 40)



CP42 in Slovenia (2021 – 2023) – Country of dispatch



CP42 in Slovenia (2021 – 2023) – Country of destination

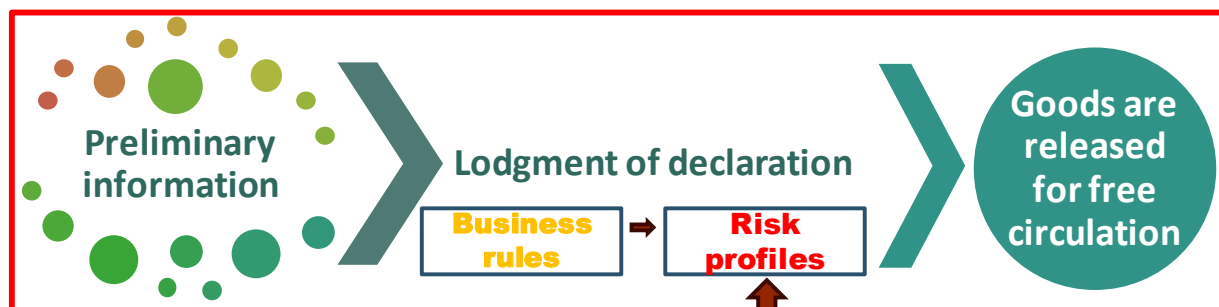


8703 – Cars
8704 – Trucks
2304 - Solid residues from the extraction of soya-bean oil

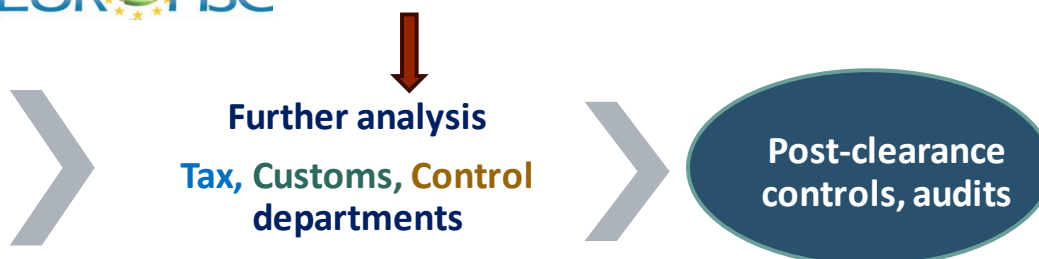
CP42 - systemic preventive measures



Systematic early detection of risky traders and action before releasing goods in CP42



& all available data



CP 42 – Conditions

Release the goods for free circulation and home use of goods which are the subject to a VAT- exempt supply to another Member State.

General Conditions

➔ Importer from another MS

- Slovenian VAT number of importer or Slovenian VAT number of his Tax representative (FR1/FR3)
- VAT number of Customer (FR2)
- Proof that imported goods are intended for transport from SI to another MS (Y044 - CMR, B/L, CIM...)

➔ Importer from SI

- Slovenian VAT number of importer (FR1)
- VAT number of Customer (FR2)
- Proof that imported goods are intended for transport from SI to another MS (Y044 - CMR, B/L, CIM...)

CP 42 – Business rules

Checking information online in VIES and in register of Tax representatives

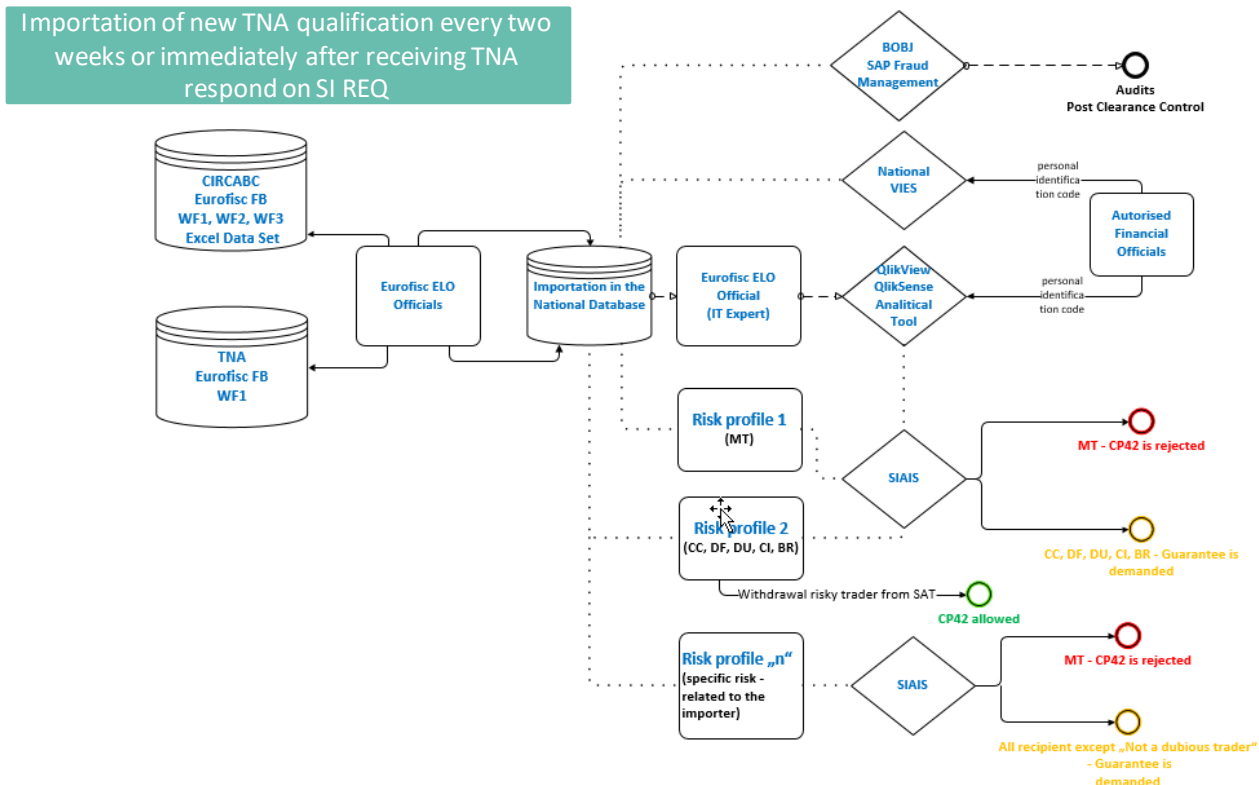
Business rules	Automatically checks that in declaration is indicated <u>procedure</u> (DE 1/10)
	Automatically checks that in declaration is indicated <u>VAT number</u> (in DE 3/40) of:
	FR1/FR3 and FR2
	Automatically validation that in declaration <u>VAT number</u> (in DE 3/40) is valid:
	FR1 and FR2 and FR3
	Automatically validation that <u>tax representation</u> is valid
	Automatically checks that in declaration is indicated <u>proof</u> that the imported goods are intended for transport from SI to another MS (DE 2/3: Y044)
	Automatically checks that declaration is indicated <u>member state of destination</u> DE 5/8
Other common business rules	

CP42 – Risk profiles

Using all available data

- Importer or customer declaring procedure 42/63 for the first time
 - ➔ Additional control is required, and guarantee can be demanded, if necessary, notification to Control department
- EUROFISC information: **Missing Trader** (risk profile 1)
 - ➔ **Procedure 42/63 in not allowed** – notification to Control department
- EUROFISC information: **Defaulter, Cross invoice, Dubious, Conduit, Broker, buffer** (risk profile 2)
 - ➔ Additional control is required, and guarantee can be demanded, notification to Control department
- Other received information about potential VAT Fraud (mostly based on preliminary analyses); information from another Member State (risk profiles „n“)
- Other common risk profiles (undervaluation, anti-dumping, ...)

Using Eurofisc qualifications for CP42 risk profiles



How do we act – Control department (Using TNA)

SI authorized tax representatives (mostly also customs declarants and AEO holders)

Risky Qualification of Importer and/or recipient

Analysis of all available data

Missing trader (importer or recipient)

- Qualifying tax representative
- TNA notification to the county of Importer or/and Recipient about intended custom procedure.
- TNA notification to the county of Importer or/and Recipient about realised custom procedure (CP 40, Transit ...)
- Forwarding documentation

Temporary EUROFISC qualification (Checking, Dubious)

- Qualifying tax representative
- TNA request to update trader (importer or/and Recipient) qualification (added all documentation)
- Forwarding additional information about importer, tax representative, recipient

Other risky Qualification (CC, Cross Invoicer, Broker...)

- Qualifying tax representative
- TNA notification about customs procedure (added all documentation)
- Forwarding additional information about importer, tax representative, recipient

If guarantee was demanded, could be released after correct **Recapitulative statement** is accepted and when the **transport document** which prove that shipment was delivered to country of destination is submitted (confirmed by declared receiver)

How do we act – Control department (Using TNA)

SI IMPORTERS – traders with SI VAT NUMBER

Risky Qualification of Importer and/or recipient

Analysis of all available data

Identified for VAT in SI, Headquarter other MS (no trade in SI)

- TNA request to the country of parent trader (headquarter) to qualify importer (added all documentation)
- Qualifying SI VAT number regarding the qualification from the county of the headquarter
- TNA notification about customs procedure (added all documentation) to the county of destination;

Identified for VAT in SI, Headquarter in third country (no trade in SI)

- TNA - Qualifying Importer based on all available data (if is risky should be "Dubious" or "Conduit Company")
- TNA notification about customs procedure (added all documentation) to the county of recipient;
- TNA Comment: Taxable person established in a third country carries out in SI only import procedures under CP42

Identified for VAT in SI, Headquarter in SI (Domestic trader)

- TNA - Qualifying Importer based on all available data
- TNA request to the country of recipient to update or determine qualification (if necessary)
- TNA notification about customs procedure (added all documentation) to the county of recipient;

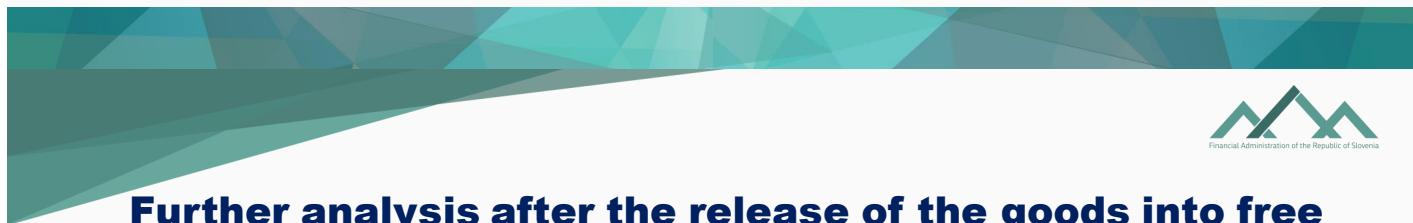
Further analysis after the release of the goods into free circulation

Using all available **TAX** and **CUSTOMS** data!

The main goal of further analyzes is the identification of potentially risky taxpayers as soon as possible and to ensure compliance of the implementation of procedure 42 with the applicable legislation

Various analytical tools are used:

- QlikSense (bottom up - top down analysis; new from 2023)
- QlikView (bottom up - top down analysis, reports)
- SAP Business Objects (Different reports)
- SAP Fraud Management (Different strategies)
- National VIES (IDIS) (Different reports)
- Eurofisc TNA



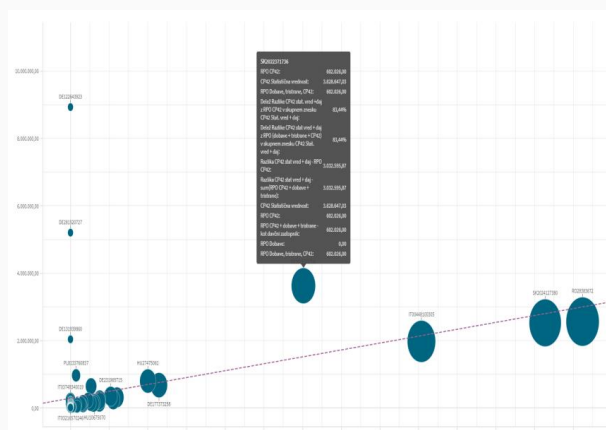
Further analysis after the release of the goods into free circulation

➔ Recapitulative statements (RECAPS) <-> CP42

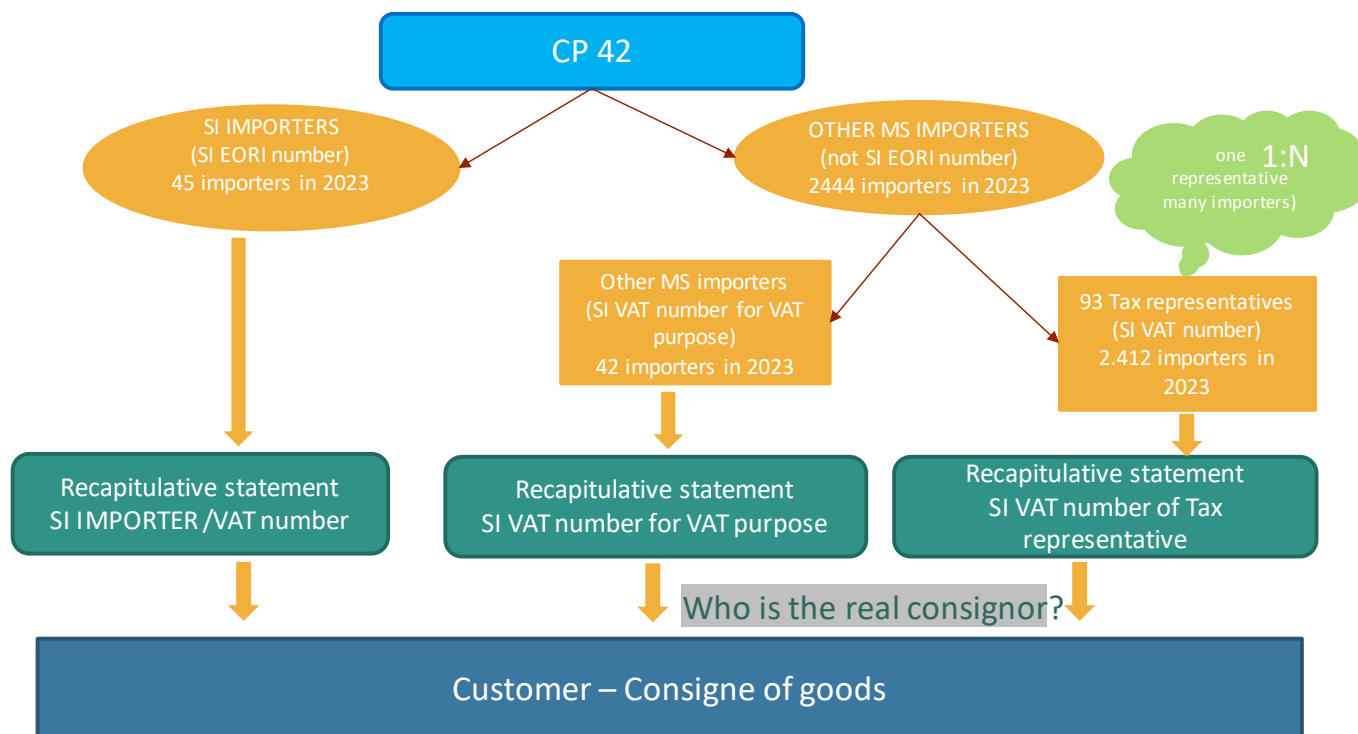
basic exchange of information between Member States on cross-border supplies of goods and services, including supplies under procedure 42. Taxpayers are obligate to report CP42 in separate column (national legislation)

To ensure the correctness of data reporting from performed CP42 procedures into RECAPS, we developed an application in the QlikSense environment which enables quick and efficient identification of discrepancies.

CP42 Število MRN	RPO skupaj (Dobave, storitve, tristr...
1.087	146.781.923,00
CP42 Statistična vrednost	RPO Dobave
144.246.448,99	0,00
Statistična vrednost CP42 + daj...	RPO CP42
144.983.777	146.781.923,00
CP42 Število postavk	RPO tristrane dobave
2.163	0,00
CP42 Število uvoznikov	RPO Storitve
1	0,00



Recapitulative statement problem



Further analysis after the release of the goods into free circulation

Using all available **TAX** and **CUSTOMS** data!

Other data exchange on Council Regulation (EU) no. 904/2010 :

- ➔ using EUROFISC **Follow up actions** – cooperation between Member States, further exchanging of information to detect/or confirm fraud scheme
- ➔ introducing an audit or post-clearance control using **SCAC requests** to obtain additional information to prove responsibility
- ➔ use of other, more demanding forms of international cooperation (as **MLC**)

Cooperation and exchange of data between customs and tax part/administrations – at the management and operational level. and further between member states is crucial for the effective prevention of tax evasion



Eurofisc - very effective tool

Data exchanged between customs and tax administrations (SURV3 for CP42), which are included in SURV3 and TNA applications, should also contain EORI and VAT no. Of Importers.

Member States should propose to amend Article 21(2a) of Council Regulation (EU) no. 904/2010 and Commission Implementing Regulation (EU) no. 79/2012, so that this data would also be exchanged.

Risk management depends on human resources, integrated advanced analytical and predictive tools and mainly on data quality ("garbage in, garbage out")



Božo Grmek bozo.grmek@gov.si

Nataša Batista Maljevac natasa.maljevac@gov.si

Financial administration of the Republic of Slovenia



Ethics and the VAT-gap: a broader perspective

Prof. dr. Elly Van de Velde & dr. Jo Badisco
Benelux VAT-GAP colloquium: 'Ethics & the VAT-GAP'
Brussels, 12 March 2024



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Ethics and taxation: a broader perspective

UHasselt Chair on 'Ethics and taxation'

Research on:

- Virtue ethics: supplement to the rule of law in taxation?
- Virtue ethics and taxation: the 'Ombudsman' and Belgian Tax Mediation Service as facilitators?
- Virtue in taxation: the principle of 'good faith'
- An ethical practice of Law: Alasdair MacIntyre and the notion of practice applied to the tax professional
- ...

Perspective of 'Virtue Ethics' as an alternative for 'Duty'



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Ethics and taxation: what does it even mean?

"What does it mean to act ethical or morally in the realm of taxation?"

Ethics and taxation, multitude of meanings:

- "Everyone has to *comply* with the law"
- "Everyone has to contribute his or her *fair share*"
- "Fostering a sense of *common good* by contributing taxes"
- "Going *beyond* the law"
- "Acting *in good faith*"
- "You have to be a *good* tax professional"

⇒ Ethics refers to many different *ideals* in the discussion

Also: 'ethics' as giving an aura of *power* and *importance*?



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Morality, ethics, obligation: the underlying concepts

Morality, often used interchangeably with **ethics**:

- Measure and standard of behaviour – right and wrong
- Plural: different moralities
- Singular: a set of rationally deducible universal laws

But also, the question of '*the good life*'

*What is a *good* tax professional?*

Normative system: gives reasons for action

The *legal* vs the *ethical*



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Morality, ethics, obligation: the underlying concepts

Ethics, as the study of **morality**, also: **moral theory**

- What is the nature of morality?
- How do I ought to act?
- What are the criteria for morally right and wrong?
- ...

Conceptions such as goodness, obligation, virtue, etc.

Refinement of questions on **ethics and taxation**:

- "How should I *orient* myself in tax matters? What *choices* and *actions* should I make? What should I do in specific *dilemmas*?"
- "What does it mean to be a *virtuous* tax advisor?"
- "What does it mean to be a *virtuous* tax inspector?"



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Intertwined topics

- Specific ethical dilemmas you can be confronted with in practice
- How to increase compliance?
- How should I relate to the law (cf. legal philosophy)?
- Is there something such as the spirit of a law?
- How should tax law *ideally* be?
- Is it enough to abide the law, but what does this mean (cf. tax avoidance – aggressive tax planning – tax evasion)?
- ...

Discussion with respect to the validity of these questions depending on moral framework



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The tension between legality and justice

For example: (very) aggressive tax planning

Legal but unjust?

Tension between normative systems: **law – ethics**

But also: law as minimum standard

No consensus on moral values, but law can serve as a minimum standard which guarantees justice?



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Three-fold responsibility model

(Too) simple three-fold model oftentimes operates in the background of the discussion:

- **Legislator:** responsible for drawing up comprehensive and coherent legislation
- **Tax administration:** responsible for overseeing and ensuring proper application of tax legislation
- **Taxpayer:** responsible for complying with the law

⇒ The ethical is *relegated* to the **responsibility** each actor has



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Four-fold responsibility model in VAT?

Four-fold responsibility model in VAT?

- **Legislator**: responsible for drawing up comprehensive and coherent legislation
- **Tax administration**: responsible for overseeing and ensuring proper application of tax legislation
- **Taxpayer**: responsible for complying with the law
- **Consumer**: responsible for helping the taxpayer in complying with the law?



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The **legislator's responsibility *redux***

Coherent and **comprehensive**: these are **moral** terms!

Lon Fuller – *The Morality of Law* (1965)

Internal – external morality

There is an **internal morality** to law that is essential to its functioning -> impact on taxpayers and consumers in VAT

8 desiderata of (VAT) law (essential features):

- Generality of rules
- Promulgation of rules
- **Prospective application of law**
- **Clarity of laws**
- **Avoidance of contradictions**
- Avoidance of impossible laws
- **Constancy of law through time**
- **Congruence between official action and declared rule**



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Tax administration's responsibility: a delicate *balance*

The type of interaction between taxpayer and tax administration determines the ***moral attitude***

Ideally: everyone pays his taxes from an inner moral sense of right, an understanding that it enhances the common good

Reality: different story, but in VAT: automation -> computerisation -> alienation? -> **a loss of internal morality?**

Behavioural economics has shown that schemes of reward and punishment elicit certain responses

Do not forget:

-> cultivating virtuous action, being helpful, explaining relevance, low-threshold tax mediation, tax rulings, co-operative compliance, tax (governance) codes, ...

-> proactively identifying problematic sectors



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Taxpayer's responsibility: from *duty* to *virtuousness*

Compliance: **duty** to comply?

Alternative model? Compliance out of **virtuousness**?

The importance of **the cultivation of virtues**

"The idea of the common good should play a significant part in guiding citizens towards the cultivation of virtue" L. Dupré

VAT is a transactional, indirect tax system -> a rule based approach works, but be careful for **alienation** of the taxpayer

+ in VAT: pay attention to the role of the **consumer!**



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Thank you for your attention!

Suggestions?

elly.vandeveld@uhasselt.be

Jo.badisco@uhasselt.be



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Tax Governance Code

Hans Gribnau ©

Tilburg University

Benelux VAT-GAP colloquium. Session 5: Ethics and the VAT-GAP

Brussels, March 2024

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Agenda

- Tax governance code
 - Nudged by Dutch State Secretary of Finance
 - Social responsibility of enterprises and tax advisers
- Perspectives on tax governance (code)
 - stakeholders: NGO's, (institutional) investors, society, government (tax administration), (institutional) investors
 - Social impact taxes
 - a.o. sustainability and transparency
 - code of conduct / letter of the law and spirit of the law
- VNO-NCW Tax governance code (2022)

Taxation in the eye of the storm



OECD Guidelines for MNEs: 2011 Update

2023: OECD Guidelines for Multinational Enterprises on Responsible Business Conduct

- Most comprehensive government-backed international instrument for promoting responsible business conduct
- Recommendations from governments to businesses operating in or from adhering countries
- Purpose: to ensure business operations are in harmony with gov't policies; strengthen the basis of mutual confidence with the society; help improve foreign investment climate; enhance contribution to sustainable development
- Endorsed by business, trade unions and civil society organizations

OECD Guidelines for MNEs

Chapter XI Taxation

1. Enterprises should comply with both the letter and spirit of the tax laws and regulations of the countries in which they operate.

2. Enterprises should treat tax governance and tax compliance as important elements of their oversight and broader risk management systems.

In particular, corporate boards should adopt tax risk management strategies to ensure that the financial, regulatory and reputational risks associated with taxation are fully identified and evaluated.

<http://mneguidelines.oecd.org/>



Dutch State Secretary of Finance (policy brief 2019)

- ‘The government is taking major steps to tackle tax avoidance and evasion by means of legislation and regulations.
- Paying tax is not only a legal obligation. It is also a social responsibility.
- It goes without saying that tax evasion crosses legal and social boundaries, but how far the social responsibility of the taxpayer and tax advisers extends with respect to tax avoidance is increasingly the subject of social debate.
- This social responsibility requires a continuation of this dialogue, also with the legislator.

Dutch State Secretary of Finance (policy brief 2019), cont.

- Nevertheless, legislation alone will not be the solution.
- If only because the legislator cannot foresee or prevent all new forms of tax avoidance.
- The business community plays an essential role in this, as do tax advisers who influence the tax behaviour of both citizens and businesses by means of advice.
- I see that there are already companies and tax consultancy firms that are picking up the gauntlet, but I hope for a broad and coordinated initiative.
- In that respect, it would be desirable for the business community and the tax consultancy sector to develop a ‘tax governance code’ as part of their corporate social responsibility.’

Essays on Tax governance code

<https://www.rijksoverheid.nl/documenten/kamerstukken/2020/12/17/essaybundel-tax-governance-code>

- To stimulate debate:
- collect stakeholders’ views on
 - role of MNEs and tax advisors &
 - voluntary introduction of a tax governance code
 - soft law instrument

Tax governance,
maatschappelijke
verantwoordelijkheid en ethiek.
Tijd voor een code?

Essaybundel

Content collection of essays

- Universities/ academic scholars
- Marnix van Rij
 - (former partner EY, ~ president Tax Advisers Association, and ~member of Senate)
- VNO-NCW; Dutch Employers Organisation
- FNV: Dutch trade union (Tax Justice Network)
- NOB & RB; Dutch Tax Advisers Organisations
- B-team: Global Sustainable business leaders; <https://bteam.org>
- UN Principles for Responsible Investment (PRI)
- Global Reporting Initiative (GRI)
- VBDO; Association of Investors for Sustainable Development
- Holland Quaestor; trust sector (=> Tax Integrity directive)

VNO-NCW (Employers Organisation)

- More transparency can help further the dialogue on tax policy in the Netherlands.
- The business community therefore embraces the creation of a tax governance code.
- It fits well with the initiatives already undertaken by many companies - for example, through their corporate social responsibility or concretely in the form of responsible tax principles.
- The Netherlands can act as a guiding country in the development of an international norm (a 'gold standard').

Good tax governance

(Van der Enden & Klein 2020)

- Good governance:
 - coherence in the manner on how an organization is managed, controlled and supervised, aimed at the efficient and effective realization of objectives, as well as communicating this in a transparent way and being accountable on it to all stakeholders
 - aim: to realize certain strategic objectives and principles
 - Governance encompasses entire package of business activities, including:
 - vision, mission and operational strategy which applies to all corporate operations, including tax.

- https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3610858

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Dutch Tax Governance Code, May 2022 (author: Dutch employers organisation)

<https://www.vno-ncw.nl/taxgovernancecode#documents>

Highlights of the Tax Governance Code

VNO-NCW

The Tax Governance Code should lead to more transparency on the tax position of Dutch listed companies and will help to build trust. The Code builds on existing transparency initiatives and is based on the 'comply or explain' principle. To meet the ambitions in this Code, companies will have to make a serious effort. Non-listed companies are also encouraged to endorse the Code.

Approach to Tax: Tax Strategy & Tax Principles The company sees tax as an important contribution to society and to create broad welfare and not as a cost factor only.		Accountability & Tax Governance Tax is a core part of corporate social responsibility and governance and is overseen by the Board, including a tax control framework.	
Tax Compliance The Company is committed to comply with the letter, the intent and the spirit of the local tax legislation and to pay the right amount of tax at the right time.		Business Structure The Company will only use business structures that are driven by commercial considerations, are aligned with business activity and have genuine substance and does not use so-called tax havens for tax avoidance.	
Relationships with Tax Authorities and Other External Stakeholders Mutual respect, transparency and trust drive the Company's relationships with tax authorities and other relevant external stakeholders.		Tax Transparency & Reporting The Company regularly provides information to its stakeholders about its approach to tax and taxes paid such as information on corporate income tax, total tax borne and collected and information on material tax incentives.	

More information about the Tax Governance Code: www.vno-ncw.nl/taxgovernancecode

Dutch Tax Governance Code (cont.)

SIX PRINCIPLES:

[comply or explain principle applies to participating corporations]

A. Approach to Tax: Tax Strategy & Tax Principles

The company sees tax not as a cost factor only, but as a means for social economic cohesion, sustainable growth and long-term prosperity. [...]

B. Accountability & Tax Governance

Tax is a core part of corporate social responsibility and governance and is overseen by the board. [...]

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Dutch Tax Governance Code (cont.)

C. Tax Compliance

The company is committed to comply with the letter, the intent and the spirit of the tax legislation of the countries in which it operates and to pay the right amount of tax at the right time. [...]

D. Business Structure

The company will only use business structures that are driven by commercial considerations, are aligned with business activity and have genuine substance. [...]

Dutch TGC 2022

Principle C. Tax Compliance, cont.

1. The company prepares and files all tax returns required, providing complete, accurate and timely disclosures to all relevant tax authorities.
2. The company's responsible tax planning is based on reasonable interpretations of applicable law and is aligned with the substance of the economic and commercial activity of its business.
3. The company will not undertake transactions or engage in arrangements of which the sole purpose is to create a tax benefit that is in excess of a reasonable interpretation of relevant tax rules.
4. The company will only claim tax incentives in line with the policy intent of such tax incentives and provided such incentives are generally available.
5. If the company seeks certainty in advance from tax authorities to confirm an applicable tax treatment, it does so based on full disclosure of all relevant facts and circumstances.

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Dutch Tax Governance Code (cont.)

E. Relationships with Tax Authorities and Other External Stakeholders

Mutual respect, transparency and trust drive the company's relationships with tax authorities and other relevant external stakeholders. [...]

F. Tax Transparency & Reporting

The company regularly provides information to its stakeholders, including investors, policy makers, employees, civil society and the general public, about its approach to tax and taxes paid. The company will therefore publish information (tax strategy, CbCR, ...)

Dutch Corp. Governance Code, Dec. 2022

<https://www.mccg.nl/publicaties/codes/2022/12/20/dutch-corporate-governance-code-2022>

Principle 1.1 Sustainable long-term value creation [...]

● 1.1.1 Strategy for sustainable long-term value creation

The management board should develop a view, ... formulate a strategy & should formulate specific objectives in this regard.

When developing the strategy, attention should in any event be paid to the following:

- i. the strategy's implementation and feasibility;
- ii. the business model applied by the company and the market in which the company and its affiliated enterprise operate;
- iii. opportunities and risks for the company;
- iv. the company's operational and financial goals and their impact on its future position in relevant markets;
- v. the interests of the stakeholders;
- vi. the impact of the company and its affiliated enterprise in the field of sustainability, including the effects on people and the environment;
- vii. **paying a fair share of tax to the countries in which the company operates;** and
- viii. the impact of new technologies and changing business models.

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Conclusion

- Movement towards more responsible and ethical (sustainable) tax behaviour
- Hard law (OECD, EU, domestic legislation) & soft law
- TGC may impact behaviour tax administration, e.g.
 - Netherlands Tax and Customs Administration (NTCA):
 - Co-operative compliance ('horizontaal toezicht')
 - MNE subscribing Tax Governance Code is a factor determining intensity of NTCA's supervision
- Issues: reciprocity, transparency (enhances trust?),

...